Chapter 12

PITFALLS IN ETHICAL JUDGMENT

The more attention we pay to how we think about ethics, the more we can think critically about our own ethical reasoning, judgment, language, and the justifications we use. As we work to understand patterns of ethical thinking that ease us off course, we discover we are thinking more clearly and gaining the skill to pull ourselves back from common missteps. As psychologist and Nobel Prize for Economics recipient Daniel Kahneman (2011) put it: "The proof that you truly understand a pattern of behavior is that you know how to reverse it" (p. 133). This is the second of four chapters focusing on various facets of critical thinking: reasoning, judgment, language, and justifications. The previous chapter discussed common errors in ethical reasoning, in this chapter we turn our attention to common pitfalls in ethical judgment.

Ethics requires that we consider options and make a judgment. In our professional capacities we often confront ethical challenges that are rarely simple, obvious, and easy. Subtle ethical issues slip by unnoticed. Ethical crises appear in a clash of competing needs, expectations, and values. Scarce time and resources narrow our options. Personal and professional limits of our training restrict our choices. For all of these reasons, no one can effectively apply the principles in the ethics code or other sources of guidance to real-life situations in an automatic, unthinking, or rote manner. There is no paint-by-numbers approach that works. This chapter explores 12 factors that can draw our ethical judgment off track:

- Cognitive Commitments
- Authorities

- Groups
- WYSIATI
- Imaginative Illusions
- Hindsight Bias
- Correspondence Bias
- False Consensus
- Status Quo Bias
- Optimistic Bias
- Narrative Bias
- Equality Bias

COGNITIVE COMMITMENTS

New theories, methods, or intervention that challenge dogma, people in power, or "the way we've always done it" can run into resistance, ridicule, and minds shut tight. Barbara McClintock knew what that was like. A distinguished scientist, she discovered genetic transposition ("jumping genes"), a stunning advance that earned her dismissive ridicule and ostracism from colleagues for two decades.

When others finally caught up with her and began to grasp the brilliance of her discovery, she described what she had lived through at the banquet when she accepted the 1983 Nobel Prize for Physiology or Medicine:

> [My work] revealed a genetic phenomenon that was totally at odds with the dogma of the times, the mid-nineteen forties. Recently, with the general acceptance of this phenomenon, I have been asked...just how I felt during the long period when my work was ignored, dismissed, or aroused frustration .... [My theory] was much too radical for the time .... [During those years] I was not invited to give lectures or seminars, except on rare occasions, or to serve on committees or panels, or to perform other scientists' duties ("Barbara McClintock—Banquet Speech," 1983).

History furnishes all too many examples of those labeled lightweights, fools, fanatics, true-believers, pseudoscientists, quacks, frauds, or heretics: Galilieo Galilei, Muhammad ibn Zakariya Rizi, Ruth Sager, Ignaz Semmelweis, to name but a few (for additional information and examples, see Hajdu, 2007; Kohlstedt, 2004; Reynolds, 2004; Solon, 2012). We admire these brave souls. We see what their commitment to an unpopular idea has cost them. Their unwavering loyalty to what they believe to be true, their persistence in looking for evidence to support their vision, and their determination to hold onto their belief despite the resistance it arouses truly inspire us.

A commitment to an approach, theory, or idea can throw our judgment off course in two major ways: (a) by falling prey to either the logical mistake of affirming the consequent; or (b) the inferential mistake of confirmation bias.

The logical fallacy of affirming the consequence, which was discussed in the prior chapter, invites us to assume that *because* our idea evokes resistance, ridicule, or refutation, *therefore* we must be on the right track. Then we come up with reasons for the opposition: Our idea is too radical for those rooted in the status quo, too brilliant for our contemporaries, too threatening to those in power. Carl Sagan defused this kind of fallacy and states: "The fact that some geniuses were laughed at does not imply that all who are laughed at are geniuses .... They laughed a Fulton, they laughed at the Wright brothers. But they also laughed at Bozo the Clown" (1979, p. 64).

