

# Chapter 11

## Bumfights and Care Ethics: A Contemporary Case Study

Matthew Brophy

### Introduction

Dr. Phil, television host and psychologist, kicked a guest off his show in December, 2006. The guest was Ty Beeson, a producer of *Bumfights*: a DVD series depicting homeless “bums” engaging in degrading, violent, and dangerous acts—all for the amusement of video viewers. Clips include a homeless man paid a dollar to drink Windex. Others are given money to run head-first into walls, fight each other, have a tooth pulled out with pliers, eat a raw frog, set their hair on fire, among other dangerous and demeaning acts. The producers paid these homeless men a pittance: sometimes in cash, sometimes in food, sometimes in alcohol.

Exploiting the homeless has proven a lucrative business enterprise: *Bumfights* is the fastest selling independent video series to date. But is the *Bumfights* enterprise ethical? Our intuitions tell that there is something morally wrong with *Bumfights* as an entrepreneurial venture. Yet traditional business morality condones such homeless exploitation. Two parties freely and openly contract with one another. No one is directly coerced, deceived or defrauded. No one’s negative rights are being violated. And the *Bumfights* producers could even defend their enterprise as a “win-win,” as homeless participants might be benefiting from the transaction.

*Bumfights* represents a simple business case that exposes the moral myopia from which traditional business morality suffers—a morality predominantly focused on contracts and agreement. Such a narrow focus misses a world of ethical dimensions that we intuitively recognize. Care ethics, however, succeeds in keeping faith with our moral intuitions in such cases. The *Bumfights* case, as well as other more conventional cases in business ethics, evinces that care ethics is an essential addition to traditional business morality, to help cure its ethical blind spot.

To demonstrate care ethics as a critical supplement to traditional business morality, I will allude to a few well-known cases in the business ethics canon. Through the *Bumfights* case and these others, I will show that care must counterbalance

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M. Brophy (✉)  
High Point University, High Point, NC, USA  
e-mail: mbrophy@highpoint.edu

contracts; vulnerability must counterbalance autonomy; and cooperation must counterbalance competition.

## Overview of the Bumfights Case

Ryen McPherson (2002), a 22-year-old aspiring filmmaker, conceived of and co-produced with friends the first Bumfights video in 2001, “Bumfights: A Cause for Concern.” They dubbed their company, “Indecline Films.” The DVD sold for \$19.95 off of their website. McPherson and his cohorts at Indecline, sold the rights for \$1.5 million to two producers in Las Vegas, who have since produced three sequels. Bumfights is alleged to be the fastest-selling independent video series to date.

Bumfights showcases footage of homeless on the streets of San Diego and Las Vegas. One “star” of Bumfights, Rufus Hannah (aka “Rufus the Stunt bum”), recalls being paid \$10 at the most for each stunt. His performed his first stunt after McPherson offered him \$5 to run headfirst into a stack of milk cartons, outside of a grocery store. Rufus was later pushed in a shopping cart down a flight of stairs. Other stunts in the series include a homeless person jumping off a building into a dumpster, defecating on the sidewalk, getting “branded” with a Bum Fights tattoo, being severely spanked and hit with sex whips across the buttocks and genitals, and other demeaning and/or dangerous acts. Rufus recalls running hard into steel doors, which sparked his now chronic condition of epilepsy. Perhaps the most regretful of Rufus’ stunts was the brutal fight with his best friend, also homeless, Donald Brennan, which broke Brennan’s leg in two-places.

While might suspect that the Bumfights producers were acting illegally. The producers were acquitted of all criminal charges, except for staging an unlicensed fight. For this, they were sentenced to 250 hours of community service and 3 years of probation.

## Business as Poker

Albert Carr’s (1968) canonical article, “Is Business Bluffing Ethical?” promotes the metaphor of business as a game of poker. Autonomous individuals sit at the (business/poker) table together, where they compete and negotiate with each other. There are winners and losers at the business game, but there are no “victims,” where one can claim to have been treated unjustly.

After all, like poker, business has its own set of moral rules: neither should not be unfairly condemned by the morality you find in church, have in your personal life, or are taught in kindergarten. For instance, in our ordinary life—say, in relation with our neighbors—we should be honest and cooperative: whereas in business—among competitors—“bluffing” is a morally accepted norm of competing in the business “game.”

Unfortunately, this nearsighted poker metaphor betrays a myopia afflicting the paradigm of traditional business morality: its tendency to mischaracterize all adults as equally autonomous, rational, and informed. The reality is that individuals are on

a spectrum in regard to these morally relevant characteristics. This poker metaphor, which I will further examine later, succeeds in aptly illustrating how the normative rules of business practice may differ from those in other aspects of life.

Should we really consider homeless persons to be like poker players, who elect to negotiate with other players at the business table? As we will see, Carr's metaphor seems ill-equipped to capture the situational context of homeless persons. The Bumfights case, however, is merely representative of a broader range of cases in business where care ethics is needed due to the particular circumstances of vulnerable individuals. In effort to illuminate this broader application of care ethics, I will appeal to additional cases beyond Bumfights—cases both classic and contemporary—where care ethics can do the ethical work that traditional business morality cannot.

