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**OCCASIONAL ETHICAL
CONSULTANCY**

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Abstract

In business, it is very common for people to ask others for advice, in a more or less formal manner, on ethical matters, almost always in the form of a brief, unpaid consultation. This article studies the nature of this ethical consultancy, its content and nature as occasional advice, and the differences with respect to ethical "teaching" (in a broad sense of the word teaching). The article also analyses its quasi-contractual nature, based on trust, which is a key element of occasional ethical consultancy; the obligations that each party must fulfil, and the many forms that, in real life, this type of consultancy may take. The article also discusses the prudential content of occasional ethical consultation and the criteria for choosing the consultant, closing with a few remarks on occasional consultancy within the company.

OCCASIONAL ETHICAL CONSULTANCY

Introduction

“Hi, how are you? Can I bother you for a few minutes?”

“Of course! What’s it about? Take a seat.”

“Thanks. Look, I’ve got a problem and I wanted to ask your advice, as a friend and expert. I know you have sound moral criteria and are very familiar with the kind of matter I want to ask you about. Well, to get to the point ...”

This type of dialogue is common in private life and in business. I should say that *fortunately* it is common, because it is unlikely that a person will be able to take meditated decisions alone on major ethical and technical problems without the help of others.

However, occasional advice is by no means trivial, because it means helping someone to make a good decision, working for the good of the advice-seeker and society as a whole, and sharing responsibility for a decision. Therefore, it is important that certain conditions be met with regard to the person asking for advice, the person giving it, the subject, the circumstances, and the consequences of the advice.

The purpose of this paper is to analyse the nature of occasional ethical consultancy and advice-giving, the nature of the relationship formed between advice-giver and advice-seeker, the duties of the two, the prudential content of ethical consultancy and the question of choosing the advisor. The paper concludes with a few remarks on the importance and functions of occasional ethical consultancy within the company. This is a normative article which does not seek to establish hard and fast rules but rather to offer guidance on what is an important activity in everyone’s private and professional life, and to propose possible subjects for discussion that will help the reader to understand better the importance of the function of advice or consultancy in ethics and in the company. Although much of the following discussion could apply to any consultation, or to advice in general, we will concentrate mainly on consultations that have an ethical content.

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The nature of occasional ethical advice

According to the New Webster's Dictionary, advice is "information or opinion given to aid the judgement or actions of another". It thus involves the action of two people, the advice-giver and the advice-seeker, concerning the taking of a particular decision.

The difference between advice and "teaching" –in a very broad sense: in a classroom, in a lecture, in a book or journal, in a newspaper, in a conversation between friends, etc.– lies in the fact that teaching aims to convey certain knowledge or criteria, but not *to guide directly towards a specific action*, although the criteria transmitted by teaching may be used for decision-taking. Thus, the important difference between "teaching" and advice is this process of guiding towards a specific action, which is defined in relation to agents, purpose, goal and circumstances. A "lesson" or a "teaching" answers generic questions, such as "What is the appropriate ethical criterion regarding bribery?", or "What do you think about whistle-blowing?", whereas advice answers questions such as "What should I do in this case?", or "What would you do if you were in my situation?".

In any case, it is very difficult to establish a clear dividing line. Sometimes, people ask questions couched in impersonal terms with no reference to a specific situation, and yet they are basically asking for advice. There are questions asked in the third person ("A friend of mine has this problem...") when the person asking the question is really asking for himself. And there are "lessons" that have all the features of advice; for instance, when the teacher says to his students, "Whenever you find yourself in a situation like this, follow this course of action". Therefore, *whoever gives a "lesson" or offers a general criterion should accept a certain degree of responsibility* (moral, not legal), just as if he was giving advice. But only *a certain degree of responsibility* because nobody can pretend that that criterion is applicable to all possible situations.

For these reasons, the person giving a "lesson" should clearly state all the relevant criteria, even if only generically. And as this is not always possible –because a class has to finish by a certain time, because an article can only have a certain length, or because of the intrinsically informal nature of an interview or conversation in the local bar– it is only natural that the "lesson", even though it possesses some of the features of advice, does not offer the same depth or precision and so cannot bear the same degree of responsibility. (In any case, one should not forget that anybody invested with a degree of authority –parents, teachers, managers, etc.– has a responsibility, in a wide sense, for the words they speak and the actions they perform, which are basically a way of "teaching". The sales director who pulls a wry face when a salesman tells him that he used unethical means to win a sale is transmitting a "lesson" to his subordinate.)