For a good description of the biased judgment that can be caused by cognitive commitment, we turn first to Francis Bacon, who in 1620 wrote:

> The human understanding when it has once adopted an opinion ... draws all things else to support and agree with it. And though there be a greater number and weight of instances to be found on the other side, yet these it either neglects or despises, or else by some distinction sets aside and rejects .... This mischief insinuate[s] itself into philosophy and the sciences; in which the first conclusion colors and brings into conformity with itself all that come after (1955, p. 472).

Evans (1989) noted that "confirmation bias is perhaps the best known and most widely accepted notion of inferential error." The notion "is that human beings have a fundamental tendency to seek information consistent with their current beliefs, theories or hypotheses and to avoid the collection of potentially falsifying evidence" (p. 41).

Cognitive and social psychology have explored how this influence takes different forms. Kurt Lewin (1976; see also Gold, 1999), examined how committing to a decision often seems to freeze the mind, hardening it against reconsideration. Ellen Langer (1989), summarizing the research she and her colleagues had conducted (e.g., Chanowitz & Langer, 1981), described the common process of forming a mindset when we first encounter something and then clinging to it when we reencounter that same thing. Because such mindsets form before we do much reflection, we call them premature cognitive commitments .... The mindless individual is committed to one predetermined use of the information, and other possible uses are not explored (p. 22).

Leon Festinger's experiments focused on how commitment to an approach, theory, or idea leads to a screening out of any information that would lead to cognitive dissonance. The commitment means that there would be "less emphasis on objectivity and there is more partiality and bias in the way in which the person views and evaluates the alternatives" (1964, p. 155; see also de Vries et al., 2014; Frey & Schulz-Hardt, 2001; Guazzini et al., 2015; Harmon-Jones, 2019; Hill et al., 2008; Morvan & O'Connor, 2017; Munro & Stansbury, 2009; Stice et al., 2015; Tschan, Semmer, & Gurtner, 2009).

Our vulnerability to this bias creates a responsibility to question our own views, whether snap judgments or long-held beliefs. We can balance our loyalty to our judgments if we search relentlessly for facts that do not fit, listen openly to those who disagree, and constantly ask ourselves what the other possibilities are. Otherwise we can end up clinging so tightly to our ethical certainties that we do not notice contradictory information, better possibilities, and the consequences of our own missteps. Once again, Carl Sagan (1991) offers sound advice, recommending:

> an exquisite balance between … skeptical scrutiny of all hypotheses that are served up to us and … great openness to new ideas …. If you are only skeptical, then no new ideas make it through to you …. If you are open to the point of gullibility and have not an ounce of skeptical sense …, then you cannot distinguish the useful ideas from the worthless ones (p. 4–5).

AUTHORITIES

When puzzling over an ethical dilemma, we often turn to authorities. The law, a supervisor, consultation, and the ethics code can provide invaluable help. We misuse these resources, however, if we use them to short-circuit our ethical judgment. As emphasized in Chapter 1, we cannot avoid an ethical struggle by focusing only on the law and claiming "It violates no law [or the law requires it] so it must be ethical." We cannot shrug off ethical responsibility by explaining that we were just following what our supervisor told us to do. We cannot hide behind ethics codes or the opinion of a supervisor as refuge from an active, creative search for the most ethical response. Although authorities play countless constructive roles in our society, the psychological literature—not to mention history itself—shows the dangers of over-reliance on and unquestioning obedience to authority (see, for example, Darley, 1995; Ent & Baumeister, 2014, 2015; Grzyb et al., 2018; Haslam et al., 2014; Meeus & Raaijmakers, 1986, 1995; Staub, 2014). We are ultimately responsible for our choices with ethical dilemmas.

Awareness of ethics codes, laws, and professional guidelines is crucial to competence in the area of ethics. These documents guide and inform our ethical consideration. They do not take the place of our thoughtful consideration. We cannot apply them effectively in a rote, thoughtless manner. Each new client, whatever similarities to previous clients they may have, is a unique individual. Each situation also is unique and is likely to change significantly over time. Authoritative documents may prohibit some acts as clearly unethical. They may call our attention to ethical concerns in different areas of practice, but they cannot tell us how these concerns will manifest themselves in a particular clinical situation. They may set forth essential tasks that we must

fulfill, but they cannot tell us how we can accomplish these tasks with a unique client facing unique problems. We cannot hide from these struggles.

