

THE
ETHICS
CENTRE

s37(1)(c) and s47F(1)

ETHICAL EVALUATION PRINCIPLES FOR

DR SIMON LONGSTAFF AO



GOOD

s37(1)(c) and s47F(1)

s37(1)(c) and s47F(1)

A Code of Ethics establishes the basis on which choices are deemed to be 'good' – through the application of core values, and 'right' – through the application of core principles.

ACKNOWLEDGEMENTS

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The Department of Foreign Affairs and Trade (DFAT) is the Australian commonwealth department responsible for developing and implementing foreign, trade and development policy, international agreements, foreign aid programs, and consular assistance. DFAT provides foreign trade and development policy advice to the government. The consular network includes over 100 overseas posts across five continents.

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Pulse Lab Jakarta is a joint initiative of the United Nations Global Pulse and the Government of Indonesia's Ministry of National Development and Planning (Bappenas). The first innovation lab of its kind in Asia, Pulse Lab Jakarta is working to close information gaps in the development and humanitarian sectors through the adoption of Big Data, real-time analytics and artificial intelligence.

The Ethics Centre

The Ethics Centre (TEC) is an independent not-for-profit organisation that has been working for 30 years to help people bring ethics to the centre of everyday life. TEC deliver a host of innovative programs including live events, ethics consulting and education, a free ethics helpline, and ethics advocacy. The Centre have worked with organisations and government departments across the world on ethical issues such as leadership, technology design, provision of care, energy and sporting cultures.

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ABOUT THE AUTHOR



Dr Simon Longstaff AO began his working life on Groote Eylandt (Anindilyakwa) in the Northern Territory where he worked in the Safety Department of the then BHP subsidiary, GEMCO. He is proud of his kinship ties with members of the island's Indigenous community. Following a period studying law in Sydney and a brief career teaching in Tasmania, Simon undertook postgraduate studies in philosophy as a Member of Magdalene College, Cambridge. He commenced his work as the first Executive Director of The Ethics Centre in 1991. He is a Fellow of CPA Australia and in June 2016, was appointed an Honorary Professor at the Australian National University – based at the National Centre for Indigenous Studies. Formerly serving as the inaugural President of The Australian Association for Professional & Applied Ethics, Simon serves on a number of boards and committees across a broad spectrum of activities. He is a Fellow of the World Economic Forum. In 2013, Dr Longstaff was made an officer of the Order of Australia (AO) for “distinguished service to the community through the promotion of ethical standards in governance and business, to improving corporate responsibility, and to philosophy.”

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The ethical impulse that
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BACKGROUND

The origins of this paper lie in an innovative project, developed by the s37(1)(c) s37(1)(c) with the support of Australia's Department of Foreign Affairs and Trade (DFAT), to explore the use of communications and banking data as a tool for monitoring and evaluating development outcomes. In this case, the project is focused on improved outcomes for women in Afghanistan – an area that presents particular challenges for those interested in such matters.

s37(1)(c) and DFAT are determined to ensure that the project is undertaken in accordance with the highest ethical standards. With that in mind, they have been facilitating a process of consultation – notably involving s37(1)(c) DFAT, the United Nations' Pulse Lab Jakarta (PLJ), Indonesia and The Ethics Centre (TEC) based in Sydney, Australia.

What follows draws on insights developed during a workshop, convened by PLJ in Jakarta in March 2019, and attended by representatives of s37(1)(c) its partners, DFAT and TEC. That said, the views expressed are those of TEC and do not purport to represent those of other organisations.

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GENERAL CONSIDERATIONS

Those who invest in the realisation of the Sustainable Development Goals (SDGs) – and associated measures – do so in the belief that this will lead to measurable improvements in the state of the world. This expectation holds at every level, not least in relation to those goals linked to improvements in human wellbeing – especially for the benefit of those who are most vulnerable.

The increasing focus on impact and its measurement is not solely, nor even principally, about accountability. Rather, it is driven by an ethical impulse to do as much good as is possible in a resource-constrained world. Acting on an obligation to be both efficient and effective not only maximises the benefits flowing to those in need of support, it also offers assurance to those with the capacity to maintain (or increase) their investment in development. Thus, the importance of monitoring and evaluation in this arena of human affairs.

Traditionally, the delivery, monitoring and evaluation of development assistance has been undertaken by people ‘on the ground’. While the quality of monitoring effectiveness has varied, eyewitness accounts have provided ‘reliable enough’ evidence of improvement – especially in circumstances where ‘mere statistics’ offer insufficient insight into the nature, range and depth of change. However, there are well-recognised weaknesses in eyewitness accounts – especially when those accounts are offered by people with an interest in presenting outcomes in their best possible light; for example, to perpetuate the life of programs with which the reporters are associated. However, even disinterested observers are at risk of allowing cognitive biases to distort their perception. Given this, there are strong arguments in favour of complementing on-the-ground reporting with other forms of data that afford, where possible, objective indicators of change.

The collection, analysis and visualisation of large data sets is already recognised as a powerful new way to gain and communicate insights about development outcomes. In some cases, there is the technical capacity to engage in real-time monitoring of a kind that enables the identification of correlations between interventions and outcomes... and with the potential to be, in some cases, highly suggestive of potential causes and effects.

However, there is an additional aspect of monitoring and evaluation where the tools and techniques of data science may confer advantage.

New approaches to the collection and analysis of data have a particular importance in circumstances where on the ground monitoring and evaluation is not possible – especially in circumstances where the risk of such activities is too great. Those risks can be due to natural or human factors – or both. For example, the prevalence of either disease or violence can provide sufficient reasons not to put people in harm’s way – especially if there is a less risky alternative approach to monitoring and evaluation.

Given all of the above, there are strong arguments in favour of employing expert systems (AI), large data sources, data science, etc. to develop powerful insights into the extent to which development programs are achieving their ends. However, it is also essential that the opportunities afforded by scientific and technological developments only be taken up if this can be done in a manner that is not merely ‘ethically defensible’ but ‘ethically sound’. That is, for reasons outlined below, proponents of the use of ‘big data’ need to apply ethical standards that are greater than the minimum required, in order to meet formal standards of compliance as expressed in legislation, regulation or codes.

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There are more general ethical considerations of relevance to all forms of technology – especially in regard to the need to recognise and preserve the intrinsic dignity of persons. This is the principle, widely recognised around the world that denies the validity of ever using another person merely as a means to an end.

ETHICAL RESTRAINT

The mere fact that something can be done does not mean that it should be done.