## **Traditional Business Morality**

Carr's poker metaphor epitomizes what I'm calling "traditional business morality" (TBM), which denotes the day-to-day moral perspective dominating the contemporary practice of American business and elsewhere. TBM represents a paradigm best characterized by the ethical theory, entitlement theory; the business view championed by Milton Friedman (1970) known as stockholder theory; and the political theory of libertarianism—all three of which set the cornerstone of morality as the duty not to interfere with the rights and liberties of others. The locus of all three are property, trade and contracts.

This "contract view" of traditional business morality deems business practices as morally legitimate if it meets the following criteria: (1) The is practice in accordance with laws, rules and regulations (2) No one is directly harmed (3) No one's negative rights are violated (4) It is a "free and open transaction" between adults, without any direct coercion, deception or fraud (5) It is mutually beneficial transaction for all parties involved.

If the business action passes the five required criteria above, the business action is morally validated. While a business action needn't pass all of these criteria to be morally permitted by TBM—for instance a business transaction needn't be mutually beneficial—TBM would dismiss any moral objections to a business action if that action passes all five criteria. After all, if two adults reach open and voluntary mutual agreement and both parties benefit, what moral objections can there be?

## **Will Fight for Food: Homelessness and Choice**

Bumfights is a business enterprise premised on coaxing homeless persons to engage in self-demeaning and injurious behavior for a pittance of payment. Traditional business morality condones such exploitation, characterizing both sides of the transaction as autonomous, free participants that reach a mutually beneficial agreement without coercion or fraud. By these lights, it's not exploitation: it's just business.

Craig Walton, a professor of ethics and policy studies at the University of Nevada, Las Vegas, points out, “Even if the homeless aren’t forced to perform, it’s inaccurate to describe people without adequate shelter, food or clothing as having choices” (Squires and Casey 2002).

Homeless persons tend not to be equally autonomous in comparison to the average person. They lack autonomy in terms of health, background, and circumstance. According to The National Coalition for the Homeless, assorted health ailments include serious mental illness or disability (22%), chronic physical ailments (46%), or substance abuse problems (30%). Homeless person’s circumstances are bleak: 58% report difficulty finding food; 55% have no health insurance; 50% receive less than \$300 per month (NCH, 2007).

It’s all too easy to rationalize that the homeless landed in their downtrodden positions themselves, though some poor life-choice. However, a large percentage of homeless appear to be homeless through tragic circumstances that contributed to their situation: 21% were homeless during some point in childhood; 25% were physically or sexually abused; 27% were in foster care or similar care as children; 23% of homeless are veterans. And while it’s a comfortable rationalization to imagine the homeless as lazy, 44% report having worked within the last week (NCH 2007).

## Desperation: A Difference in Kind

*Jackass*, the popular MTV series (Knoxville, Jonex, and Tremaine 2000–2002), purveys similar content to Bumfights. Several young male twenty-somethings stage pranks, engage in injurious and demeaning acts for the amusement of viewers and each other. How is *Jackass* different from Bumfights? In answer, one might point out that *Jackass* is a cooperative venture, where the profits are shared among the participants. Another salient difference is that the participants in *Jackass* are not circumstantially desperate: they have the essentials necessary to live a minimally dignified life.

Desperation pervades the lives of the homeless. Bereft of the essentials of life—food, shelter, medical care—homeless persons live day-to-day in precarious circumstances. The homeless featured in the Bumfights videos do not demean themselves out of elective choice between reasonable alternatives: they demean themselves because they have no alternatives. If they do not accept the producer’s offer, it’s possible they will not be able to afford to eat that day.

The Bumfights producers take advantage of the desperation of the homeless: moreover, the desperation is presented as part of the entertainment (e.g., see what crazy things a bum will do for half a pastry!). The producers’ offers of food, money, etc. to the homeless are, of course, not coercive in the traditional sense: after all, they are not forcing homeless persons to agree to the terms of the transaction. However, we must recognize the “circumstantial coercion” that frames the transaction.

While there is no figurative gun-to-the-head of the homeless person in Bumfights, where an analogy to a mugger might apply, the situation is still coercive, even if not

directly so. A more faithful analogy would be that of a drowning person, victim of a shipwreck, who agrees at the behest of his potential helper on dry land to transfer all wealth to the saver—or even to agree to become a slave to the saver—in order to be extended a branch to be brought safely to shore. Both analogies, direct and circumstantial coercion respectively, represent unethical examples of coercion. Taking advantage of one's coercive circumstances is not ethically ok, just because the exploiter didn't create those circumstances.

The desperation of the homeless is a difference in kind from the lives most of us live. As such, we should be careful not to compare the nature of their decisions with our own. For example, I might imagine that if someone offered me \$20 to pull out a tooth, I would refuse; however, if they offered me \$20,000, I would likely accept. I might infer from this that the two cases are alike: it's just that \$20 to a homeless person is equivalent to what \$20,000 is worth to me. And just like me, the homeless person is electing to accept the disfiguring transaction because of what it's worth to them. This comparison is a mistake, however, as it ignores salient factors. The \$20,000 to me would be superfluous to my dignity and well-being: I'd probably use it to fix some things around the house, upgrade some appliances, perhaps buy a fancier car, and so forth. The \$20 to a homeless person, though, would be essential rather than superfluous: it might help shore up his deficits, as he languishes underneath a humane minimum. Our two positions are incommensurate: only I could just as easily refuse the offer, and yet still walk away just as well-off in terms of my basic human welfare. I would still possess the essentials necessary to living a minimally hospitable and dignified life. I have food, shelter, clothes, and access to medical care. The homeless person does not. The homeless person is below a minimally decent living circumstance, and as such is not free to "elect" to participate: they are forced to participate through the hostile circumstances in which they're situated.