GROUPS

Like authorities, groups are a valuable resource. They can provide support, diverse views, the opportunity to work together on an ethical dilemma, and relief from the sense of isolation. But—like authorities—certain group processes can work to block sound ethical judgment. We get ourselves into trouble when we allow groups to shield us from ethical struggles and the sense of ethical responsibility.

Psychologist Paul Meehl (1977) wrote a fascinating essay we recommend to all of this book's readers, "Why I Do Not Attend Case Conferences." He pointed out the "groupthink process" (p. 228) that discourages sound judgment and may be familiar to all of us:

> In one respect the clinical case conference is no different from other academic group phenomena such as committee meetings, in that many intelligent, educated, sane, rational persons seem to undergo a kind of intellectual deterioration when they gather around a table in one room (p. 227).

Psychologist Irving Janis (1972) studied ways in which groupthink clouds our judgment. Janis and Mann (1977, pp. 130–131) identified the eight symptoms of groupthink, adapted next, to emphasize their effects on ethical judgment:

1. An illusion of invulnerability, shared by most or all members, which creates excessive optimism and encourages taking extreme risks.
2. Collective efforts to rationalize in order to discount warnings.
3. An unquestioned belief in the group's inherent high ethics, leading members to underestimate their ethical responsibilities or the negative consequences of their behavior.
4. Stereotyped views of those who disagree about ethical issues, encouraging group members to disparage the motives, intelligence, heart, or good faith of those who disagree with the group's views.
5. Pressure on any group member who dissents or raises serious questions about the group's views or behavior.
6. Self-stifling of deviations from the group's approach; an inclination of each member to deny, discount, or minimize doubts or counterarguments.
7. The illusion of virtual unanimity created by self-stifling and assuming that silence means consent.
8. Some members taking on the role of "mindguard[s]—members who protect the group from adverse information that might shatter their shared complacency about the effectiveness and morality of their decisions."

In addition, we tend to form groups in a we/they dichotomy, which leads to a subconscious (and sometimes conscious) automatic categorization of people in our "in-groups," those with whom we identify, and our "out-groups," those whom we see as being outside our realm of identification. People in our in-groups are more highly valued, more trusted, and engender greater cooperation as opposed to competition. We have more compassion for those in our in-group than those in our out-group and are more likely to endorse and support those in this category. On the other hand, people in our out-groups are implicitly conceptualized as "they." We often tend to treat out-group members in negative ways (Cikara et al., 2014; Dovidio & Gaertner, 2010; Gilead & Liberman, 2014; Ito, 2013; Opotow, 1990, 1995, 2005, 2012; Sue et al., 2019).

These in group/out group dynamics can have unfortunate effects on the way we "welcome" and provide psychological services to members we've placed in the outgroup category. They also affect how we behave toward our colleagues and new ideas that might lead us to change our mind, even when in- and out-groups are defined by disagreements over ideas. Psychologist Steven Pinker (2006) wrote:

> People have a nasty habit of clustering in coalitions, professing certain beliefs as badges of their commitment to the coalition and treating rival coalitions as intellectually unfit and morally depraved. Debates between members of the coalitions can make things even worse, because when the other side fails to capitulate to one's devastating arguments, it only proves they are immune to reason .... New ideas, nuanced ideas, hybrid ideas—and sometimes dangerous ideas—often have trouble getting a hearing against these group-bonding convictions (xxvi–xxvii).

WYSIATI

In his foreword to the second edition of *What therapists don't talk about and why: Understanding taboos that hurt us and our clients* (Pope, Sonne, & Greene, 2006), former American Psychological Association president Gerry Koocher tells of a fascinating public confession he sometimes makes:

> On occasion, I tell my students and professional audiences that I once spent an entire psychotherapy session holding hands with a 26 year-old woman together in a quiet darkened room. That disclosure usually elicits more than a few gasps and grimaces. When I add that I could not bring myself to end the session after 50 minutes and stayed with the young woman holding hands for another half hour, and when I add the fact that I never billed for the extra time, eyes roll (2006, p. xxii).

