

Pandemic Lessons:

The Philosophy of Work and the Modularity of Professional Ethics

THIS IS VERY MUCH WORK IN PROGRESS. I LOOK FORWARD TO HEARING YOUR IDEAS!

Kwame Anthony Appiah

I: Necessary Work

The COVID-19 pandemic raised some extremely important questions about work¹. In particular, it's required us to think about what sorts of work we can or should require in circumstances that expose the workers to risk of contracting a serious disease. You might think—as I did—that the idea of the essential worker was fit for that purpose. But as Josh Cohen explained in his response to an earlier version of this talk, that is not what it came from or what it was meant for. (It came, I gather, from discussions of protecting national security infrastructure.) I am embarrassed that I hadn't discovered this for myself and grateful to him for telling me the right story.

So, I am going to offer an account of a different notion that suggested itself to me in thinking about the issue of how we should identify the tasks we can reasonably ask people to go on doing in these circumstances. And since the expression “essential worker” is taken, I am going to talk, instead, about necessary work and the people who do it as necessary workers. Necessary work is, by stipulation in this talk, the work we need to continue in a pandemic even though it may put the worker at risk.

The obvious response to a pandemic is to seek to reduce the rate of spread of infection, to “flatten the curve.” This allows you to avoid swamping the healthcare system and gives you time to develop treatments and medical prophylaxis, including vaccines. And the more you succeed, the lower the total area under the curve—the total amount of suffering and death.² So, reducing, to the extent we can,

¹ My reflection on the concept of necessary work began with a conversation with Amanda Greene in May of 2021. I am grateful for her prompting to think more about this issue.

² The rate of spread in any actual population depends on a number of factors: there is, first, what epidemiologists call the “R-nought,” (R_0), the so-called “basic reproduction number” for the virus. It's the expected number of cases produced by one case in a population of individuals without natural or vaccination-induced immunity. That is a function of at least three things: how long a typical virus-carrier is contagious, how likely the transfer of infection is when a virus-bearer and an uninfected person interact, and how frequently people in the relevant population meet with one another, the “contact rate.” So, you can reduce the R_0 if you lower the contact rate or change the character of interactions by things like mask-wearing and social distancing. But the rate of spread also depends, of course, as well, on how many people have been vaccinated or are otherwise immune.

the total suffering and death caused by the disease is what I will call our *basic aim*. That may seem obvious. Less obvious is that one of the consequences of the disease will be our responses to it. And they may cause suffering and death, too. Unless we bear that in mind, we won't be able to assess whether policy responses are worthwhile in our pursuit of the basic aim.

In other words, speaking more straightforwardly, we have to bear in mind that attempts to lower the rate of transmission have costs as well as benefits, *including costs that undermine the basic aim*. One of the evident consequences of the actions required to achieve social distancing is that it reduces economic activity. If you close supermarkets or canning factories, food production and distribution will decrease, unless you provide an alternative. And there are goods that need to be produced and distributed in reasonable quantities no matter what; goods necessary because their loss would cause suffering and death of exactly the sort we are seeking to avoid. What matters here is not that people get everything they normally want, but that they get what they need; and “need” means need not just to remain alive, but to live without suffering. So, one task in identifying necessary work is to identify what goods and services are necessary to avoid suffering of the very kind our responses to the pandemic aim to reduce.

Now the way the expression “essential work” was actually used, it had another function. It was used to identify those who were to be vaccinated first, because it was important enough that they should continue to do their work despite the risks to them and to others posed by their doing so. Thus, in February 2021, the Governor of New Jersey, Phil Murphy, identified those who were going to be poll-workers in the state's local elections that spring, as essential.³ “Without question, poll workers are essential workers.,” he said. “Period,” he added, as if the thought needed no qualification or explanation. If that is right, then, since the conduct of the elections had a tenuous connection to the basic aim, it looks as though an essential worker is anyone whose work is important enough that it must continue, despite the pandemic-related risks associated with doing it. And the point of vaccinating poll-workers was to allow that work to go on with as low a risk as was practicable. This fact reflects an important ethical dimension of thinking about necessary work: we must mitigate, to the extent we reasonably can, the risks it poses to the worker.