Strictly speaking, ethical advice or consultancy is concerned with *the ethical content of a decision*. However, when it involves a specific decision, it is no longer possible to separate the decision's ethical content from its *technical* (economic, financial, commercial, etc.) content. Sometimes, the consultation centres specifically and exclusively on an ethical problem; for example, "Can I use racial discrimination as an argument for an advertisement?". And although the advice given requires a consideration of the technical details –nature of the product, nature of the campaign, target audience, media used, duration, etc.– it does not involve any marketing consulting. On other occasions, the advice asked is of a technical nature –"Which of these arguments seems to you to be most effective for an advertising campaign?"– but the answer contains ethical advice –"I find this argument unacceptable for moral reasons; this other argument seems better to me from the technical viewpoint and has no ethical drawbacks". Sometimes, the consultation is generic –"What arguments can I use for an

advertising campaign?”– and the content of the answer should be both ethical and technical. And, of course, there are lots of situations that lie in between the two extremes.

Ethical advice may or may not be given *in answer to a prior consultation*. Sometimes, the consultation is implicit. For example, when someone relates his professional problems to a friend or superior, it is obvious that he expects to receive advice. On other occasions, the situation is one of unilateral action by one person who offers moral advice to another. As ethical advice implies a certain relationship, with reciprocal rights and duties, it is wise to clearly establish the *title* of the unsolicited advice by reason of which that relationship is created. Because, to a certain extent, advice-giving implies a *quasi-contractual relationship*, although without any legal effects. Therefore, there must be a cause, a reason in the advice-giver and the advice-seeker, as there must also be in the case of unsolicited advice.

The main subject of this article is *occasional* ethical consultancy or advice, in that the advisor is not an ethics consultant (and therefore does not act as such), nor is a formal legal relationship created, a contract for the provision of services, by means of the payment of a price, although many of the criteria that will be discussed here are also valid for formal consultancy. Occasional means *non-professional* (not a professional of ethical consulting, although it is by no means a task for amateurs). Therefore, it is *free*, although it may give rise to a gift, in gratitude for the help given, and, if appropriate, payment of the expenses incurred by the advice-giver. However, occasional *does not mean short-lasting or not repeated*. A consultation such as that considered here may be lengthy, or repeated over time, on the same subject or others, precisely because it establishes a relationship of mutual trust, as we will see later on.

The relationship established in occasional ethical consultancy

As we have already said, occasional ethical consultancy implies a *quasi-contractual relationship* between advice-seeker and advice-giver. The fact that this relationship has no legal status and does not create rights and duties that would stand up in court does not mean that it has no moral content nor, therefore, that it does not create ethical rights and duties.

We say that the relationship is quasi-contractual because *the advice-giver undertakes to provide the advice-seeker with a criterion or advice on a decision*, to the best of his ability (and probably without any obligation to dedicate any resources beyond the normal resources that are immediately available), while *the advice-seeker acquires a certain commitment to listen to and consider the advice received*. It is not a fully-fledged contract as nothing that has legal validity is given in exchange for the advice (since occasional advice is, in principle, free). In this sense, it has more in common with a *donation*, which also implies duties for both parties.

Perhaps the aspect that best defines occasional moral advice from the ethical viewpoint is *the relationship of trust* built up between the two parties, which enables one to state a problem and the other to offer advice. Both parties' duties are defined, to a considerable extent, by this relationship of trust and the advice-giver's consequent loyalty and the advice-seeker's gratitude. Without pretending to be comprehensive, the following pages discuss these rights and duties in greater detail.

Duties of the advice-seeker

For our purposes, the advice-seeker is a person who, on his own behalf or on behalf of others (a company, etc.), must take a decision (or series of decisions) or adopt a criterion

that will help him take a decision on management issues. This decision contains an ethical component and the advice-seeker *seeks guidance in the taking of the decision*, not just theoretical knowledge or criteria (or, if such knowledge is indeed sought, it is to form a criterion with a view to future decisions).