In sum, there is no multiplier that makes a proffered payment to me a coercive one, where it is circumstantially coercive to the homeless person. Desperation is a difference in kind, where choices I would make as an autonomous individual are incommensurate to the choices a homeless person must make. I have a choice in a real way that the homeless person does not.

One tragic instance of such circumstantial coercion involves homeless veteran, Donald Brennan. Brennan was offered \$200 to get the tattoo "Bum Fight" etched in his forehead. In his desperation, and at the persistent urging of the producers, Brennan put himself under the needle, and now wears a baseball cap with shame, to cover the logo. Brennan did not have a truly "free" choice to refuse the money, but permitted the producers to treat his forehead as a billboard to market their product. Brennan retells his decision with tears welling in his eyes.

## **Sex for Money: Prostitution and Autonomy**

To further examine the ethical blindness of traditional business morality toward stark differences in autonomy, consider the simple business transaction of sex for money. First, consider low-end prostitution that occurs in an impoverished country, like

Singapore. Imagine that “Helena” is a poor female in Singapore who, on her 18th birthday, submits herself to the prostitution trade, legal in that country. Helena is cognizant of the rough life of prostitution: the inevitable damage to her physical, mental, emotional and spiritual well-being. Unfortunately, as for many girls her age, prostitution is the only way she can make a living wage.

Contrast Helena’s all-too-common story with that of Ashley Dupre, the high-end prostitute involved in the sex scandal with Eliot Spitzer, former Governor of New York. After being slipped a business card for a high-end escort service, Dupre describes her decision to become a prostitute as an opportunity, “You don’t mean to make those choices but you’re put in a situation and, you know, you have an *opportunity* to do it” (Sawyer 2008). Dupre also says that she viewed her escort career as comparable to dating. After the scandal broke, Dupre was offered many lucrative deals, from reality shows to \$1 million to pose in *Hustler* magazine. Dupre refused all of these offers, explaining: “You stop and think, but that’s not who I am . . . And that’s not what I want to do” (Sawyer 2008).

Traditional business morality would uniformly describe both cases of prostitution (provided both were legal), as voluntary and open transactions, free of coercion and fraud, where no one is being unjustly treated. Therefore, for TBM, the two cases are identical, and no moral questions remain. One might argue that Ashley Dupre was indeed an autonomous contractor in the business game: trading sex for money. Yet can one argue similarly in the case of Helena? It seems Dupre is autonomous in a way Helena is not. Dupre is electing to take advantage of the “opportunity” to become a prostitute; Helena seems to have no reasonable alternative. Dupre views her prostitution as harmonious to her authenticity and life-goals: she can even refuse \$1 million dollars to pose naked in *Hustler* magazine. Helena has no other reasonable choice, and is circumstantially forced to prostitute her body, ultimately undermining her well-being.

The failure of TBM in these two cases lies not in its possible validation of prostitution, but in the fact it treats both cases of prostitution as morally identical. It views Helena and Ashley Dupre as equally autonomous, yet Helena is victim of tragic exploitation whereas Ashley Dupre is an elective opportunist. Any moral view that fails to see such stark differences in autonomy is a deficient view. An adequate moral view needs to acknowledge the differences in the vulnerability of individuals, and the desperation of their circumstances. Such factors will alter the playing field, when it comes to morality of business transactions involving vulnerable individuals.

## Our Most Vulnerable Citizens

Homeless persons are vulnerable, as they struggle at the margins of existence. As such, they are appropriate subjects of our care. This is not to say that the homeless have claims of being “deserving” or “entitled” to our care: care is extra-dimensional to well-trafficked concepts of desert and rights.

To evince our care obligations, let us enlist Peter Singer's famous example utilized in his article "Rich and Poor" (Singer 1993). A child is drowning in a shallow pond, where we could easily save the child by merely wading in, knee-deep, and bringing the child to safety. Unfortunately, to do this, we would need to muddy our clothes and sacrifice some of our time. Virtually everyone who considers this example affirms that it would be immoral to walk past the child, rather than stopping to save the child, even if this means we'd have to sacrifice some morally insignificant things to do so. Yet the serendipitous savior of the child would not likely cash out their moral obligation in terms of rights or entitlements. The child had no claim upon the passerby to save him from drowning. The child's rights would not have been violated by the passerby if she decided simply to walk on by without helping. Nonetheless, despite the nonappearance of any rights and entitlements onto the scene, the savior still acknowledges that she ought to save the child. Why? Simply because the child is vulnerable and needs saving, and the individual is in a particular position to provide that saving at little expense to herself. It seems the very proximity of the child is sufficient to necessitate the passerby act with care.