As I have argued elsewhere, “technical mastery divorced from ethical restraint lies at the root of all tyranny.” This maxim draws attention to the inherent risks in the unchecked use of power (both public and private). All technologies increase power as a means for exercising control – for that is their purpose – and as such increase the options available to those with access to technologically enhanced means. In summary: technologically enabled human beings can do more. However, the mere fact that something can be done does not mean that it should be done.

This insight lies behind a range of internationally agreed conventions to limit or ban the use of some forms of technology – perhaps most notably in relation to biological and chemical weapons of war. Indeed, there is current debate about the extent to which the world should allow the use of fully autonomous lethal weapons systems with the capacity to inflict death and destruction without the direct involvement of any human actor.

However, there are more general ethical considerations of relevance to all forms of technology – especially in regard to the need to recognise and preserve the intrinsic dignity of persons. This is the principle, widely recognised around the world (albeit from different fundamental sources) that denies the validity of ever using another person merely as a means to an end. Prohibitions against slavery, the promotion of human rights, etc. are all in accordance with this principle. Indeed, this principle underpins the general ethical argument for restraint in the use of technology – even for apparently good purposes.

Most ethical systems reject the principle that ‘the ends justify the means’. Instead, there is broad agreement that both ‘ends’ and ‘means’ be ethically justifiable. This requires that even the most noble of ends (such as the alleviation of poverty, oppression and other forms of disadvantage) be pursued by ethical means. To take an extreme example, no person should consider it justified to eliminate a particular fatal disease by hastening the death of those who are infected with the relevant pathogen.

The intuitive sense that we are bound to pursue good ends by right means extends to the field of monitoring and evaluating development outcomes. As noted above, the desire to evaluate the effectiveness of development programs proceeds from an ethical concern to maximise the amount of good that can be done. However, this good end can only be pursued by means that are right, not least in consideration of their impact on other people – not exclusively, but especially, the vulnerable.

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Improving conditions for women gives rise to a series of 'multiplier' effects that benefit society as a whole. However, not every individual in every society approves of women's empowerment. Nor does everyone agree with efforts to bring about such an outcome – no matter how beneficial the related effects might be.

EMPOWERING THE VULNERABLE

Development assistance is almost exclusively directed in support of people who are, at that time and for a range of possible reasons, in circumstances of heightened vulnerability. In some cases, the conditions of vulnerability can be persistent. In others case, the need might be acute.

In this project, data innovation for development is being applied to the case of women in Afghanistan. Any reasonable analysis of patterns of historic and contemporary disadvantage reveals that women have been and remain especially vulnerable. As such, a significant number of development programs have been established with an explicit focus on improving the conditions of their lives. It should be noted that improving conditions for women gives rise to a series of 'multiplier' effects that benefit society as a whole. These 'multiplier' effects include: improved conditions for children, increased economic sustainability for families, more peaceful communities, etc.

However, not every individual in every society approves of women's empowerment. Nor does everyone agree with efforts to bring about such an outcome – no matter how beneficial the related effects might be.

In summary, there are particular circumstances in Afghanistan that contribute to the risk faced by women who fall outside of certain traditional expectations about the roles they play in relation to men, their families and wider society. In some more extreme cases, mere knowledge of the fact that women are benefiting from economic empowerment (even if not specifically sought) would endanger them. Thus, any process that might give rise to such knowledge needs to be developed with extreme caution and a conscious regard for the unintended consequences of its application.

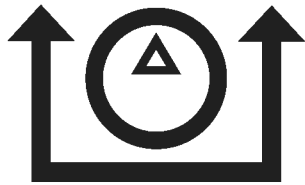
Awareness of this dynamic has been a special consideration in the development of the ethical framework for data innovation in development that is outlined below.

Although the framework has been created with the specific circumstances of the s37(1)(c) in Afghanistan in mind, we believe that it has more general application.

CODE OF ETHICS

There is a distinction to be made between a Code of Ethics (an Ethical Framework) and a Code of Conduct. Of the two, a Code of Ethics is more fundamental and therefore, more important.

GOOD & RIGHT



Code of Ethics

A Code of Ethics establishes the basis on which choices are deemed to be

- + GOOD**
through the application of core values
- + RIGHT**
through the application of core principles.



Code of Conduct

A Code of Conduct is intended to regulate behaviour – rather than guide choice.

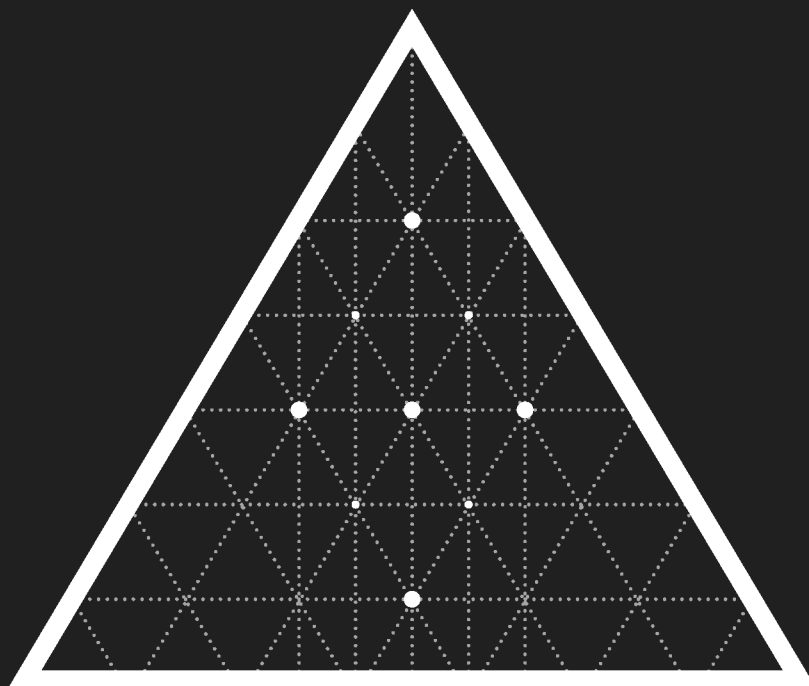
A Code of Conduct identifies areas of conduct that are non-negotiable and typically specify a set of rules. As such, Codes of Conduct tend to be far more specific in their wording – seeking to remove any ambiguity or opportunity for the exercise of discretion.