³ <https://newjerseyglobe.com/governor/poll-workers-are-essential-and-get-get-covid-vaccine-murphy-says/>

Presumably, though, as I just said, the Governor was not claiming that the work had to go on, no matter the cost: the elections' continuation would not have been deemed necessary work if the pollworkers and those who went to the polls had a sufficiently high risk of suffering and death. No one would have said, especially "without question," that running an election was necessary work if the costs in suffering and death were predicted to be sufficiently high. Elections are supremely important in a democracy, but what Justice Goldberg said in *Kennedy v. Mendoza-Martinez* of the Constitution, is true of democracy, too: It is not a suicide pact. Nor, presumably, are the institutions of democracy so valuable that we should be willing to pay any cost at all to preserve all of them: no-one would have suggested that the school board and fire commissioner elections the governor was discussing were necessary work, if conducting them safely would have bankrupted the state. In the actual case, there were lots of financially-manageable ways of significantly mitigating these risks, of course, including, by the spring of 2021, vaccinating participants. But the conceptual point is that we cannot decide if a form of work is necessary work without considering its costs, financial and human. Even if we are focused on reducing suffering and death, we cannot ignore other costs, costs that matter independently of any direct connection to the suffering and death caused by the virus.

Still, much of the necessary work that was first identified as such was part of our attempt to reduce the costs, in terms of suffering and death, of being infected with the pathogen. Some workers in the health professions, over the whole gamut from ambulance work to diagnosis and treatment, are doing necessary work in this sense. They are engaged in reducing the suffering and death caused by the disease itself. But others are doing necessary work in responding to health problems that are not caused by the pandemic pathogen, problems that would result in suffering and death if their treatment was suspended. They are maintaining regular health provision of the sort that cannot be delayed during the pandemic emergency. And, evidently, there is normal medical work that is not necessary work: because it can be delayed or because, like some so-called optional elective surgery, it is not necessary for a decent life.

There are many other services, however, outside the health care system, that need to be maintained if people are not to suffer and die. I have mentioned the production and distribution of food already. There is also the work of emergency responders in the police and fire services; there is the maintenance of a regular supply of electricity, gas, and water, without which, again, in the medium term,

people will suffer and, even, in some cases, die. And—just to insist on how extensive the connections to the basic aim of reducing suffering are—since all this work involves transportation, the production and distribution of gasoline at some reasonable level of provision must continue as well. In this case, as elsewhere, what is necessary work is not all work of some genre but the amount of that work necessary to achieve our basic aim.

Notice that what work is necessary work for the basic aim depends on the nature of the disease, on the health of the population, and on our medical resources. The health care system's necessary work depends on what forms of treatment and prophylaxis are available for the pandemic disease. Smallpox vaccination is not necessary work in a population where there is currently no smallpox. The distribution of canned goods is not necessary work in a community of self-sustaining farming people when the local food crops are in season, and so on. So work is necessary work relative to a particular pandemic and population and technological capacity, which means you cannot define necessary work without knowing about the disease, about available treatments, and about the population's other needs, which may vary across demography and region.

So, a natural way to think about the issue is what I will call the modest approach: Consider some form of work (and some amount of it). Call that the *level* of work of that kind. Ask what the results would be if it continued at—or changed to—that level. Focus, first on the basic aim. Any level of work that is necessary to achieve the basic aim is necessary work, unless the financial and social costs of doing it deprive us of the capacity to do something more important. If the measure of suffering and death is loss of quality adjusted life-years (QALYs), then we will have to weigh the gain in QALYs over the alternative of proceeding as normal, against other things we could do with the money. I have no general answer as to how to do that, but, if we are to use QALYs in decision making, this is something we are likely to have to try to do anyway.

But consider, next, other central public purposes, too, like maintaining our democracy, as the Governor of New Jersey aimed to do, or sustaining the productive capacity of our economy. Once again, levels of work that achieve those ends are necessary work, if their financial and human costs (like the costs of vaccinating poll-workers first) are reasonable. And the costs are reasonable if they don't deprive us of the capacity to do more important things. The basic aim of reducing suffering and death focuses us first on trying to reduce the pandemic's serious medical effects; but the modest approach doesn't require us to ignore every other purpose.

Why stop there with the modest approach? Shouldn't we try, for each kind of work, to find a way of doing it with the largest positive yield? The answer to that question would presumably depend on what other work is going on. So, if we are maximizing, we should seek to set a combination of levels of work of all kinds with the maximum total value in human and financial terms. And, since we are maximizing, we are, in effect, taking the opportunity provided by the pandemic to do something we don't normally do: which is to insist that all forms of work are organized to achieve the maximal amount of welfare.