Similar to the drowning child, homeless persons perhaps have no claim to "entitlement" or "deservingness" of help from other private citizens, yet the moral onus may still be upon such citizens to help them due to care obligations. While the Bumfights producers failed to positively care for the "drowning" homeless persons that they were in relations with, this seems a moderate failure in comparison to the fact that the producers moreover callously exploited the very situation of desperation and helplessness in which the homeless persons struggle. The producer's failure is not a failure of passive omission, but rather of active exploitation.

One type of exploitation by the Bumfights producers is their frequent use of alcohol (as well as illicit drugs, allegedly) to prey upon the vulnerabilities of the homeless, thereby coaxing them to engage in degrading acts or injurious stunts that they otherwise might refuse. Brennan, for example, claims that the producers took advantage of his alcohol dependence to get him to agree to the "Bum Fight" tattoo on his forehead. Knowing that Brennan was dependent on alcohol, the producers allegedly sought to impair his autonomy further, by offering him liquor in order to gain his compliance.

## **Maternal Ethics and Business Morality: Care vs. Contracts**

Maternal ethics presents one paradigm for care as represented by the mother-child relationship, upon which other care relationships might be modeled. This contrasts the predominant contract view in traditional business morality, which views ethical obligations arising from mutual negotiation and agreement. On the care view of maternal ethics, an individual ought to nurture and care for a subject on the basis of her relationship to that subject, as well as from the subject's vulnerability and need for nurturance. Eva Kittay argues that each human being has an inalienable

entitlement to being recognized as “some mother’s child” (1998). This contrasts the atomistic view of traditional business ethics, where individuals are conceived of as unrelated objects in space, with no relationship or responsibility to each other, except for not violating each other’s negative rights. According to the care ethics view, however, each individual’s existence depends on human interconnection as a fundamental feature for survival. We are not atoms in space: we are an ecosystem of human networks.

The contract view, characterizing TBM, holds that while it would be *nice* for an individual to care for a needy stranger, it is not her responsibility, rather such care is supererogatory: morally good to do, but not wrong not to do to. Imagine, for example, that it’s lunchtime and I am walking to my car, whilst polishing off the first half of my sandwich. Let’s say that I’m full, and I seek to discard the remaining half of my sandwich. I see a trashcan to my left, and a homeless woman to my right with a sign pleading for food. According to the contractual view, I can just as rightly throw into the trash the remaining sandwich half rather than give it to the woman. After all, I do her no injustice by throwing away my sandwich: it is *my* sandwich, and she has no claim to it.

In such situations as passing panhandling homeless persons, we tend to make up a comfortable story about their laziness, voluntary sloth, karmic desert, irresponsible addiction, or inability to be helped. These rationalizations are employed to evade our moral obligation to care for them. Such rationalizations, by their very rigorous employment in such circumstances, seem to betray what we’d otherwise acknowledge: that, all else being equal, human beings have a moral obligation to care for other vulnerable human beings if it’s at little cost to ourselves.

## Care Ethics in Christianity

Care ethics, though nested within the feminist ethics paradigm, is implicit in some religious ethics. Similar to Kittay’s “placing” of each individual as “some mother’s child,” one could view religious ethics as acknowledging each individual as “some god’s child,” in virtue of which that individual has an origin, identity, dignity, and worth.

Christian ethics, particularly, espouses an ethics that derives from care. While Christian ethics tends to predominantly focus on faith and salvation, a powerful secondary impetus of Christian ethics, salvation and faith aside, is that we ought to emulate Christ as the moral ideal concerning how to regard and treat the vulnerable. Putting aside the controversial question of divine ancestry, it’s clear that Christ represents a moral exemplar in his care for the downtrodden of society. He is admired as a moral figure not just for his actions, but for his caring attitudes toward the desperate, diseased, and disenfranchised.

The appreciation of Christ is not merely in admiration of his virtues, but also his recognition of others as appropriate ends of care. In the book, *Compassion: Reflections on a Christian Life*, Jesus’ care is poignantly expressed, such as when



Jesus met those suffering, “He became lost with the lost, hungry with the hungry, and sick with the sick. In him, all suffering was sensed with perfect sensitivity” (McNeill, Nouwen, and Morrison 1982).

The New Testament portrays Christ as morally perfect in his care for the vulnerable. “When [Jesus] saw the multitudes, he was moved with compassion on them, because they were harassed and helpless, like sheep without a shepherd” (Holy Bible, 1989. Matthew, 9.36). “When he saw the blind, the paralyzed, and the deaf being brought to him from all directions, he . . . experienced their pains in his own heart” (Holy Bible, 1989. Matthew, 14:14).

One might object to moral exemplars, such as Christ, as representing an appropriate model for a business person. Christ, after all, would not make a good CEO. As Carr might say, business is a competitive context in which Christian ethics does not and should not apply. Christ’s care was singular and supererogatory: morally good and admirable, and yet business persons are not morally deficient by “failing” to reach such heights of compassion.