It is easy to understand why most listeners are both shocked and critical. A prominent ethicist and former APA president is describing what seems clearly to be his mishandling of a sexualized relationship with a patient. But he is not really making a confession. He's illustrating how easily we make false judgments under uncertainty when we do not know the whole story but assume that we do.

Gerry fills in some of the missing information:

> Then I explain that the young woman had cystic fibrosis with severe pulmonary disease and panic-inducing air hunger. She had to struggle through three breaths on an oxygen line before she could speak a sentence. I had come into her room, sat down by her bedside, and asked how I might help her. She grabbed my hand and said, "Don't let go." When the time came for another appointment, I called a nurse to take my place (p. xxii).

The missing facts lead us to very different judgments about the clinician's behavior and what is actually going on in that quiet, darkened room.

As therapists, we are constantly called on to make judgments without access to complete information. We can't duck our responsibility to step up and provide knowledgeable and competent help, especially in emergencies. We do the best we can, knowing that in some situations we cannot know all the relevant information. The critical misjudgment springs up when we lose awareness that we do not have all the facts.

Daniel Kahneman (2011) described this mistake as belief in WYSIATI: *What You See Is All There Is*. We all face this hazard as we make judgments under uncertainty and time pressures based on sometimes necessarily incomplete information. Confirmation bias can harden our WYSIATI misjudgments into confidently held certainties that find their way into patient charts, treatment plans, disability evaluations, pre-employment assessments, and courtroom testimony and legal opinions. These certainties screen out or reshape everything the patient says or does that does not fit the misjudgment.

Our judgment that a colleague's behavior violates ethical standards might change if we did not assume that WYSIATI. We might revise our WYSIATI interpretation of an IQ score and report of psychological assessment involving standardized instruments if we knew that the man had forgotten to take his meds or bring his glasses, that a woman had been threatened by an abusive partner the night before and was afraid he'd show up when she left the assessment, or that a child had been up all night because his parents were fighting and he'd had no breakfast before the testing—but the person conducting the assessment had not been aware of these factors, had neglected to ask, and had not mentioned any of them in the assessment report. Perhaps we remember doing things that might seem highly questionable, wrong, or outrageous to others if they did not know the whole story.

HINDSIGHT BIAS

Also known as "Monday morning quarterbacking" or "I knew it all along," hindsight bias is our tendency to imagine, once we know how an event turned out, that we would have much better predictions than we actually would have had we not known the outcome (Arkes et al., 1988; Fischhoff, 1975; Fischhoff & Beyth, 1975; Wood, 1978). Perhaps we are members of a hospital peer review committee, an ethics committee, or an expert witness considering a colleague's choice when faced with an ethical dilemma. If we know that the choice ended in disaster, we might imagine that we ourselves would've chosen more wisely another course had we faced the same dilemma. Imagining that the colleague lacks the sound judgment that we would've used in that situation may have unfortunate consequences for judging our poor colleague's choice.

CORRESPONDENCE BIAS

Also called the fundamental attribution error (Ross, 1977), correspondence bias leads us to downplay or ignore entirely situational influences when judging someone else's behavior, imagining the behavior to be caused by the individual's personality, attitudes, or character, while often attributing our own less-than-admirable behaviors to the situation, a bias that tends to be more prevalent in western countries (Bauman & Skitka, 2010; Blanchard-Fields et al., 2007; Jones, 1979; Ross & Nisbett, 2011). We cut an ethical corner because we were under a lot of pressure, in a hurry, or sleep-deprived; other people do the same thing because they are dishonest, basically unethical, or lack integrity.

FALSE CONSENSUS

Also called egocentric bias, false consensus bias is our tendency to imagine that other people are more like us than they really are, and that our behaviors are more appropriate and more common than alternate behaviors (Mullen et al., 1985; Ross et al., 1977; Windschitl et al., 2013). Our vulnerability to this bias underscores the importance of checking carefully with patients during the informed consent process to make sure we are not assuming that they share our assumptions, our values, and our preferences. The false consensus bias highlights the importance of consultation to strengthen our awareness of how our imagination is leading us toward biased judgments. This bias shows how "everybody does it" and similar spins on ethically questionable decisions deserve careful scrutiny.