Some of the requirements that the advice-seeker must meet in order to satisfy the ethical requirements of advice are the following:

1) To seek an advisor *who can really help him*, thanks to his technical and moral knowledge, his experience, his moral calibre and his closeness to the advice-seeker. *To have a wish to learn and take correct decisions.*

2) To act *in good faith*, with a genuine desire to seek advice, and not for other purposes (such as trying to obtain information from the consultor, or reasons for accusing or discrediting him, or using the acquaintanceship later to personal ends, etc.). The advice-seeker should not look for an adviser who will tell him what he wants to hear but rather one who will give him the best ethical device, in the same way that a patient will not look for a physician who will reassure him, or tell him that he is in fine shape, but for one who will speak frankly with him and can cure him.

3) *To state clearly the purpose and scope of the consultation*, so that the other party is freely able to accept or reject it.

4) *To tell the truth*, clearly stating all the relevant details about the case, separating, as far as possible, personal impressions or feelings from hard facts. However, one may partially or wholly conceal data that are clearly irrelevant, that could only satisfy the advice-giver's personal curiosity, or that could reveal the identity of people that should be kept anonymous. For example, one can give an approximate figure, or a range of figures, instead of the exact quantity, or simply describe as "a salesman" the person who committed a certain immoral act. In short, the general rules on the obligation to tell the truth, but not necessarily the whole truth, are applicable. However, by virtue of the relationship of trust with the advisor, the need to tell the truth is particularly important here as part and parcel of the request for advice.

5) *To give the advice-giver complete freedom*, first, to accept or refuse the consultation; second, to state any conditions he considers appropriate (time, information required, etc.); and finally, to give the advice he considers appropriate. However, this does not mean that the advice-seeker cannot ask for further explanation or reject the advice, if he considers it unsuitable.

6) *To give him the necessary time* to study the matter, although pressing him for a prompt answer if the case so requires.

7) *To listen to the advice received*, paying attention to it and taking it into consideration –which includes the possibility of rejecting it. It was precisely to receive advice that the person approached the advice-giver in the first place.

8) *To personally take the appropriate decision*, which may or may not be in line with the advice received. *The advice-seeker is completely free to follow the advice received or not* because, in the final analysis, it is he, not the advisor, who will bear responsibility for the decision.

9) *Not to unload responsibility for the decision or its consequences onto the advisor.* The decision must be taken by the advice-seeker and by him alone, unless agreed otherwise

in the consultancy “contract” (e.g., because the advisor, being the advice-seeker’s superior, takes the decision that normally the latter should have taken). Therefore, the advice-seeker cannot denigrate the advisor or criticise him for his advice, nor can he shift onto the advisor the responsibility for his action or any consequent loss of prestige in the eyes of third parties.

10) *Never to use the advice against the person who gave it*, if he acted in good faith.

11) *To keep discreetly secret the advice received*, depending on its confidentiality (explicit or not). Obviously, there are types of advice that can be made known to others, at least insofar as they are concerned with general criteria or rules for judicious behaviour, and the advisor’s name may lend greater credibility and acceptance to the advice given. There is also the alternative of revealing the advice while keeping the advisor anonymous (“an expert told me one day that...”).

12) *To express proper gratitude*. This will often be the only thing given in exchange for the advice.

13) *To compensate the advice-giver*, if applicable, *for any expense and bother* that he may have incurred, within reason. And if the advisor named a price and the advice-seeker accepted, pay it.

Duties of the advisor

The advisor or consultant asked to provide moral advice should act in accordance with the following rules:

1) Upon receiving the request, he should decide *whether or not he is able to give the case suitable consideration*. For example, he should consider whether he has the necessary technical and ethical knowledge, whether he has enough time, and whether he has the necessary freedom of judgement and cooperation (which would be adversely affected, for example, by a professional relationship or otherwise with the person seeking advice, or the possibility of using insider information, etc.). If these impediments arise in the course of the consultation, the advice-seeker should also be notified of this circumstance and, if appropriate, the advice should be discontinued (although he should assess this in the light of the degree of commitment involved).

2) In particular, he should have *the necessary general or specific ethical knowledge* required to take the decision. Should he not have this knowledge but undertakes to provide the advice, *he should acquire such knowledge* by the most suitable means. This obligation can be stronger or weaker, depending on the nature of the commitment taken on, the importance of the consultation and its implications, etc. Lack of the necessary knowledge is a more than sufficient reason for rejecting a consultancy task, as it would be senseless to blindly give ethical advice.