A Code of Conduct should be directly related to the Code of Ethics. Nothing in a Code of Conduct should be inconsistent with the core values and principles contained in a Code of Ethics. Ideally, a Code of Conduct should contain as few provisions as are strictly necessary – dealing with those matters that are genuinely 'non-negotiable'. Where a Code of Conduct is silent in relation to a particular matter, decisions should be made in line with the relevant Code of Ethics. In that sense, a decision-maker is never without guidance.

Overall, it is desirable that decision-makers think before they act – making conscious decisions that they can defend with good reasons. The exercise of sound judgement is more demanding than mere compliance with a rule. However, the relative flexibility afforded by a Code of Ethics allows decision-makers to take into account the specific context within which a decision must be made or applied. This allows for a degree of divergence in decision making while, at the same time, maintaining a 'family resemblance' between decisions – as a result of sharing the common 'DNA' of core values and principles.

This document proposes only the first and most important element – a Code of Ethics (Ethical Framework) for data and development. Those applying such a framework should draw on it to develop those rules they think necessary to specify in a Code of Conduct. Taken as a whole, this should provide a comprehensive basis for decision making and provide the basis for consistency in project governance..

ETHICAL FRAMEWORK



PURPOSE, VALUES & PRINCIPLES

An Ethical Framework is an expression of the purpose, values and principles of an organisation. It provides the foundation to align everything the organisation does in the world and establishes clarity and consistency in decision making across all levels and responsibilities. Critically, it provides the foundation for strong organisational cultures.

A strong Ethical Framework weaves together purpose, values and principles to establish a clear point of reference from which people across the organisation can act consistently – making aligned decisions, reflecting shared behaviours and expectations, and creating the systems and policies that support the achievement of the organisation's goals in line with its purpose.

It should sit at the heart of an organisation's governance structures – serving as a common and authoritative reference point for all decision-makers. Once established and formally adopted by an organisation's principal governance body, the Ethical Framework should be used to align everything the organisation does. In areas where an organisation's activity does not match up to the standards it sets for itself, then that exception should be considered carefully, and specifically justified and approved – or discontinued.

An Ethical Framework enables the delegation of authority to a network of responsible decision-makers while maintaining the integrity of an organisation.



PURPOSE

Who we are in the world is directed by our sense of purpose.

Purpose is the WHY.



VALUES

The way we see the world is shaped by our values.

Values are the WHAT.



PRINCIPLES

The way we act in the world is a reflection of our principles.

Principles are the HOW.

IN APPLICATION

An Ethical Framework brings together these three separate but related core elements:

Purpose:

Purpose is not necessarily intended to inspire but more fundamentally defining why an activity or organisation exists. This relates to the ancient Greek notion of telos (the end or purpose of a thing). For example, the telos of a knife is to cut. A good knife is a knife that cuts well, etc...

Values:

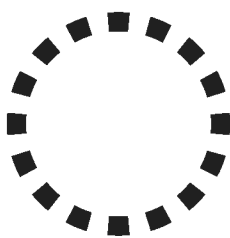
Values are those things that are good, that are worth choosing. When sincerely held, values should direct our choices, promoting some options over others.

Principles:

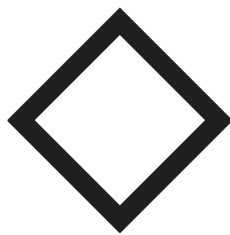
Principles shape or regulate the means we employ in attaining the things we deem to be good as determined by our values.

The proposed Ethical Framework incorporates both values and principles without breaking them into separate elements.

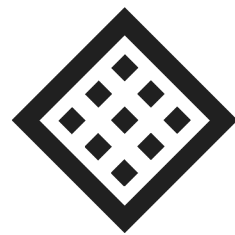
The fundamental values and principles are accompanied by a series of core tenets arranged into sections relating to:



Organisation



Project



Data

Where possible, the core tenets have been expressed in ordinary language. Where necessary, an explanation of the tenets is provided through expanded commentary.

That is, our recommended approach does not divorce ethical considerations applying to technology from the context of the organisation, or project in which the technology is to be applied. Although one could address matters of technological and organisational ethics in isolation, in the case of development programs we would recommend against this.