But there is, I think, a serious objection to be made against the maximizing approach. It requires too much information and too much centralized control. The modest approach takes our current practices as the baseline and assesses levels of work during the pandemic, first, on the basis of whether they reduce serious negative health outcomes;⁴ if they do, we then ask if we can afford them, which we can if the expenditures on that level of work don't increase overall suffering and death or something else of equal negative importance.

Once we have identified necessary work, you might think that the necessary workers are just those who do it. But that, I think, is a mistake. Because if different parts of the population have different susceptibilities to the disease—and that is the case with age cohorts and the COVID-19 virus—then whether someone's continuing to work is necessary work, depends in part, surely, on whether their doing so will significantly increase the likelihood of their own suffering and death, or of their causing suffering and death to others. Non-immune-compromised teenagers living in households of young people can be necessary work supermarket workers when sexagenarians—or teenagers living with sexagenarians—are not. But sexagenarians managing emergency calls from home can be necessary workers. There are, in other words, two questions: First, is it necessary work that the work be done? Second, is it necessary work that it be done by someone like this? If the work doesn't need to be done, there are no necessary workers involved in doing it. But even if it does need to be done, it may be that only some kinds of people need to do it. So, necessary work in a particular pandemic is work that is needed in order to reduce avoidable suffering and death *in that pandemic*. It is a relative not an absolute notion.

⁴ Of course, decisions about the level of each kind of work must be made in the light of the consequences of the decisions made about levels of other kinds of work, and so, in practice, will have to be adjusted as we go along.

Even if work is necessary work, the workers must, ordinarily, be willing participants, informed of the risks they are bearing. This condition introduces an idea that is independent of the consideration whether the work is necessary work, which takes account of the willingness of workers to work only through the cost of hiring them. But there are two kinds of ways in which necessary work may be a duty. One is if workers have special skills or preparation for necessary work and they are needed to carry it out, and their failure to do so would lead to substantial suffering and death. The second is if taking such risks is a standard incident of their vocation—as it is with medical workers, and first-responders generally. Often, in such cases, there is no need for state compulsion, because such workers have an ethos that goes with their professional vocation. Most doctors and nurses didn't need persuading that they had to go to work in COVID-19-ravaged hospitals. And, of course, compulsion may not produce results of the same quality as sticking with volunteers. So, noting that sometimes people have a duty to take risks for necessary work entails only that it may be morally permissible to compel it, not that it will in general be necessary or even wise to do so.

Whether a particular worker is doing necessary work depends, then, not just on whether their *work* is necessary work but also on whether *they* are needed to do it. As a result, there can be work that's necessary work because, while the benefits in terms of the reduction of suffering and death over the long run are not enormous, the risks to the worker are small. It may turn out, by this test, that some Zoom-teaching was necessary work: the lost QALYs incident on a lost year of schooling may predictably be significant, but the risks to most of us who did the teaching online were negligible. That was why it was all right not just to request but to demand that we did it.

There are further complications here. If nurses are doing necessary work, then providing childcare-services without which the nurses cannot do that work is presumably also necessary work. Work can be, to invent a distinction, first-order or second-order necessary work, depending on whether its products are needed directly, or whether it is necessary to enable that first-order necessary work. (It is easy to see that there is work that is higher order necessary work, too; and that the same work may be necessary work at more than one level, as vaccination of healthcare workers both reduces their suffering and death and enables them to reduce suffering and death.)

Given that social distancing and isolation can have significant psychological costs, it may be that the overall cost in suffering and death of closing the schools will be greater than that of keeping them open, especially if we are decreasing contacts and increasing

ventilation. Children taught solely from home for a year may show significant educational deficits, which, in turn, may lower expected lifetime earnings in a way that predictably also reduces average expected lifetimes. How should we account for those lost years in deciding what work is now necessary work, needed to advance the basic aim? How far out should we look to the consequences? Minimizing the risks to necessary workers is constrained by resources. So how much risk reduction can we reasonably afford? How much of an increase in the deficit—with its consequent reduction in resources available over the future—is it worth to reduce suffering and death now?