In response, one might concede that while perfect compassion is not the responsibility of a business person, surely some degree of care is a minimal responsibility of a business person toward other stakeholder groups vital to the business. Consider the infamous case of the Ford Pinto. After rushing toward production their Pinto, Ford realized that the Pinto’s shoddy gas-tank construction would cause, upon moderate-speed rear impacts of 40 mph, the tank to rupture, making it very likely that the car would catch fire, injuring or killing its occupants (Birsch and Fielder 1994). Ford executives sent out an internal memo calculating the cost of retrofitting for a safer gas-tank versus the out-of-court settlements for death, injury and burned out cars. They concluded that it would be much cheaper to send the Pinto to market with the explosive gas tanks, and just pay these settlements. Reading this Pinto memo, where lives of customers are cashed out in terms of dollars and cents, one could rightly conclude that the Ford executives manifested an almost sociopathic lack of care toward their customers—many of whom would later die due to the cold calculation that their dying was the most “cost-effective” for Ford. The contract view of traditional business morality would also condemn Ford’s decision as committing coercion—by not informing customers of the safety defect prior to purchase—yet it seems Ford’s unethical decision can also be rightly cashed out in terms of a deficiency in care.

Surely the exploitation of human beings in such a way exposes a deficiency in care. And while one certainly needn’t rise to the heights of Christ’s compassion, Gandhi’s, or that of Mother Teresa’s, we ought to aspire toward such moral exemplars rather than wholly dismiss them. One cannot wholly insulate themselves from morality with the pat rationalization, “It’s just business,” where morality doesn’t apply. Certainly this would not morally justify the decision of Ford regarding the Pinto. A business person, after all, is still a *person*, and playing the putative “get-out-of-jail-free” card of “it’s just business” is a vacuous claim that overly relies on the business context to license any negligence of care to fellow “contractors” in business transactions. Business persons must show some minimal level of care toward their stakeholder groups.

## Rationality: Knowing the Rules of the Game

Advertisers cannot market to children during Saturday morning cartoons, without significant limitations on what their commercials can present. Such regulations acknowledge that children are not fully rational: they cannot adequately separate fact from fiction, sufficiently know relevant background information, nor understand long-term consequences.

Many of the homeless possess similar deficiencies, and as such require similar protections. They are not equal players at the poker table of business: knowledgeable of the game and all of the rules. Surely Rufus was not cognizant of the possible long-term injuries he could sustain when he acquiesced to certain stunts, where one resultant concussion left him with epilepsy. The homeless persons do not typically know what they're signing when they sign forms releasing the producers from liability. Nor were Rufus or Brennan aware of their rights from promotions featuring their likenesses. As a witness during the criminal trial of the Bumfights producers, Rufus Hannah could not understand the questions being asked by the defense attorneys, was unable to recall events over a year ago, and provided contradictory answers. Meanwhile, the four defendants—co-producers of Bumfights—were scolded by the Superior Court judge for smirking and giggling during Hannah's testimony.

Deficiencies in rationality must curtail business enterprise. Consider the notorious Nestle case, where, in the early 1970s, Nestle heavily marketed their baby formula to mothers in impoverished communities in developing nations (Baker 1985). Nestle treated the third-world mothers as fully rational. The women, however, were not rational in the context of the business game in which they were unwitting players. The mothers could not separate fact from fiction: they were not cognizant, for instance, that the rosy-cheeked babies in the billboard ads were the "puffery" of marketing (aka "business bluffing"). Instead, these uneducated mothers unwisely took such portrayals as truth in advertising. They did not realize the consequences of their actions, and so many of them "stretched" the formula or mixed the powder with polluted water, both of which caused malnutrition and infant death. These mothers were unaware of relevant background knowledge, such as what germs are, the studies that showed at the time that breast milk was considered as good if not superior to formula, and the fact that their breast milk would dry up soon after Nestlé's promotional free samples did.

In such cases of uneducated persons, it would be gross negligence to apply Carr's "business game" metaphor to business interactions with such vulnerable groups. Business is a game that requires literacy of things we often take for granted. The Nestle mothers did not understand marketing as a competitive game, where the Nestle representatives were not looking out for the well-being of themselves and their babies, but rather for company profits at the possible expense of such well-being.

The "bums" in Bumfights likewise did not understand the context of the business interaction. They thought that the producers were their friends, when they were not. They thought that Bumfights might make them famous, where it did not (at least not in the way they were promised, envisioned, or desired). Many of the "bums" were

uneducated, mentally ill or impaired, or under the influence of drugs or alcohol. In addition, the day-to-day malnourishment many of them faced likely exacerbated the cognition necessary to play the business game and make autonomous, rational decisions.

## **“Bum-Vertising”: Exploitation or Empowerment**

Homeless exploitation for profit is not limited to Bumfights, unfortunately. One distasteful marketing innovation in twenty-first century has been dubbed “bumvertising.” The term and practice was created and trademarked by Ben Rogovy, a 22-year-old University of Washington graduate (Rowe 2005). Rogovy sought a cheap means by which to advertise his online poker website. His eureka moment occurred when he realized he could tape his website advertisement to the bottom of the cardboard sign desperate homeless persons held at the corner of busy intersections.

Critics of “bumvertising” deem it exploitation, citing the use of “bum” as degrading to the homeless person and perpetuating the myth that homeless persons are lazy. It portrays the homeless as societal throwaways, presenting them as if signposts rather than human beings. Certainly this innovative exploitation of panhandling homeless has garnered some chuckles and admiration for entrepreneurial “thinking outside the box.”