PROPOSED ETHICAL FRAMEWORK

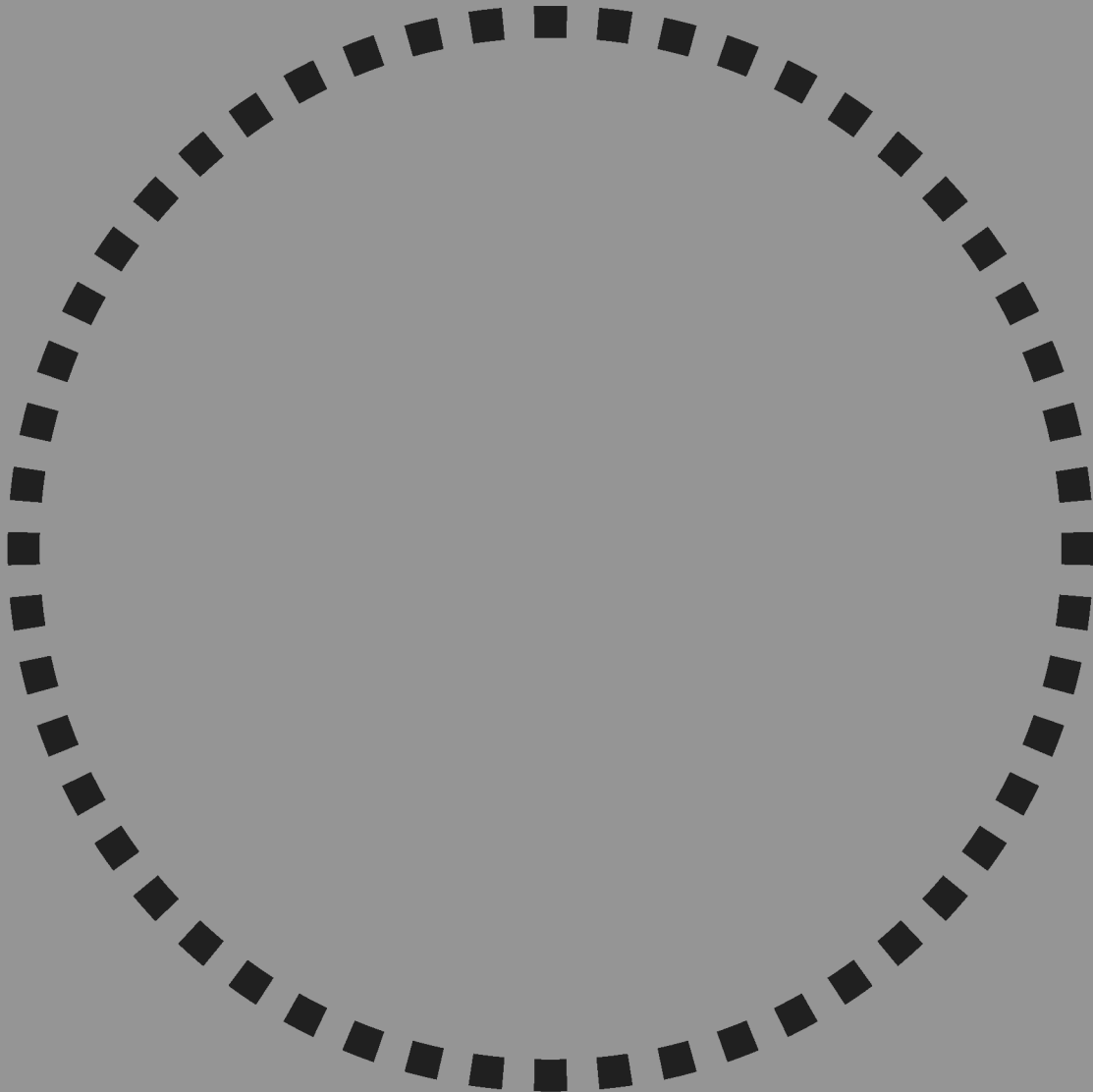
PURPOSE

To monitor and evaluate the effectiveness of measures designed to increase the incidence and level of women's empowerment in Afghanistan.

VALUES & PRINCIPLES

- + Respect the intrinsic dignity of all persons
- + Have a special care for the interests of those who are vulnerable
- + Think before you act
- + Act always with integrity
- + Provide benefits, never harm

ORGANISATION



CORE TENETS

01. ETHICS IS THE FIRST LINE OF DEFENCE

While there is an essential role for regulation and surveillance in the management of risk, it is usually 'ethical failure' (rather than an absence of rules) that causes harm. The main protections against ethical failure are:

- + the legitimacy of the host organisation and the specific project (in the eyes of those working on it)
- + the ethical alignment of the host organisation (in practice – including systems, policies and structures) and its leadership. Although apparently 'inert', systems, policies and structures send signals as to what the organisation actually believes to be good and right. That is, they often serve a series of 'shadow values' that may be at odds with the organisation's espoused ethical framework. Any perception of hypocrisy undermines adherence to rules and good practice
- + a clearly articulated and well-understood framework of values and principles
- + a culture of interpersonal accountability in which individual team members have a shared expectation of ethical conduct – and are mutually supportive
- + a culture that welcomes and rewards constructive criticism – where it is expected (not merely accepted) that people will raise issues of potential incongruity ('we say this ... but do that')
- + a culture that challenges 'unthinking custom and practice' – where it is not acceptable to do something just because 'it has always been done that way' or 'because everyone does it'. This is not to be disrespectful of tradition. It is to ensure that tradition is invested with 'life' and 'meaning' – rather than being just the 'dead hand' of the past.

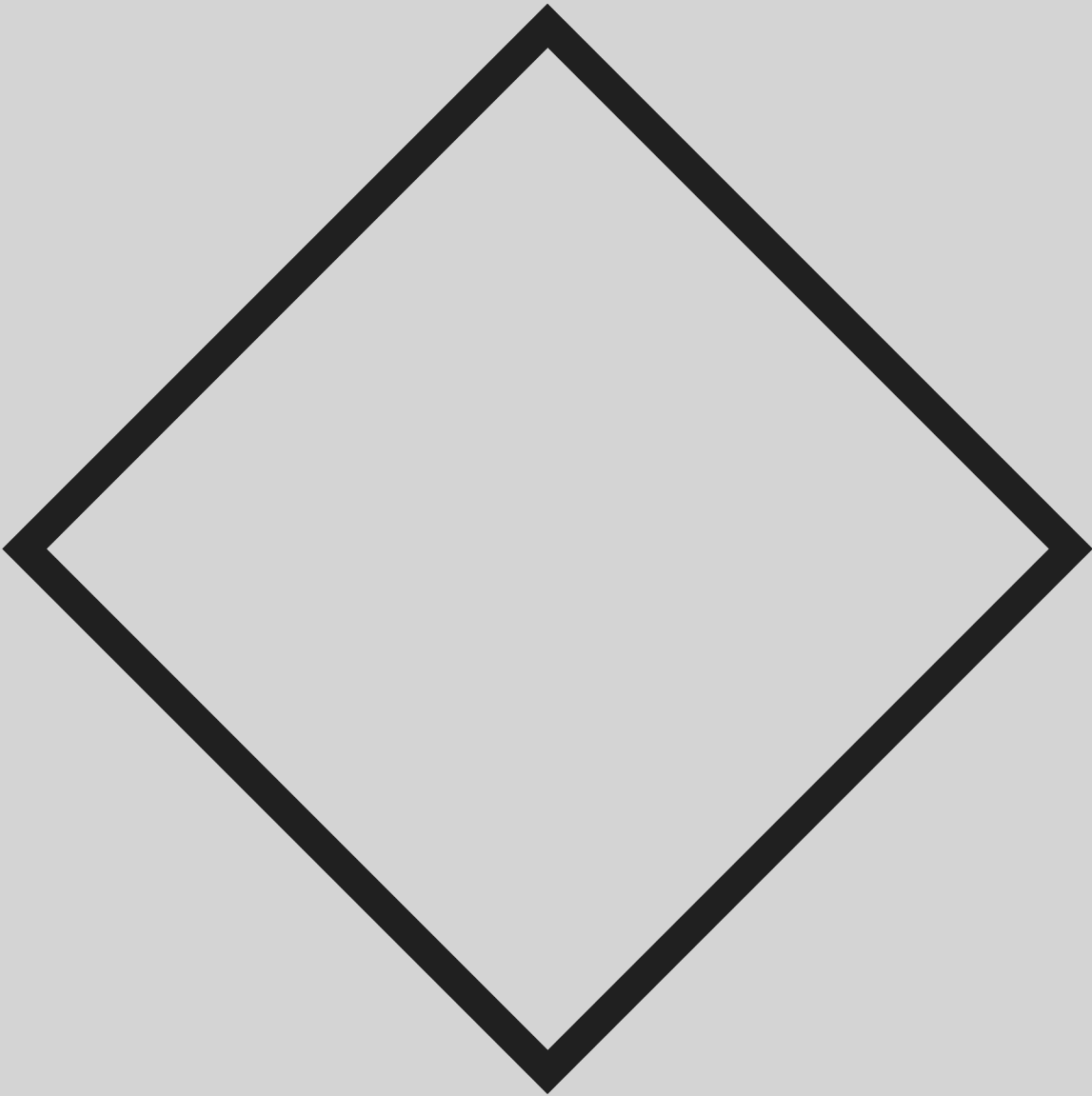
02. CULTIVATE AN IMPARTIAL GAZE

Some individuals and groups are constantly in sight because they offer advantage to those who see them. Marginalised people can become 'invisible' – simply because they do not matter to the fortunes of others. An 'impartial gaze' will take in every member of society – ensuring no person is rendered 'invisible'.