Thinking about these last two questions might invite a challenge to the sort of analysis I have been sketching. I have focused on suffering and death as the key issues, in understanding the idea of necessary work, because I think that that reflects how the concept has actually been used. And this has led us to stress, when looking at consequences, the reduction of harm, and perhaps only one kind of harm, the sort of harm that we go to the medical professions to understand, prevent and treat.

Some consequentialists might have favored a more straightforward cost-benefit analysis, and that might have led to a different set of policy responses. Just to pick one obvious example, the closure of schools has significantly reduced the quality of life of the typical American teenager over the last year and may have retarded the social development and the human capital formation of many young people in ways that reduce their future quality of life and, perhaps, their lifespans. So, the quality-adjusted years of life gained by the elderly from our efforts at disease mitigation may have significantly reduced the quality-adjusted life years of the young.

The increased government borrowing as part of the response to the pandemic may well reduce the quality of life of future citizens. What is a fair price in lost opportunities to them for the extended lives of people who are over sixty today? The utilitarians will say that we must try to maximize the net benefits. They will place a value on quality-adjusted life years in order to make all the costs and benefits commensurable. As is usual with such proposals, part of the problem is that we don't, in fact, know how to make these assessments and estimate their likelihoods: but that, as we've seen, is a problem on the more limited kind of consideration of consequences that we will engage in if we are pursuing the more limited basic aim as well. It is not just a problem for utilitarians.

There is a further puzzle: whether work is necessary to achieve the basic aim of reducing the suffering and death caused by the

disease will depend on what other measures we adopt. It requires holistic evaluations. Evidence suggests that some number of people who lose their jobs as a result of the pandemic response will commit suicide as a result.⁵ So that will be part of the cost of our response. But the numbers here are very likely to be smaller if the government provides income to those facing temporary but fairly long-term involuntary unemployment. So, it may be that sending out the checks to those people is necessary work; and, since it can probably be organized from home, this is necessary work that anyone can do while still protecting themselves from exposure to the virus. So, anyone can be a necessary worker of this kind.

Given the importance of necessary work and thus of the people who do it, it is fitting to honor those that do significant amounts of it. To honor someone is to treat them as worthy of respect, to esteem them because they rank high in the scale of contribution to some valuable end. The basic aim is itself, of course, a valuable end. And to rank high on the relevant scale is to do work that contributes significantly more than most to that end. We will honor, too, those who risk more than others, whether or not their contribution to the basic aim is greater than normal, because sacrifice in a good cause is worthy of respect. Health-care workers, even with adequate personal protective equipment (PPE), took significant risks in the first stage of the pandemic, when vaccination was not available and the disease was not well understood. Even those whose direct contribution to saving lives was small, were contributing to something worth honoring; the indirect effects of their actions, in enabling the whole healthcare system, were substantial. I will come back to issues of honor again.

I hope I have said enough by now to make it clear that the question whose work must go on, which has played an important role in our responses to the COVID-19 pandemic is actually an extremely intricate one. Indeed, given just the complications I have already identified, you might think that it would have been better not to invoke this concept at all; since, without the sorts of analysis I have just exemplified, it may obscure as much as it illuminates. As I've argued, there are many puzzles about whether we can make the concept work at all.

But more than this, once you see what's involved in thinking about whether work and workers are necessary, you can worry that

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https://www.mentalhealth.va.gov/suicide_prevention/docs/Literature_Review_FSTP_Unemployment_FINAL_508_8-19-2019.pdf

the identification of a particular job as necessary work is not as helpful as I have been assuming. I suggested that if you were guided by the basic aim of reducing suffering and death caused by the disease, you might end up thinking that teaching a Zoom class was necessary work. But does that really matter? What matters is that Zoom teaching was the best available alternative to in-classroom teaching and that continuing in-classroom teaching would have led to a great deal more suffering and death. Since the costs to the health of teachers and students of doing it were negligible, that made it worth doing, necessary work or not. You might think that whether the work was necessary work was relevant to determining whether you should honor it: but we should honor what makes an exceptional contribution to a worthwhile end, not just any old thing that does so. And even if online teaching was necessary work, I doubt it made an unusually high—and thus particularly honorable—contribution.