STATUS QUO BIAS

A bias toward the status quo often tends to run through our judgments and decision-making (Kahneman et al., 1991; Nebel, 2015; Proudfoot & Kay, 2014). This bias makes it hard for us to give weight to ethical choices that will force major changes in our lives or in the systems we are a part of, and once we make such a choice, we would have follow through on it. Familiarity, habits, a resistance to change, and "the way we've always done it" can, under some circumstances, be powerful enemies of clear thinking. This tendency to stick with the way things are now may join forces with related common tendency in making judgments and decisions: omission bias.

OMISSION BIAS

If two of our options cause equally terrible outcomes and if one involves doing something and the other involves doing nothing, we tend to gravitate toward the one that involves inaction and view ourselves as less responsible for the terrible outcome (Chung et al., 2014; Spranca et al., 1991). Sins of omission often seem less culpable than sins of commission, even when they lead to identical outcomes. In our imagination, the active doing of something seems more causally related to the bad outcome than our doing nothing whatsoever.

OPTIMISTIC BIAS

Daniel Kahneman (2011) wrote that "in terms of its consequences for decisions, the optimistic bias may well be the most significant of the cognitive biases" (p. 255). We have a tendency to believe that our decisions carry less risk than they actually do, that our judgments and decisions are more likely to be born out that which is justified, that options and opportunities are more favorable than an objective assessment warrants. When we fall prey to the *planning fallacy*, a result of optimistic bias, we imagine that we will accomplish our plans more easily, more quickly, more successfully than they will likely work out. Of course, that is if they *do* work out. Optimistic bias makes it hard to imagine that we will meet any obstacles, encounter delays, get distracted, or tire out. Remember, we plan and then life happens.

NARRATIVE BIAS

Narrative bias leads us to construct or believe narratives that explain why events happen by oversimplifying and over-interpreting. Nassim Taleb (2010) writes:

> The narrative fallacy addresses our limited ability to look at sequences of facts without weaving an explanation into them, or, equivalently, forcing a logical link, an *arrow of relationship*, upon them. Explanations bind facts together. They make them all the more easily remembered; they help them *make more sense*. Where this propensity can go wrong is when it increases our *impression* of understanding (p. 43; italics in original).

Many other factors such as anchoring, availability, halo effects, outcome bias, past experience, and representativeness, to name but a few, can of course distort our ethical judgment and decision-making. We recommend Bushyhead and Christensen-Szalanski (1981); Connolly et al. (2000); Gilovich et al. (2002); Kahneman (2011); Kahneman and Klein (2009); Kane and Webster (2013); Rosenzweig (2014); Taleb, 2010; Taleb and Blyth (2011); and Tversky and Kahneman (1974) as wonderful resources for those wishing to learn more in this area.

EQUALITY BIAS

We live and develop in social systems that are organized by institutions, laws, and policies that result in the unequal distribution of resources, rights, and responsibilities (Cook & Hegtvedt, 1983). Such unequal distribution produces different costs and burdens among society's constituents. However, we are socialized to believe that the right thing to do is to make decisions based on the principle of equality—and that this alone prevents the unequal distribution of resources (Lamont & Favor, 2017). While equality is important, it is insufficient. Equality assumes an equal playing field, does not consider power, and fails to capture the various realities that affect individuals within a society. One way to strengthen our ethical decision-making process, and not fall prey to the equality bias, is to consider using the principle of equity which "is grounded in the equity theory, which is a positive theory pertaining to individual conceptions of fairness" (Espinoza, 2008, p. 348). To illustrate, many therapists have a policy where they charge all clients for a full session when clients fail to cancel their appointment 24 hours before it was originally scheduled. An equality bias will drive the therapist to charge everyone for the session without considering pros and cons, any treatment implications, and the unique circumstances impacting the client.

We can strengthen our ethical decision-making if we remain aware of these factors and how they can sometimes serve us well, but other times sweep us off course in our inferences. Having discussed common problems in ethical reasoning and in ethical judgments, we turn in the next chapter to common problems in ethics and language.