We might try to surmount these obvious ethical objections, though, and attempt to see if “bumvertising” could be turned into something empowering rather than exploitative, where it is mutually beneficial to the homeless persons and to marketers, while not being demeaning to the homeless person.

I would proffer the following three criteria as requisite to turn “bumvertising” into an ethically legitimate business practice:

- (1) the homeless person should be paid a minimum wage, a wage similar to an independent contractor performing similar work, or a wage other street advertisers receive
- (2) the marketing should not be negatively predicated upon the homeless person’s identity (for example, an advertisement for a job search website with the slogan “Need a job like this guy?”).
- (3) the trademarked name of “bumvertising” be renamed something less demeaning

If “bumvertising” were recast in such a way, the homeless person’s employment of marketing a product or company would no longer be (as) exploitative, but would seem similar to other persons standing on street corners, twirling advertisements for local businesses. If the entrepreneur were employing the homeless person as a bona fide street-corner advertiser, this form of marketing might actually be seen as a true symbiotic solution to both some homeless persons’ unemployment, and to certain business’s marketing challenges.

## Cooperators or Adversaries: Is Business a Zero-Sum Game?

Albert Carr's poker metaphor for business asserts general morality doesn't apply to certain contexts. Bluffing, for example, is an expected and accepted strategy in both business and poker, but not in "normal" life outside those contexts. Likewise, typical morality, for instance, prescribes doing unto others as they'd do unto you. Business, in contrast, is a game of gaining advantage over the competitor before they gain advantage over you. To apply ordinary morality to business would be like applying the "do unto others" rule to professional boxing.

Certainly there are rules in business, poker and boxing. But beyond adhering to the basic rules of the game, you try to overpower, outwit, and outperform your peers. Carr's poker metaphor exemplifies the traditional, masculine model of business: namely, that business interactions between stakeholder groups are to be adversarial rather than cooperative in nature.

Carr's poker metaphor succeeds in illuminating that ethical obligation is contextual, yet what is most illuminating about the metaphor is its limitations. In poker, all parties are fully voluntary participants, not coerced—whether directly or circumstantially—to the table. In poker, all parties are fully rational and aware of the rules. In poker, each player starts "negotiations" on relatively equal footing. Relatively equal freedom, rationality, and power among all "players" may be the case in many business scenarios, but many interactions fail in one if not all three of these regards.

In the case of Bumfights, the homeless are not fully voluntary: they are circumstantially coerced to the business table. Second, the homeless participants may not be fully rational or autonomous, nor are they likely aware of their rights (or ability to negotiate at all for treatment/payment). Third, and most certain is the unequal footing in the preposterously unbalanced negotiating positions between the producers and the homeless.

Carr's metaphor fails when misapplying it to business cases where there is a vast disparity in bargaining power. Consider, for example, Wal-Mart's titanic leverage over small suppliers. Wal-Mart can demand access to the supplier's financial books, and can thereby subsequently pirate away the supplier's profits, leaving the supplier with a razor-thin margin of revenue. Due to this great disparity in negotiating power, many Walmart suppliers have gone bankrupt. To characterize Walmart and such suppliers, especially small to mid-size suppliers, as two poker players negotiating at the business table is to be obtuse to morally relevant differences in power.

In regard to Bumfights, the homeless are vulnerable persons that certainly are not equal or effective negotiators at the business table. When business enterprises or transactions involve vulnerable parties, such as the homeless, Carr's poker model is ill-suited to capture the situation. In such cases, Carr's adversarial metaphor must be abandoned, and we must seek metaphor that is more cooperative.

Consider mainstream sports as a similarly masculine metaphor closely paralleling Carr's adversarial poker metaphor. In sports, competitors start in equal positions, competing to overpower, outwit, and outperform. There are a few rare and notable instances in sports history, though, when this adversarial paradigm is

broken through. For instance, consider a moving story in college baseball history. Sara Tucholsky finally hit her first ever homerun, clearing the center-field fence, only to twist her knee, trying to tag first base. Sara collapsed, no longer able to stand. Two players of the opposing team picked her up and carried her around the rest of the bases, to help her complete her three-run homer, even though it contributed to that opposing team's own elimination from the playoffs. Mallory Holtman, one of her carriers, explained, "In the end, it's not about winning or losing so much . . . it was about this girl. She hit it over the fence and was in pain, and she deserved a home run" (Associated Press 2008).

Other similar stories of cooperation in sports history show that "winning" at times is better achieved through cooperation over competition. At times, a player needs to show care for his purported opponent, in recognition that the competitor is not the enemy. We need to be aware of this possibility and need to be cognizant of the value of winning together rather than alone. We need to be able to think outside the boxing ring, and identify cooperation and collaboration as valuable in addition to competition.

## Care Beyond Contracts

Both Rufus Hannah and Donald Brennan are veterans, who bravely served our country and were honorably discharged. The US Army decorated Brennan with a Purple Heart and a Silver Star. While citizens have no contractual obligations toward veterans of wars long ago, we still tend to recognize that we bear moral obligations of respect and care toward our nation's veterans. This reciprocal duty of care is aside from any contract. Such care obligations might parallel the moral obligations one would recognize to their elderly parent, guardian or caregiver, even if there were no legal obligations to them. We may have care obligations to others due to our relationships to them, in addition to any vulnerability of those persons.