03. TRUST YOUR INSTINCTS

If it feels wrong, then it probably is. However, do not let your instincts become lazy. They should be trained and refined by working with hypothetical scenarios that improve ethical capacity. Most people encountering an icy road while driving will be led by their intuition to put their foot on the brake. That is poorly trained intuition. A well-trained driver will gently accelerate out of a skid – refining their intuition by practice. Time spent on the ethical 'skid pad' will not be wasted.

PROJECTS



CORE TENETS

01. 'CAN' DOES NOT IMPLY 'OUGHT'

The fact that an action is technically possible does not mean that it should be performed. Technical mastery must be subject to ethical restraint.

02. CLEARLY ARTICULATE THE PROJECT'S CORE VALUES AND PRINCIPLES (ENDS AND MEANS BOTH MATTER)

Human beings have the capacity to make conscious choices. That is, humans are not constrained to act according to habit, instinct or desire. Unconstrained choices (when genuinely free) involve the selection between available options according to what is deemed to be 'good' (or better) and 'right'.

There is no escaping this dynamic. Although often unaware of what lies behind our choices, we cannot but help choose the option we think to be 'good', better or best. The word 'values' refers to those things that are 'good'. As noted above, values act as the basis for choosing between options. So, if it is 'good' to go to Kandahar – and Kandahar is to the South – then we should head in a Southerly direction. If we head North, then either our choice is constrained, or we were insincere in our claim that it is 'good' to go to Kandahar; or we are acting irrationally.

Principles arise out of the question, 'what is right'. Their role is to shape (or regulate) the means by which we go about obtaining the things we claim to be good. So, there are many ways to travel to Kandahar. How we get there is as important as knowing the direction to head. Principles tell us how to go. Examples include: 'treat other people as you wish to be treated' or 'only do those things you are proud to do in public', etc.

There is much more that could be said about values and principles – but it is enough (for the purpose of these notes) to point out the necessity of articulating clearly the values and principles that should apply in the case of any decision making process, including that which applies in the case of using 'big data' for the purposes of monitoring and evaluation.

Ideally, the articulated values and principles will be consistent with those that apply within the host institution and society. That is, they should not be 'imported' as part of a generic Ethical Framework. Rather they must be consonant with the local operating environment and therefore have a legitimacy in the eyes of those who must apply them (and the eyes of those to whom they apply).

In the current situation - this would suggest that the 'project' values and principles must have a 'family resemblance' to those of [s37\(1\)\(c\)](#)

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CORE TENETS

03. LOOK FOR OR CREATE 'INFLECTION POINTS'

Avoid being forced into binary choices. If they arise, seek to find or make an 'inflection point' – something that changes the facts on the ground or the terms of debate. The world is 'plastic'. Options are rarely fixed. This requires creativity in the service of values and principles (not at their expense).

04. ACCEPT RESPONSIBILITY FOR THE 'DOWNSTREAM' EFFECTS OF YOUR ANALYSIS

It is not possible to 'outsource' responsibility for the effects of your work. The selection of 'upstream' and 'downstream' partners is a matter of profound importance. Each partner needs to be bound by the same ethical commitments and should be assessed as much for their character as for their functional capacity. Value (and values) matter as much as practical utility and price.

05. DESIGN FOR THE MOST VULNERABLE PERSON

The development of ethical protocols should be calibrated to protect and enhance the interests of the most vulnerable person likely to be affected by your decisions. If risks must be taken – make sure that they are not imposed on those least able to bear them.

06. IF A TASK IS WORTH DOING, IT IS WORTH DOING WELL

Don't begin a process that affects the interests of others unless you are reasonably confident that you have the capacity (or can invest in the capacity) to realise your objectives and advance the interests of those whom you serve (e.g. women seeking a better life through empowerment).

07. DON'T LET THE PERFECT BE THE ENEMY OF THE GOOD

Most projects will only yield modest benefits at the outset. If a guaranteed perfect result is a precondition for beginning a project, then few (if any) will commence. It is necessary to take a long term view – and to lay down institutional and project foundations of a kind that will last the distance. Ethical foundations can decay if not consciously maintained - set them well and do not forget to maintain their integrity.

08. UNDER PROMISE AND OVER DELIVER

Do not overstate the capacity of big data to deliver insights and impact. That is likely to be achieved – but only over time. People are easily disappointed and will become disengaged if routinely disappointed.

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CORE TENETS

09. IDENTIFY YOUR 'NON-NEGOTIABLES'

What are the things that you will not compromise? What are the minimum expectations of partners – that cannot be watered down or excluded by way of negotiation?

10. DEFINE THE MINIMUM CREDENTIALS AND CAPACITIES YOU WILL ACCEPT

What is the minimum level of ethics, technical capacity, security, policies and practices, reputation, etc. that you will accept in an employee or partner working on your project

11. IDENTIFY AND REINFORCE THE WEAKEST LINKS

Every system has potential weak links. For example, human error is typically the greatest source of vulnerability in cyber-security. Identify the potential weaknesses and proactively seek to eliminate or offset the vulnerability. This should be an ongoing process.

12. ASK MORE, ASSUME LESS

Make it a consistent practice to seek input from key stakeholders – especially those in whose name you act. This will build trust and minimise errors based on false assumptions.

13. 'NO' MEANS 'NO'!

Beyond making sure that people understand the nature of any request you make – thus enabling them to make an informed decision – do not seek to change their mind simply to serve your objectives.