These issues are important enough in themselves, and I have only just scratched the surface of them. But there is a more general set of issues here that this case study illuminates. One policy response to the pandemic emergency was to say that no one should be required to do work that was not necessary. Of course, lots of non-essential work continued: novelists went on writing their fictions (at least if they weren't too distracted by the anxieties of life under COVID); architects went on designing; restaurants operated masked and socially distant kitchens and delivered food, much of which was not necessary. But that was because all this could be done safely while social distancing. What shouldn't have happened was work that was both dangerous and not necessary.

You might think that that isn't true because it was reasonable for many younger people to decide to go on doing work that was not necessary even if it exposed them to the virus, given the low risk of morbidity and mortality in the young. According to the NIH, four out of five hospitalizations for COVID-19 in the US have been for people over the age of 65 and people over 65 are 27 times more likely to die of the disease.⁶ (Actually, this number overstates the risk to the young. It's the ratio of mortality, and since young people knew they were safer, they took more risks. We don't know what the ratio would have been if the young had been behaving in exactly the same ways as the old.)

But allowing young people to take these risks if they chose to would have ignored their role in transmitting the disease. Consider this instructive comparison. Sweden adopted *laissez-faire* policies and

⁶ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7288963/>

had a very low rate of social distancing, especially among the young. Norway mandated a high rate of social distancing. Sweden, with a population of about 10.1 million, had 14,588 deaths by the end of June 2021 from COVID-19; Norway, with a population of around 5.5 million, had 792. Had Norwegians died at the rate of Swedes, that number would have been ten times higher. Roughly ten percent of Swedes have suffered from the disease in some form; under 3% of Norwegians have. (And, for what it is worth, the Swedish and Norwegian economies are emerging from the pandemic in comparable shape.) It may be reasonable to allow people to take risks if the main burden is borne by themselves; it is not, when the consequences of defection are largely borne by others. And that is true, even if, like jumping the turnstile on the subway, the individual contribution of a particular defection is negligible.

II: Modularity

But the lessons I want to take from this little case study are more general. Elizabeth Anderson has done a good job of drawing to philosophical attention the question what burdens employers may reasonably place on workers; and has concluded, rightly in my view, that it is not enough to defend our current practices to say that workers are free to leave if they don't like their wages and working conditions.⁷ Laissez-faire is not the best doctrine in employment law, as it wasn't in responding to the pandemic. Once you start thinking about work from the point of view of the distribution of its burdens, in terms of morbidity and mortality, and once you see that those burdens are often borne not just by workers, you will naturally find yourself asking, I think, what such health externalities we can accept. And if you ask that question, you will naturally want to ask how to remove those we cannot accept. I began by discussing some of the ways we thought about this in the particular circumstances of the pandemic: but now we can see that this is something we should be thinking about all the time.

Here, I think, it is important to consider the full range of institutions and decision-makers who must face this issue. Like minimizing the costs to workers within an institution, minimizing the negative externalities—the costs imposed on those outside the institution—of a practice like work, evidently requires co-ordination. One needs to analyze what the combined effects are of many interacting practices and then to see how to organize the whole in

⁷ Elizabeth Anderson *Private Government: How Employers Rule Our Lives (and Why We Don't Talk about It)* (Princeton: Princeton University Press, 2017).

such a way as to achieve the aims of the institution while, for example, respecting the basic aim. This is something that those within the institution are better placed to do than outsiders, since they have a grasp of the way its elements interact and what the effects would be of altering the behavior of each of them. You will want the managers and owners of workplaces to care about these questions, then.

But health (and other) costs borne by outsiders will not automatically reduce the profitability of an institution. So, insiders, and especially, business leaders, often lack the normal incentive to keep track of these effects, namely, that it affects the “bottom line.” Worse, because businesses are generally in competition with other similar businesses, reducing their costs or increasing their outputs by imposing costs on others, will be means of increasing profits. As a result, a business that seeks to reduce its negative externalities will be at a competitive disadvantage in relation to one that doesn’t. So there need to be systems to monitor those costs and direct the business’s attention to them, since they have this disincentive to do so.

There are many socially-available levers to achieve this. Some require state action, politics. So, for example, the law can allow those who are negatively affected by an externality to seek compensation for themselves through the courts. But to do that the state needs to identify what forms of costs to others will be actionable. That can require difficult analysis. Or, to give another example, states can make laws or other regulations, enforceable by civil or criminal penalties, that will penalize those externalities in ways that will discourage those we aim to discourage. But, once again, the penalties need to be adjusted so that they tend to discourage the kinds of externalities we want to discourage. Setting the levels here can be hard, too.