Reciprocal altruism, in business, is regarded as a sound long-term strategy rather than as an ethical duty. It's ethically ok, for instance, if a dedicated, long-serving employee is trivially fired for some minor interest. It's just business. But showing care toward those who have sacrificed in order to benefit us, is ethically appropriate, even in a business context.

Beyond what is contractually required of our actions toward veterans, we should query what our attitudes toward our nation's soldiers should be. If not an attitude of respect or gratitude, then certainly—at minimum—not an attitude of callousness or ridicule, manifested in a readiness to exploit their disadvantaged condition for profit by dehumanizing them to others. Veterans comprise a significant percentage of homeless persons, and while we have care obligations toward all homeless persons, one might think that, toward veterans, our care obligations become overdetermined, if they are not additionally extensive.

The contract view of TBM fails to recognize reciprocal duties of care beyond mere contractual obligations. The Bumfights producers would owe no respect toward Rufus or Brennan, according to this view, neither as humans nor veterans.

## **Innocent Bystanders: Innocent Consumers**

At first blush, it's tempting to be amused by Bumfights: to chuckle at the wacky antics of those silly bums, performing scandalous stunts for scraps. But such an attitude of amusement is not an appropriate attitude for a human being to have toward the desperate. The contract view of TBM might exonerate the amused viewer as morally innocent: viewers cause no bad consequences, break no deontological rules, violate no one's negative rights. Still, it seems the very attitude Bumfights viewers have toward such videos is unethical: deriving pleasure from other persons' painful circumstances betrays a deficiency in care.

To illustrate this attitudinal deficiency, consider a personal story. There was fellow student in my high school, who was part of the special education program. I'll call him Nicholas. Nicholas' teachers, and other parents, did not describe him as suffering from significant retardation, but did describe him as euphemistically "slow." During our lunch period, Nicholas would goofily dance for the amusement of a crowd of "normal" students. Many students would throw change at his feet, which he would occasionally stoop to pick up. Students laughed at him, and he laughed back. He thought these people were his friends. He conceived of himself as popular. What he didn't realize, however, was that his peers were laughing at him, not with him. They were ridiculing him. They saw him as their monkey, dancing for peanuts.

These students did no harm, true. They didn't force Nicholas to do anything he didn't want to do. Nicholas even benefitted from the lunchtime transaction: money for amusement. Still, some students walked away from the spectacle, rightly commenting that it was mean to make fun of a person with mild retardation. We might parallel the Bumfights producers to those kids who first incited Nicholas to dance for change in the first place. My focus, though, is on the kids who watched Nicholas with ridiculing amusement—pointing and laughing. These are the viewers of Bumfights. Deriving pleasure from the demeaning treatment of the disadvantaged may be effectively innocuous, but it still betrays inappropriate emotional attitudes toward those disadvantaged others who warrant our care—not our amused disdain. Finding the demeaning of the disadvantaged as suitable entertainment betrays attitudinal deficiencies in care.

That certain attitudes in business can be ethically inappropriate is evinced in other contexts, in addition to Bumfights. A practice referred to as "dead peasant insurance" reveals a company's inappropriate attitude toward employees. Essentially, these life insurance policies are bought by corporations, for tax breaks and possible insurance payouts, where if the employee dies, the company will profit. In most cases, neither the employee nor her family ever knew that the corporation was gambling on her life, betting to profit on her demise. One might defend such insurance policies as ethically permissible, given that no harm is done, and the company is maximizing revenue. There seems to be no downside. While such a justification might seem partially compelling, there remains some reason for moral objection: that this widespread corporate practice demonstrates the wrong attitude—callousness toward its own employees.

## Win-Win: A Business Rationalization

The contract view dominates traditional business morality. Unfortunately, it lacks the tools to explain why certain business transactions and enterprises are unethical, such as the case of Bumfights. Because the typical tools in the business person's toolbox cannot explain why Bumfights is unethical, the business person may be left with a false negative—a “no” answer to the question, “Is Bumfights unethical?” The business person might then rationalize, against their moral intuitions and emotions, that Bumfights must not be unethical, since it doesn't violate property rights, involves no coercion or fraud, and is an open and free transaction that stays within Milton Friedman's “rules of the game.” The individual, moreover, might find further reassurance in that the homeless person seems arguably benefited by the transaction with the producers, so it's a “win-win.”

In brief, let us review the arguments that traditional business morality would present that Bumfights is ethically permissible:

- (1) There entrepreneur isn't violating any law, contract, or negative rights of the exploited
- (2) The exploited voluntarily accepts the open transaction, which is free of coercion/fraud
- (3) Both parties benefit from the transaction: it's a “win-win”

Throughout this chapter, I have responded to the first two arguments, above, in the following way:

- (1) There is more to morality than contracts or negative rights (e.g., drowning child analogy)
- (2) Many homeless persons are bereft of autonomy/rationality (e.g., circumstantial coercion)

In regard to (3), I will further explore here the third argument: that a business practice is morally vindicated if it is a “win-win” where all parties benefit from the transaction. Another way of expressing this rationalization is that the exploited party would have been worse off if not for the transaction. Let us presume, for the sake of argument, that the homeless persons does in fact marginally benefit from the transaction (an allegation which can certainly be disputed). Even if the homeless persons marginally benefit from the transaction in Bumfights, it seems this “win-win” rationalization is not sufficient to justify any and all exploitation.