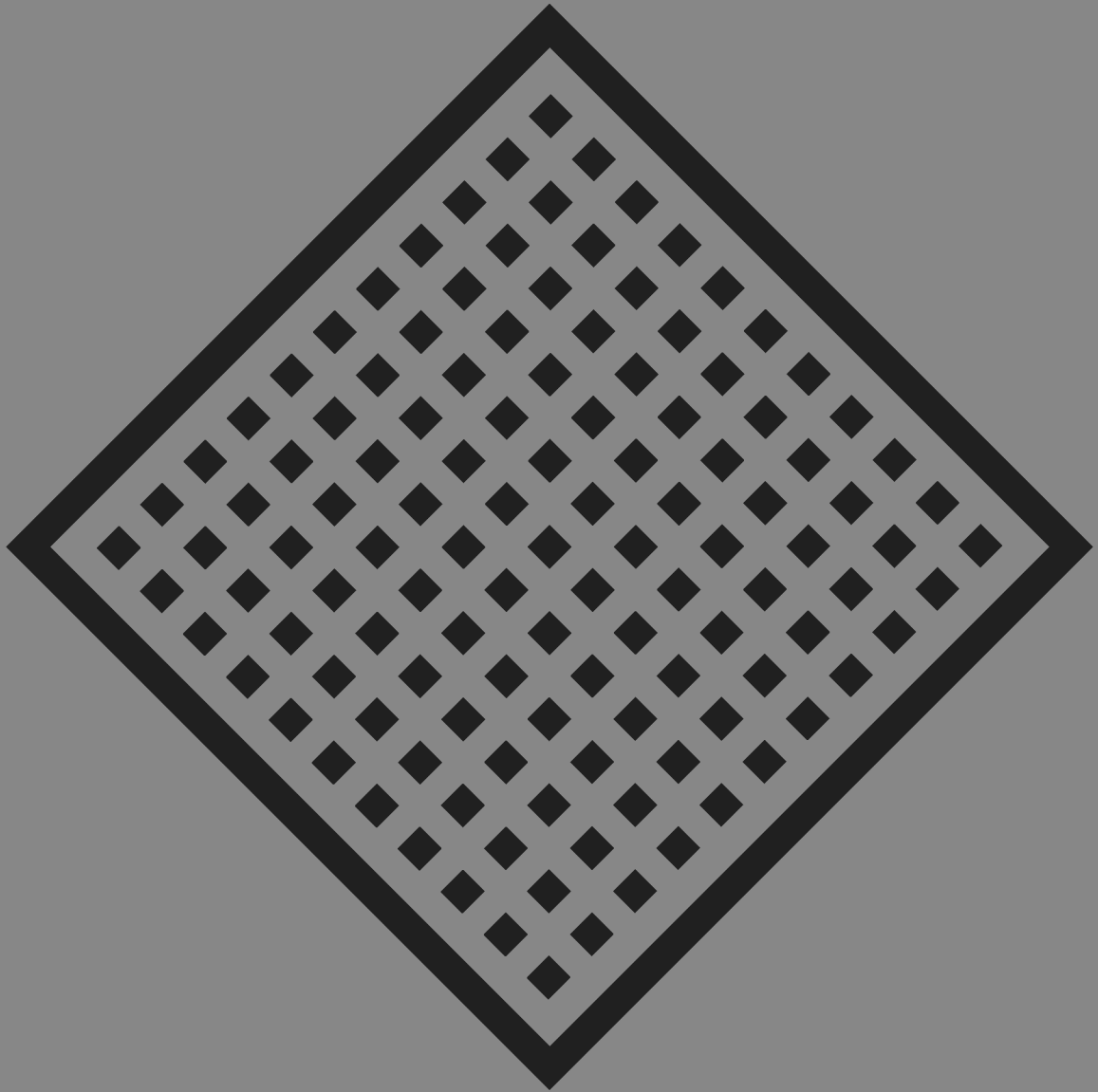
14. COMMUNICATE TO BE UNDERSTOOD

It is too often the case that formal protocols are expressed in language that obscures the essence of what needs to be communicated. Language should be calibrated to suit the audience. Good communication will enlighten an audience - it will make the complex seem simple (without being simplistic).

15. THE LOUDEST VOICE IS NOT NECESSARILY BEST INFORMED

Some individuals and organisations have the resources and inclination to make a lot of noise. They can drown out the quieter signals that carry the mood and aspirations of the majority – or a minority whose interests can easily be overlooked or disregarded.

DATA



CORE TENETS

01. 'PERSONS' ARE NEVER 'DATA'

Human persons have intrinsic dignity. They should never be reduced to elements in a system or network. They cannot be deployed as mere tools. They are 'ends' in themselves.

02. TREAT DATA AS IF HELD IN TRUST

There are many debates about who 'owns' data (i.e. makes a legitimate claim to property rights). The strongest ethical position is taken by those who 'bypass' these debates and treat all data as if held in trust for others. That is, those who collect, control and analyse data should exercise practical 'stewardship' over the data they hold. In doing so, they will recognise the fundamental dignity of the persons from whom the data has been derived – recognising that their fundamental rights (e.g. to privacy) exist independently of any claim to data 'ownership'.

03. ETHICAL CONSIDERATIONS APPLY AT ALL STAGES

The typical stages in the data journey include: Collection, Storage, Analysis and Use.

04. USE ONLY THE HIGHEST QUALITY DATA

From an ethical perspective, this means data collected, analysed and used with the free, prior and informed consent of those from whom the data originates. Ideally, consent should be specific and revocable. A person should not be expected to consent to a series of unspecified actions and should be practically free and enabled to withdraw consent without having to justify their reason for doing so.

05. MORE DOES NOT NECESSARILY MEAN BETTER

There is a point at which analysis has extracted all that can usefully be known from a data set. Collecting more data will not add value – at least not in terms of realising the primary purpose.

06. LET THE DATA TALK

The analysis of big data will often produce surprising results. Some of those results will be sensitive – even disturbing – in character. The data should be allowed to talk – generating all available insights without constraint. It is a different matter when it comes to the use of those insights – where prudence should be exercised.

07. RECOGNISE THAT KNOWLEDGE IS POWER

The analysis of data can produce new knowledge and insights that exceed what is known by those from whom the data originated. This asymmetry of knowledge creates an asymmetry of power. Those who exercise power have a duty to use it with care and responsibly. Not every person wishes to know everything that impinges on their life or interests. People have a right not to know.

08. BE HONEST ABOUT WHO BENEFITS

There is a growing tendency to collect data for reasons unrelated to the welfare of the intended beneficiaries of development support. For example, some agencies collect and analyse data to suit their interests – to demonstrate impact, as part of acquittal processes, to gauge effectiveness. While such activities can be legitimate in their own terms, they can also be unrelated to achieving enhanced outcomes for the people whose data is being analysed.