3) *Is he obliged to accept the consultation?* The very nature of occasional advice suggests that it is *voluntary*, at least on many occasions. However, there are circumstances in which there may be a certain obligation to give advice: when the person giving the advice is the advice-seeker’s superior, on subjects within his field of activity, or when the consultor is also a counselor. If the advisor is an expert on a particular subject, which is also the subject of the consultation, he will be more obliged to accept, but not necessarily without charging for his advice if consulting is his professional activity (ethical advisor, lawyer, tax advisor, etc.). There may also be a moral duty to accept the consultation for reasons of closeness to the advice-giver (a relative, a friend, a colleague) or because of the urgency or need for the advice.

4) Once the commitment has been accepted, the advisor's professional nature requires that *he give the necessary time, attention and resources* to the task of giving good advice, placing the problem on an objective plane and going down to a detailed level, if necessary.

5) If, as the consultation process continues, it becomes apparent that *extraordinary resources* (time, knowledge, efforts, etc.) are required, it is not mandatory to provide them, given the occasional nature of the consultation (unless this need was detected at the outset and, in spite of this, the consultation was accepted). However, this should be offset against the degree of commitment taken on, whether there are alternative methods for the advice-seeker to form an opinion, etc. A manager who is the target of a request for advice from a subordinate on an issue that is important for the company or for its personnel and that lies fully within his range of responsibilities cannot afford to ignore this request, although, if he is unable to attend to it properly, he may refer the subordinate to another suitable person.

6) The normal procedure is that an occasional consultation *not be paid for*. Indeed, the advisor should not expect to gain any financial benefit from the advice given, although *he may accept a gift*, as a sign of the advice-seeker's gratitude, or even formal fees, if the advice-seeker offers to pay them. But *neither should it put the advice-giver out of pocket*. Consequently, if complications should arise in the case and require additional resources, he may propose converting the consultation into a professional relationship with the corresponding fees, or at least with the advice-seeker paying the expenses. Obviously, this is not applicable in some cases (*e.g.*, in the case of a subordinate who consults a manager on a subject related to their work). Furthermore, as the relationship is voluntary, there is nothing to prevent the advisor considering it a formal consultation right from the start, setting a fee for his services (although this would not be acceptable in all cases).

7) The advisor *should gain as complete an idea as possible of the matter* at issue, depending on the circumstances (urgency, importance, degree of commitment, etc.), as the advice that he is being asked for requires that he apply ethical rules to this *particular* situation. Therefore, he must ask the appropriate questions, request the relevant documents, speak with other people, etc.

8) When the case so requires, *he should also listen to the reasons or arguments of the other parties involved*, for example, when the advice is in fact an arbitration. In such cases, he should act with the consent, even if only implicit, of the advice-seeker.

9) If the nature of the subject so requires, the advisor may –and even should– *ask other people for their advice*, because of their superior moral or technical knowledge, because of their experience, or simply to get a second opinion. If this means revealing information covered by the secrecy obligation mentioned below, he should ask the advice-seeker for his approval or else ask for the advice in such terms that it is impossible to identify who the parties concerned are.

10) The consultant should *keep secret as far as reasonable* the subject of the consultation, the persons involved and what he has learnt as a result of the consultation. The relationship of trust created by accepting the consultation demands this secrecy (and, if he does not accept the consultation, the secrecy obligation also extends to the information given to him by the advice-seeker at the time the consultation was proposed, as this information was already given within the above-mentioned relationship of trust). Information that is already available independently of the consultation is not subject to this confidentiality undertaking, although this aspect should be defined more precisely, depending on the circumstances of each case. A good rule of thumb for the ethical consultant is to “forget”

the case once the matter is settled, unless there are reasons for acting otherwise, for example, to continue helping the advice-seeker because the latter requests or needs such help. This is particularly important when the advice-seeker is a client or competitor (existing or potential) or when the information received could be considered insider information, even though it may not be so from the legal standpoint.

11) On occasions, the advisor may come to the conclusion that *he must inform a third party* of the knowledge received in the course of the consultation; for example, because that third party may be harmed, etc. Normally, however, he should convey no such information, not even indirectly, as this would be an infringement of his confidentiality undertaking with the advice-seeker. However, he may impose upon the latter the obligation to convey this information, and he may even discontinue the consultancy if the advice-seeker does not give his acceptance. In some cases in which, in view of the seriousness of the situation, another person's welfare or the common good so requires, it seems reasonable that the advisor should be exonerated from this confidentiality obligation (if, for example, a crime is going to be committed or severe harm is going to be done), although there may be exceptions to this (for example, the secrecy of confession in the Catholic Church).