A third means of regulation is in the domain of civil society: a campaigning press and active non-profit sector can keep track of and expose the harms caused by businesses, and make them pay a reputational cost, which may both reduce sales or impose social penalties in disesteem or contempt on the leaders of those businesses or make it harder to hire the workers they want.

But a fourth important way of reducing the burdens that businesses impose on others is to establish norms of conduct, underwritten by patterns of esteem and disesteem within the world of business itself, that create the expectation that businesses will be, as we now say, socially responsible. As the website for the British organization *Social Responsibility* puts it: “employees and customers place a premium on working for and spending their money with businesses that act responsibly and for the benefit of society at

large.”⁸ This is a means of regulation that lies in the domain of public culture.

This reference to a “premium” placed by employees on features of the businesses that employ them, is connected, of course, with an important general issue in the philosophy of work: namely, how to assure that work has some of the non-instrumental properties that make it rewarding for those that do it. After all, people typically spend 8 hours or more of each weekday at work and another 8 or so hours sleeping, so it is how many of us spend at least a third of our waking hours. It cannot be irrelevant to human flourishing whether the experiences that take up so much of our time are satisfying. There’s a reason Article 23 of the Universal Declaration of Human Rights begins, “Everyone has the right to work, to free choice of employment, to just and favourable conditions of work.”⁹

It seems, then, far from unreasonable that people should want their work to be something that they themselves draw meaning and self-respect from, and that the workplace should be, where possible, a source of the kinds of valuable human interactions that we *πολιτικά ζώα* care about. How, then, can we ensure the rewards of significance and sociability that I identified as marks of a good job?

Once again, as when dealing with health externalities, a great variety of mechanisms can be brought into play. Meaningfulness in work has a variety of distinct sources and components. One is the question whether what you are doing serves some purpose that you value and that is valued by others. That is one place the sorts of employee concerns that the *Social Responsibility* website draws attention to matter. We derive self-respect from contributions to worthwhile ends. But we also draw social esteem from others. And there is a sustaining interconnection between these two things, that is essential to the way honor works to support practices. The esteem of others is something we value for itself. We are respect-loving creatures, and that is a central dimension of our sociability. But when people communicate their esteem to us, it also confirms our sense that what we are doing is worthy of respect: and self-respect comes from the recognition of what we are and of what we are doing as respect-worthy. Esteem, then, has an epistemic dimension, because it keeps us on track in valuing what is valued by others around us.¹⁰

⁸ <https://www.social-responsibility.co.uk/about-social-responsibility.php>

⁹ <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

¹⁰ This mechanism can sustain practices that are bad, of course, as well as those that are good. As they say, there is honor among thieves. The epistemic function of esteem is discussed in

But, as successful business leaders often remark, corporations that pursue and are seen to pursue valuable goals in honorable ways will have an advantage in recruiting talented people to work for them.¹¹ To put it at its crudest, that premium employees are willing to pay for an honorable job makes them willing to work for you for less. Less crudely, it can reduce a company's search costs, since it makes it more likely that talented people will apply for jobs with it and that, once they find suitable candidates, they will actually be able to recruit them in a competitive labor market.

One reason that it seems crucial to make a concern for the external costs of one's business a legally enforceable obligation is that it means that attention to such considerations becomes part of the job. As I mentioned just now, without this constraint, there are disincentives to putting one's business at a competitive disadvantage. And one then has to choose between doing what is socially responsible and honorable and what is profitable. Being forced to make such choices is exactly one of the ways in which a job can be unsatisfactory: decent people cannot derive self-respect from engaging in practices that require them to ignore negative externalities that both morality and honor require them to attend to.

Some people think that the solution here is simply to criminalize certain practices that impose certain costs on others and to let others be discouraged by the law of torts. But this ignores a simple but important point. The experts on the possible effects of a business practice are almost certainly going to have to know a lot about the business. They will need to have an insider's knowledge. And, as businesses evolve, new forms of such knowledge will be required to make the right decisions. As a result, the criminal law is likely always to be behind here. Take the negative impact of the irresponsible business practices in the mortgage market that precipitated the 2008 economic crisis. To see this coming, you needed to understand what was going on; and the only people in a position to do that were the bankers who were doing it. Maybe, now, we won't let it happen again; we'll put constraints on businesses that are, in the formula, "too big to fail." But the next crisis is likely to come from somewhere unexpected.