It is therefore important that the purpose of data collection and analysis be clearly defined and agreed – in terms that are directed to the good of the ultimate beneficiaries of the program being undertaken. Data innovation is intended to generate new knowledge in the service of improved decision making. So, in relation to the utility of that new knowledge, proponents need to be reasonably certain that: 'knowing x will benefit y' (where, in this case, y = women whose lives could further be empowered). In the absence of reasonable certainty – of the kind described above – the collection and analysis of data is likely to be illicit.

09. CLEARLY DISCRIMINATE BETWEEN DATA TYPES – AND THE ETHICAL OBLIGATIONS ATTACHED TO EACH

Different types of data give rise to different types of ethical obligation. Notably, there is an important distinction between:

- + personal data of a kind that can be linked to an identifiable individual
- + 'de-identified' data that is personal data with identifiers removed (a potentially reversible state)
- + meta-data – which may or may not be linked to individuals and
- + aggregated data – which emerges from the property of large data sets and which generate insights that are, in principle and practice, not attributable to any single element in the data set.

The more identifiable the data, the greater the potential for harm (including a breach of privacy).

10. 'BAD' DATA CANNOT BE CLEANSED BY 'GOOD' ANALYSIS

Some data sets are obtained by unethical means (e.g. through theft, deception, force, etc.). At their worst, some data sets have been produced only as a result of violating fundamental human rights (e.g. the forced use of human beings as experimental subjects). It is tempting to think that ethically compromised (corrupted) data sets can be 'cleansed' by using them for noble purposes. Arguments for allowing the use of such data include that; 'the ends justify the means', or that 'at least the suffering will lead to some good in the world', etc.

These are ethically weak arguments. Furthermore, the data sets produced by unethical means are often of poor quality – but that is not their major flaw.

The implication of this is that the 'ethical character' of the underlying data – in terms of its collection – matters as much as its subsequent use. In that respect, the 'gold standard' is data that has been collected and made available for use on the basis of Free, Prior and Informed Consent (FPIC). Where a lower standard of consent applies, then it is likely that ethical restraints on its use will be more extensive. Consent can be:

- + conditional or unconditional
- + irrevocable or revocable
- + individual or collective

The character and quality of the consent will depend on the context in which the monitoring and evaluation occurs and the preferences of those whose consent is sought. Culture and tradition can be important variables in which the presumption in favour of individual autonomy can be challenged.

11. ASSUME THE HIGHEST STANDARD OF DATA PROTECTION

Should this project proceed then priority should be given to preserving the security and anonymity of the individuals from whom the data sets originate. The highest levels of protection should be afforded (e.g. non-reversible hashing of data, etc.). This requires the design to begin with an assumption of the highest possible level of encryption, 'anonymisation', depersonalisation, etc. This standard should only be lessened to the degree that to do so is absolutely necessary – and then only to a level above a minimal threshold that is defined at the outset as 'non-negotiable'.

s37(1)(c) and s47F(1)

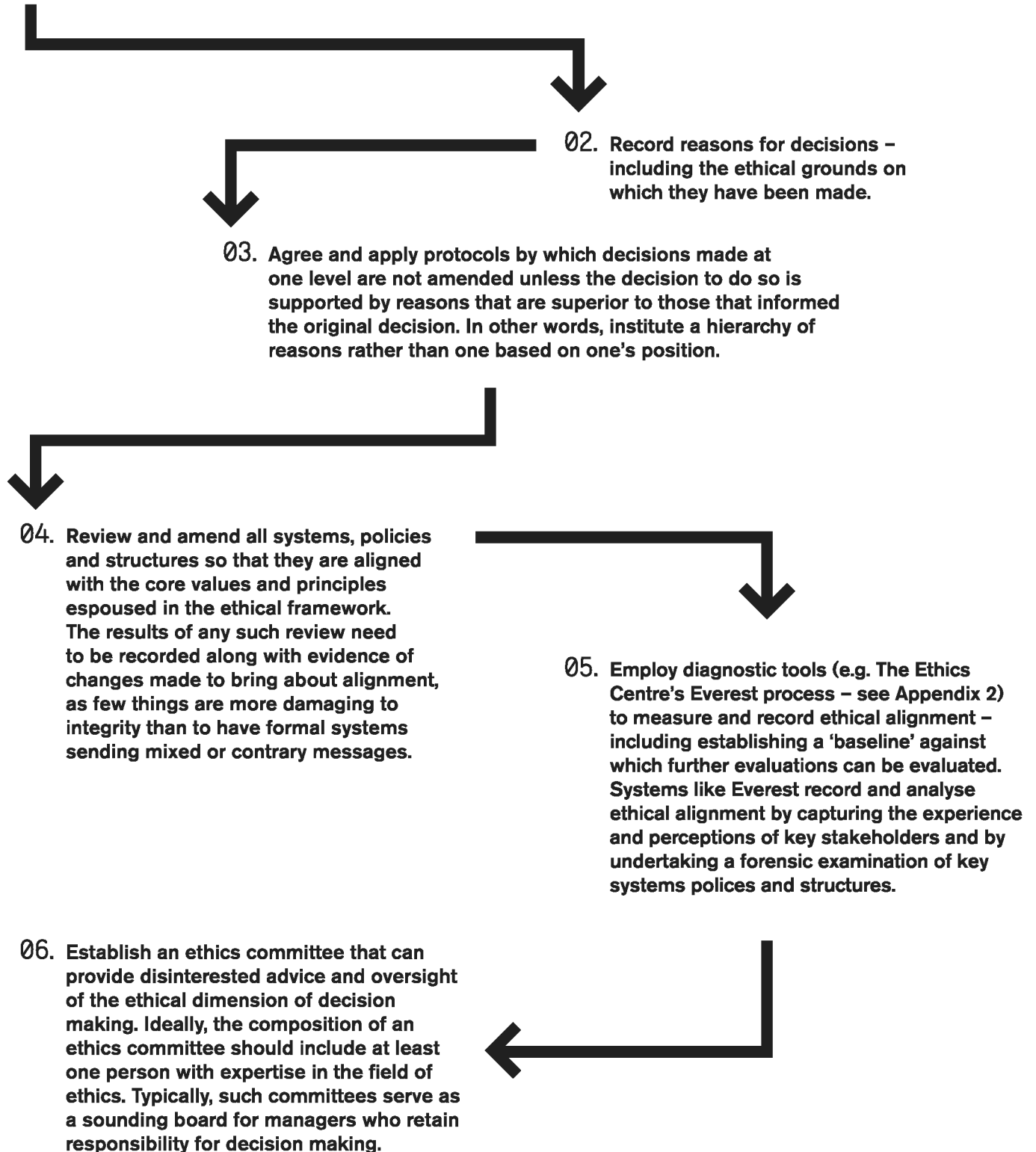


REVIEWING & MONITORING

An Ethical Framework is only as good as its application.