12) It may be that the advisor has *insider information*, obtained by other means, that could be useful to the advice-seeker. Obviously, the advisor should follow ethical rules when using this information for such purposes. If he suspects that the reason for the consultation was to gain access to this information, then that is sufficient reason not to accept the consultation, or to discontinue it if it has already begun.

13) On occasions, the advisor *discovers a moral problem in a technical consultation* –or new moral problems in an ethical consultation. In such cases, it is his duty to state this new situation, because it forms part of his duty as advisor to solve the matter to the best of his knowledge, *in all its aspects*. He may even refuse to cooperate in solving a technical problem unless attention is paid to its moral aspects. Thus, strictly speaking, one cannot say that a consultation is purely technical or purely ethical, as there are no purely technical aspects that do not have an ethical side to them.

14) Normally, the consultant should not only give his opinion, but *provide the reasons* for his opinion and *base it on objective ethical criteria*, thereby improving the advice-seeker's moral outlook, although this may depend on the nature of the advice sought.

15) The result of the consultation should be *advice that is as clear as possible*, depending on the circumstances. However, in many cases this may not be possible, as an ethical decision in a particular case requires a prudential opinion by the decision-taker, which the advisor cannot provide in the advice-seeker's place. In such cases, the advisor should clearly state the ethical criteria and help the advice-seeker to form an opinion of his own and take the decision (considering the circumstances, assessing the possible consequences, etc.), although at all times respecting the advice-seeker's freedom of action. If there is more than one solution for a particular problem and all of these solutions are valid from the ethical viewpoint (perhaps some are valid in some circumstances and others are valid in other circumstances), the advisor should enumerate these solutions, with their respective advantages and disadvantages, and may recommend one but without denying the validity of the others.

16) On some occasions, good advice may require *opening up new fields of thought*, suggesting actions that are better than those originally considered, for example, if the advice-seeker simply wished not to do harm, and yet there are decision alternatives that operate on a higher ethical level. It is in this area that the advisor can really excel in his role.

17) The advisor must act with the *celerity* required by the situation, without unduly prolonging the process of gathering and examining information and criteria.

18) As has already been said, *the decision must be taken by the advice-seeker, not by the advice-giver*. Therefore, the latter must suggest what is the best decision, but *not impose it* –by threatening to take reprisals, for example. He should also make it clear that the final responsibility for the decision lies with the advice-seeker, without this implying any waiver of his own responsibility as advisor.

19) After giving the advice, *it may be that the advisor changes his mind*, perhaps because he has received new information or has reconsidered the case. Depending on the circumstances, he should notify the advice-seeker if there is still time to reconsider the decision or react to the possible consequences of the decision.

20) Although the consultation only requires giving advice, the circumstances may be such as to make it advisable that *the consultant also take part in implementing the advice*, although the advice-seeker continues to bear the major part of the responsibility for the decision. This is a common situation when advising a subordinate in a company.

21) In any case, *the advisor must always act with moral rectitude*. It is natural that he value his own opinion but he should not seek to further his personal reputation over the welfare of the advice-seeker. Neither should he direct the consultation so that it will lead to further professional assignments, although this aspect should be considered with discretion. And, of course, the desire to deceive or harm the advice-seeker or a third party, as well as other immoral motivations should be completely banished.

An exercise in prudence

The roles played by the advice-seeker and advice-giver in an occasional ethical consultancy are *a true exercise in the virtue of prudence*. In fact, asking for advice is a typical act of a prudent person when he does not have the necessary knowledge, or when he is not sure of his opinion or, simply, as one more way of taking a good decision –and all the more so when the decision itself or its consequences are important. The advice-giver must also apply the rules of prudent decision-taking when studying and formulating his advice.