Geoffrey Brennan and Philip Pettit *The Economy of Esteem An Essay on Civil and Political Society* (New York: Oxford University Press, 2006).

¹¹ Indra K. Nooyi & Vijay Govindarajan "Becoming a Better Corporate Citizen," *Harvard Business Review Magazine* (March-April, 2020) <https://hbr.org/2020/03/becoming-a-better-corporate-citizen>

As for the law of torts, it has too little deterrent effect, at least in a legal system like ours, when the people harmed are poor or ill-informed or, as is often the case, both. The result of this is that the expected costs of many bad practices—like putting your workers and customers at medical risk by failing to take the proper precautions—are lower than is needed to be to deter them adequately. We need workers and managers inside the business to care about these effects; we need their knowledge of the business to be mobilized to anticipate them.

But you cannot pay attention to every one of your business's effects. It is one of the central objections to act-utilitarianism as a guide to action that it requires us to think about all the effects of each act down to the end of time, thus imposing on us an impossible epistemic burden. So, how can we combine the conclusion that there is an important place for those inside businesses in mitigating their negative effects, with the recognition that there are substantial limits on what is epistemically practicable?

Abraham Kuyper, theologian and former Prime Minister of the Netherlands, developed the idea of “sphere sovereignty”: the thought that all the various “social spheres,” as he called them, each had their own distinctive norms.¹² “The family, the business, science, art and so forth,” he said, “are all social spheres, which do not owe their existence to the State, and which do not derive the law of their life from the superiority of the State, but obey a high authority within their own bosom....”¹³ I am not a Calvinist, but this passage strikes me as expressing a deep and important idea about the organization of moral life. And I aim to persuade you, in closing, that, once it is elaborated a little, it is also practically useful.

¹² Kuyper's discussion is available in Abraham Kuyper *Lectures on Calvinism* (New York: Cosimo Classics, 2017). Jerry Fodor explored the idea of “modularity” in *The Modularity of Mind* (Cambridge: M.I.T. Press, 1983), arguing that our minds are composed of sub-units with specialized functions—such as perception, and considering what made them modular. Owen Flanagan suggested the idea of moral modularity in *Varieties of Moral Personality* (Cambridge: Harvard University Press, 1991). But he, too, was talking about the modularity of our psychological processes not the normative distinctness of institutions. That idea entered sociology through Weber's discussion of vocations in pieces such as “Politik als Beruf” (“Politics as a Vocation”) in his *Gesammelte Politische Schriften* (München: Drei Masken Verlag, 1921). Michael Walzer's *Spheres of Justice* (New York: Basic Books, 1983) defends the modularity of questions about distributing social goods, which is a kind of sphere sovereignty, too, though I don't believe he drew on Kuyper. I first raised these issues in *Museum*, the magazine of the American Council of Museums, where I was discussing the distinctive responsibilities of museums and their boards and staff.

¹³ Kuyper *op. cit.* 90.

I have been talking about ethics in Aristotle's sense. But there's another significant way of using the word "ethics." It's when we talk about "professional ethics," meaning the set of norms distinctive of a particular profession. They govern you *as* a member of your profession in matters *related* to your profession.¹⁴

These norms need not be directly about what you should *do*; they can also be about what values you should be guided by or about how you should think and feel about your fellow professionals and the people and purposes the profession serves. We professors should seek to help our students develop autonomy—so a teacher mustn't turn students into disciples. We should respect truth and acknowledge sources, in our research. We should treat colleagues according to norms of courtesy that are distinctive of the university, referring to them by their surnames in speaking to undergraduates, for example.¹⁵ So, in short, the Academy is one of Kuyper's social spheres with its own "law of life." We who live and work as professors imbibe these norms through our work. We can tell whether or not colleagues are following them; we respect those who do and condemn those who don't.

Professors should also, of course, be good citizens and loyal family members. But those are not *professional* norms: the former is a civic norm, distinctive of the social sphere of politics; the latter is a family norm, distinctive of the sphere of intimate relations. This thought is elegantly developed in the Confucian tradition. Mencius speaks of the five relationships: parent and child, minister and ruler, husband and wife, older and younger brother, and friend and friend. He spins out of this recognition an account of the distinctive virtues and obligations of each of the five spheres.¹⁶ But those five, as we've been discussing, are just the beginning.