Consider the business practice of profiteering. Profiteering isn't always bad, as hotels often spike room rates during large conventions, vacation seasons, and so forth. But consider cases of profiteering that occurred after Hurricane Katrina, by low-end hotel owners in states, such as Texas, that saw a flood of desperate Katrina evacuees, seeking shelter. One Houston hotel reportedly raised its rate six-times: from \$50 to \$300 (Peterson 2005). This steep price increase extends

beyond covering costs. Regarding this skyrocketed price, the hotel owner could claim that the hotel is his property, that the transaction was legal, open and voluntary, and that the evacuees who sacrificed \$300 for a room were benefitting from the transaction (otherwise they wouldn't have agreed to the price). But does this "win-win" morally justify the hotel owner's profiteering upon their evacuee's desperation? It seems the hotel owner is deficient in care, to see a lobby full of desperate families who just lost their homes and almost everything else, and not only to fail to be moved by the opportunity to help their fellow human beings, their fellow Americans, but to exploit them by charging them six-times the normal rate. The fact the transaction is a "win-win" fails to ethically justify such profiteering upon the desperate and vulnerable. The business person must *care* at what cost the desperate individual "wins" while they try to maximize their profits.

In regard to the Bumfights case, the homeless persons could be technically labeled as beneficiaries of transactions with the producers: they often received food, shelter, or other necessities. But the paltriness of these benefits (e.g., half a pastry for a stunt) shows a lack of care for the homeless. The benefits are extraordinarily disproportionate from the profits derived from their sacrifices. There could be more equitable distribution of the profits that was cooperative rather than adversarial.

Generally, the "win-win" ethical justification appears to rely, at least partially, upon a false dichotomy, where either the empowered offers the disempowered an opportunity to marginally benefit, or he does not. Since it would be better for the disempowered to be marginally better-off than not, the empowered gets an automatic moral pass for offering this opportunity. There is, of course, a third possibility: that the empowered offers an exchange that includes fair, rather than marginal, benefits to the disempowered (e.g., a modest share of whatever profits may come from the disempowered's contribution).

Second, the "win-win" rationalization licenses the treatment of human beings as mere objects toward the end of profits. Immanuel Kant's 2nd formulation proclaims that one should not treat any persons—or herself—as a mere means to an end, but always as an ends in themselves (Kant 1785). In the case of Bumfights, the producer is using the homeless person as a mere means—a mere object toward the end of profits—and isn't acknowledging of the intrinsic value of the homeless person. The homeless person is a human being, not an object, and should not be used in a way that wholly ignores his humanity, and violates his dignity or intrinsic value. While Kantian ethics lives leagues away from care ethics, Kant's 2nd formulation can show auxiliary affirmation toward care ethics: you ought to treat others with care if you conceive of yourself as someone who ought to be treated with care. You ought to recognize and respect other's intrinsic value if you recognize it in yourself and believe you ought not to be treated by others as a mere tool toward their private interests. Kant's 2nd formulation, of course, is motivated by rational consistency, whereas care ethics is motivated by emotional care toward others. Both, nonetheless, recognize human beings as proper subjects of care. And both recognize that a "win-win" rationalization does not vindicate the exploitation of the vulnerable. Exploitation is still exploitation, even if the exploited "freely" agree to the terms.



## Conclusion: Supplementing with Care

This chapter presents the Bumfights case as an example of a business enterprise that is morally objectionable. Traditional business morality, however, would condone Bumfights as a morally permissible business enterprise: after all, the transaction is a voluntary and open exchange, free of deception and fraud, which stays within the confines of the law, and benefits both parties. With this limited moral lens, TBM suffers moral myopia. In particular, the contractual view is blind to morally relevant factors, such as inequalities of autonomy, rationality, and freedom—which make some persons in business transactions especially vulnerable, where they cannot be accurately and conveniently characterized as metaphorical poker players at the business table.

Vulnerable persons involved in business transactions ought to be treated with care. This care recognition needn't extend to extraordinary heights, but the business agent must at least minimally care for the well-being of the subjects with whom she is contracting. The Bumfights producers demonstrably felt no caring toward their vulnerable subjects, where not only did they fail to significantly help them, but they publicly ridiculed their vulnerability for profit. Traditional business morality would condone this callous exploitation of the vulnerable for profit, unable to recognize the enterprise as even partially unethical.

Bumfights exposes the moral myopia that blinds traditional business morality. Other business cases additionally show that a supplemental lens of “care” needs inclusion into business morality if we are to wholly apprehend all of the moral dimensions of business. Our moral intuitions tend to recognize these moral dimensions, even if traditional business morality cannot. For this reason, if business persons are to be empowered to ethically navigate through the business landscape, contemporary business morality must provide them with more than just the contract view: care ethics needs to be readily included as well.

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