The key element of ethical advice is not simply to remind the advice-seeker about a series of general rules that he may well be familiar with from other sources, but to apply them to the case in question. Therefore, the consultant should have *experience* (knowledge of what happens or usually happens in such circumstances), in addition to *theoretical and practical knowledge of ethics* (and also, if appropriate, of the relevant technical disciplines). He also needs to have *a sharp mind* to detect the key elements of the problem (here, the help of other people may be particularly useful). He must be *intelligent, sagacious and able to reason* (to organize data, interrelate them, form opinions, establish alternatives and choose between them). He must have *foresight* (since he must find the means that will enable the action to be implemented), and he must be *sensitive to the individual circumstances* (which may change the meaning of the decision) and *cautious* (in order to avoid the obstacles that may arise, even though he himself will not implement the action). He must even have *a certain degree of ingenuity and imagination* (when listing the possible consequences of a decision or drawing up alternative actions), etc. The consultant should also be *docile*, that is, he should be used to asking advice himself and considering the guidance received from others, since a person who is not prudent in his own affairs is unlikely to be able to give prudent advice to others.

The advice-seeker should also have all the features that define a prudent person, but those that are particularly important are *docility* (to receive, understand and reflect on the advice received) and, above all, *the ability to implement the decision taken* (as, unlike the advice-giver, the advice-seeker must act, and it would be a mistake never to go beyond the study phase or to delay implementation indefinitely).

Choosing the consultant

The success or failure of an ethical consultation often lies in the choice of advisor. Thus, the ideal ethical counsellor is a person who is *expert, ethical and close to the advice-seeker*. The counsellor must be an *expert* in the sense that he must have the necessary *theoretical knowledge* –about ethics and the technical disciplines that are relevant to the consultation– *and experience* in decision-taking. In order to provide the theoretical knowledge, the best candidate would be an academic –ethicist, philosopher, theologian, etc.; in order to provide the experience, the best candidate would be a man of action –businessman, manager, consultant, etc. Depending on the nature of the problem, the emphasis will be placed more on theoretical knowledge or more on experience.

In any case, it may be useful to approach different people, with different backgrounds and interests, who may be able to provide complementary suggestions. The academic consultant may also seek the advice of the man of action –or vice versa– when preparing his advice. Technical knowledge may be important –in questions concerning a decision’s legality, for example, or in the implementation of tax legislation– but it will often not be decisive in ethical consultancy. In any case, ethical consultations are usually received by experts in technical disciplines –finance, accounting, marketing, economics, personnel management, corporate policy, sociology, etc.– perhaps because the ethical problems come about as a result of technical problems, or because the advice-seeker expects the specialist –professor, consultant, etc.– to have the necessary technical and moral knowledge.

As “nobody can give what he does not have”, the advisor is required *to show a proper ethical behavior*. *Example-setting* is an important factor in the request for advice, because it is assumed that a person who leads a faultless moral life will have the necessary qualities to give good advice: theoretical ethical knowledge (sometimes not explicitly stated but always present), a habit of putting it into practice in personal life (experience), a consistent lifestyle (which leads him to think as he lives and to live as he thinks, instead of trying to build up theories that fit in with his life), prudence (with the features stated above), etc.

Finally, it may be preferable that there exist a certain *closeness* –physical, emotional, and mental– between the advice-seeker and the advice-giver. Sometimes, it will be a professional relationship; sometimes it will be a family relationship or a friendship; sometimes, one approaches a former teacher or an expert that one was introduced to some time ago, etc. It is logical that people should look for this proximity because, as we have already said, the relationship established between advice-seeker and advice-giver is one of mutual trust, closer to friendship than mere professionalism. In any case, the advice-giver *should be prepared to help the advice-seeker*, and closeness is one means of guaranteeing cooperation.

These considerations lead us to one final question. When is it better to go to an *expert* and when is it better to go to a *friend*? The ideal person would probably be an advisor who meets both conditions, but if such a person does not exist, then it seems that the experience and knowledge factor should predominate when the problem is ethically and technically complex,

while in the case of more personal problems in which the advice-giver needs to know something about the advice-seeker's personal circumstances, emotional closeness may be more important (and also when personal or family secrets are involved). In any case, it is not possible to give any general rules on this. Furthermore, it is not always easy to contact the right person for each case. (And this suggests that when the advice-seeker finds himself at a loss and has no-one to turn to, the advice-giver has a greater obligation to help him, precisely because the advice-seeker has greater need of advice and does not know who to ask).