In each sphere, then, there are characteristic values to honor, virtues to develop, norms of behavior to follow, relationships to sustain. And the denizens of each sphere are the experts on all this, recognizing how the relationships and the norms of behavior and the virtues embody the values. The profession learns over time how all these elements—the values, virtues, relationships, and behavior—fit

¹⁴ One of the things a professional ethics sets out is what areas of life *are* related to your profession: for the military, certain conduct off the base is "conduct unbecoming an officer and a gentleman."

¹⁵ And, as this case shows, professional ethics deals with matters both of greater and of lesser importance.

¹⁶ Hsü Dau-Lin in "The Myth Of The 'Five Human Relations' Of Confucius," *Monumenta Serica* Vol. 29 (1970-1971): 27-37, rightly insists that this idea is not strictly speaking Confucian, since it originates with Mencius.

together, because they need to evolve as the surrounding social and technological context of their profession changes. For teachers over the last year, ideas about how to handle remote teaching have created new norms. May we require students to turn on their videos on Zoom?

Notice, by the way, before proceeding, that the focus on necessary work was an example of modularity. The task for businesses and governments was to take decisions about which work must continue, given the way that work is currently organized. It was not to think about what would be, all things considered, the best thing that each person should be doing at work.

But now it is reasonable to ask *why* do the distinct spheres have distinctive norms? And the beginning of the answer is that each profession has its own distinctive *functions* and to serve these purposes, a profession, like any institution, has to focus. One cannot be an expert at everything. An institution, like a person, has to think about the consequences of its existence and its practices, but it cannot (no-one could) predict all the consequences of everything it does. We set limits, therefore, on how its general practices should be regulated. So, for example, any business will be housed in buildings, which will have all the effects of any building: they will consume energy, block and reflect light, release waste. If it does these in ways that interfere with the business's central distinctive functions, its workers and managers will have to make special efforts to work out how to mitigate those effects. But otherwise, the obligations they have as building owners are no different from anyone else's.

The general answer, then, to the question why the different spheres have to have different laws, is that it's not possible to consider every consequence of every move you make or think about everything that matters all at once; and so, we bundle together packages of concerns and ask people within an institution to focus on having the knowledge and skills necessary to meet a manageable package of purposes. We practice an institutional division of labor. One way to put this is to say that ethical life—the business of deciding what we want to be like, how we should act and feel, what we should care about—is modular: the answers to those questions are answers that depend on defining a context. Am I here acting as teacher or uncle, citizen or family member, manager or employee, client or friend?

So, it is important, then, contra the inclinations of modern moralizing social media, to assign issues to their proper and distinctive spheres and to give them, in each sphere, their proper weight. The modularity of ethics means that if you are a surgeon,

your role is not to decide whether the world would be a better place if the politician under your knife were to perish. If you are a defendant's attorney in court, your role is not to seek justice by hiding exculpatory evidence, whatever you think of your client's guilt. If you're in charge of a nurse's union, you cannot make your first directive the containment of our nation's health-care costs. All of which is to say that we have role-specific obligations that are separate from the views and values we may have as private citizens. Maybe, in the world of business, thinking about the negative consequences of the uses and the likely misuses of your products and the distinctive external health impacts of your practices should be a role-specific obligation. That is more than many businesses think about today; but it is less than everything.

There is much to be said, naturally, about the limits of ethical modularity; sphere sovereignty is relative, not absolute. Taking account of modularity structures our ethical situation. It highlights the way our roles in life—professional and social—must shape but also limit our responsibilities. Abraham Kuyper, a deeply religious man, himself struggled with how to reconcile art as a realm unto itself with what he considered the necessity of bringing it in submission to God; he concluded that “Religion and Art demand an independent existence, and the two stems which at first were intertwined and seemed to belong to the same plant, now appear to spring from a root of their own.”¹⁷ A similar thought applies, I think, to the passionate political values people may have as citizens, on the one hand, and, on the other, the responsibilities—custodial and scholarly and educational—they have as stewards of businesses. To resist a totalizing conflation of all our spheres of value is not to dilute the ethical commitments we all must shoulder; it's just to affirm them in their full complexity.

¹⁷ Kuyper *op. cit.* 148.