The responsibility of the advice-giver

Has the advisor any responsibility for the counsel given? Probably not from the legal point of view, but we cannot preclude the existence of a *moral responsibility*. Obviously, if the advice-seeker remains at all times the master of the decision, the responsibility of the advice-giver must be limited, depending on the subject of the consultation, the personal characteristics of the advice seeker (whether he or she is a person with limited ethical knowledge and training, a very young person, or someone without experience, etc.), the role played by the advisor (*e.g.*, whether he or she offered the advice voluntarily), and so on. The moral responsibility of the advice-giver is related to the obligations stated previously –mainly, the duty of study and diligence, the secrecy of the information received, the non-disclosure of inside information, etc.

Usually, the moral responsibility of the advisor does not include the duty to compensate the advice-seeker for his or her economic losses, but other compensations may be required: apologizing for the error, clarifying the issues, suggesting remedies, etc.

Occasional consultancy within the company

Many ethical consultations on professional matters are made to peers or superiors (and sometimes to subordinates) *in the same organization*. In such cases, one seeks experience, knowledge of the environment in which the problem has arisen, and emotional closeness. However, the relationship that exists in such situations has certain unique features.

First of all, they are people involved in the same project, who carry out coordinated activities: therefore, both are interested –or at least, should be interested– in everyone's decisions' having a successful outcome. Consequently, there is a *community of interests*, which makes the problem common to both of them. This is even more so if the consultation is made to a superior on a matter within his or her sphere of responsibility, because then it takes on the nature of a professional activity, as one of the manager's obligations is to be aware of everything that is happening around him, on both the ethical and the technical level, which are invariably interlinked. As a result, if ethical advice is suitably requested and given, *it enhances internal unity and communication*.

Ethical consultancy within the company offers the additional advantage that the two parties *share the same knowledge of their environment and the circumstances*. The advice thus has a greater chance of being correct. However, it may also have negative implications, perhaps involuntarily (for example, it may make it easier for secrets to be revealed, for unfair opinions to be formed about people, for communication barriers to be raised, etc.). Hence the need for uprightness in those people within the company who exercise their right and duty to ask for ethical advice.

In general, *asking for advice is part of good management*. The importance of the issues involved, the effects they may have on people and organizations, the need to be right, the complexity of the circumstances, the varied interests of the people involved, and a thousand and one other reasons make it desirable that a manager be a person who is used to listening to other people, to laying his problems before others – those above him, at the same level or below him in the organization, and others unrelated to the company, such as advisors, consultants, etc.– and to taking their opinions into account, without shirking his responsibility in the final decision. The manager does have his “solitude”, it is true, but this should not be exaggerated, as this solitude is often only that of the person who voluntarily isolates himself from other people’s advice (and criticism) out of pride or immaturity, or because he has not been able to find the right people to help him. Asking for advice is also a way of putting problems into perspective, so that the manager’s point of view is offset by others and his preferences are qualified and not just passively justified. Finally, asking for advice may help a manager to overcome lethargy, or prevent him from being led by his feelings and not by his reason.

These remarks assume that regular consulting, whether institutionalized or not, should form part of the manager’s way of working. Obviously, this is much more than the occasional consultation considered here, but nevertheless, this too should be present in his or her work, when necessary.

Another of the manager’s tasks is *to heed consultations* from superiors, peers or subordinates. Again, there are many reasons for this: to facilitate communication; to integrate people; to find out about their problems; to take part in solving problems at other levels; to widen perspectives and suggest new opportunities; to raise other people’s outlook to a higher level and help them to naturally integrate ethical aspects into it; to commit oneself in other people’s actions (even if it only be as occasional advisor); to convey our experience or knowledge to them, etc.

These remarks about consultation within the company can be extended to people who, in a more or less regular fashion, work with the company: the board of directors, the management consultant, the legal advisor, the auditor, the tax advisor, etc., and even to retired executives. These people satisfy the twofold requirement of being experts in technical matters and closely involved with the company and are therefore clear candidates for receiving occasional consultancies. Precisely because of their association with the company, they should be able to advise on ethical matters, or at least to indicate who to talk to about these matters.

These considerations also overcome possible objections to occasional consultancy as constituting *unfair competition against the professional ethics consultant*. The ethics consultant has a specific role to play in the company, particularly for long-lasting and important assignments, but there is also a place for brief –amateur or professional– advice, normally free and altruistic, from a relative, colleague, superior or friend. □

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