There are some key steps that can be taken to ensure that decision making is ethically sound.

01. Use a formal ethical decision making process (see Appendix 1).



Those who are on the leading edge of new developments face greater risks than those who follow. Given the inherent vulnerability of those who are the subject of development assistance, it is essential that pioneers not transfer the risks of action and inaction to those they seek to support.

CONCLUSION

The ethical impulse that drives innovation in development is to be admired. It is this same impulse that has led a range of actors to explore the possibilities of new technologies – not least in the field of data science – to improve the quality of monitoring and evaluation.

Those who are on the leading edge of new developments face greater risks than those who follow. Given the inherent vulnerability of those who are the subject of development assistance, it is essential that pioneers not transfer the risks of action and inaction to those they seek to support. Indeed, innovation should only proceed in order to serve the interests of this group.

This should lead pioneers in this field to 'hope for the best, but anticipate and prevent the worst'.

A handwritten signature in dark ink, appearing to read 'Longstaff', with a stylized flourish extending to the left.

Dr Simon Longstaff AO

Executive Director
The Ethics Centre

October 2019

APPENDIX 01

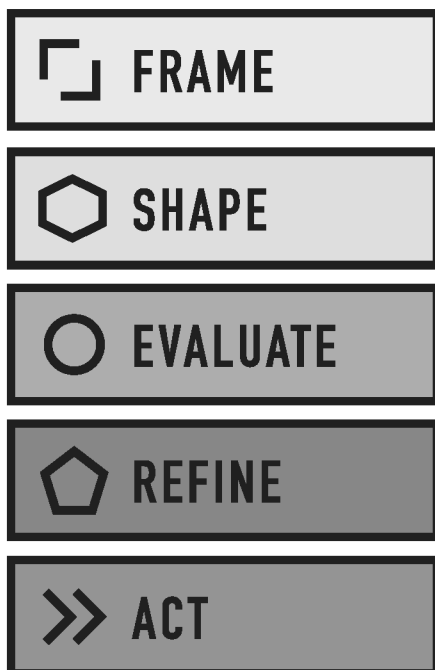
Ethical issues do not necessarily come 'flagged' as such. It is up to decision-makers to identify and draw out the ethical issues that might lay dormant in what appear to be 'plain vanilla' cases.

Having identified ethical issues to be addressed, decision-makers need access to a reliable and replicable process for decision making.

The model that follows meets that test.

In a number of respects, it 'mirrors' the architecture of general decision making tools. However, this process has a number of distinct features that are highlighted below.

There are five steps in this process:



This five-phase process – and the application of a matrix by which to evaluate options – offers a clear and simple basis for addressing the ethical dimension of any decision.

As with all processes, it is not a substitute for judgement. However, if rigorously applied, it will ensure that decisions made in the boardroom are ethically defensible – even if they are controversial in the eyes of certain stakeholders.

DECISION MAKING MODEL

PHASE	PURPOSE	CORE QUESTIONS
FRAME	To define and understand the precise nature of the issue to be decided.	+ What are the facts? + How are these facts linked to the organisation's core values? + What assumptions are being made about the world in which this issue is being decided? + Are there any 'non-negotiables'? (e.g. relevant laws that must be obeyed) + Whose 'voice' should be heard? (i.e. who has a legitimate interest in this matter) + What is the nature of each legitimate interest? Are the interests aligned or divergent?
SHAPE	To develop options that could resolve the issue.	+ What kind of issue are we dealing with? Is it just a moral temptation (the possibility to benefit from doing something questionable)? Or is this a genuine dilemma in which competing values and principles seem to require incompatible outcomes? + What are the options? This is both the most creative and difficult part of the process because nothing should be 'off the table'. Every option – including the apparently 'outlandish' should be considered as that is where 'inflection points' can be found (see following).
EVALUATE	Apply a matrix of values and principles.	+ Take two or three of your most prospective options and apply the matrix (see following).
REFINE	Identify and eliminate weaknesses in the proposed course of action.	+ Play the 'Devil's Advocate' by taking up the option that has fared best in the matrix in order to identify its major areas of weakness. + Adjust the proposal to eliminate the weakness without damaging the overall integrity and utility of what has been proposed. + Put the proposal to some final tests, such as: how would I feel if this was done to a loved one (child, etc.) of mine? Would the person I admire most in the world do this?
ACT	All ethical decision making is practical – it ultimately requires that a decision be given effect.	+ Give effect to your decision. + Monitor the outcome. + Record and offer reasons for your decision – even if not challenged. + Reflect on the decision – and what can be learned from the process and applied in the future.

EVALUATING DECISIONS

The Evaluation Matrix approach recommended below is solid in its form but flexible in its content. The purpose of the matrix is to ensure that, as a minimum, an organisation's values and principles are used as the 'index for judgement'.

The simple form of the matrix is as shown:

OPTIONS	VALUE OR PRINCIPLE								
	V1	V2	V3	V4	V5	P1	P2	P3	P4
A									
B									
C									

Once the matrix is populated, then it is a relatively simple matter to determine which options best accord with the nominated values and principles. In the example below, Option B would appear to be the best.

In using the matrix, organisations will need to determine which values and principles have greater priority, or 'weight', in comparison to others. For example, priority should always be given to those values and principles explicitly adopted by the organisation over those that its stakeholders, in general, might apply. Within that list of explicitly adopted values and principles, priority ought to be given to those that most closely align with purpose or that have a particular link to strategic risk. For example, mining companies will typically prioritise the value of safety over that of efficiency. Both values are of importance – but safety is of prime significance given the level of risk encountered in most mine sites.

OPTIONS	VALUE OR PRINCIPLE								
	V1	V2	V3	V4	V5	P1	P2	P3	P4
A									
B									
C									

The really tough decisions are those in which equally valid values and principles require opposed courses of action. This is, of course, the source of the evocative image of being 'caught on the horns of a dilemma'.

While it is common for boards to be frustrated by the apparent impossibility of deciding every issue in clear terms, it is frequently the case that an apparent dilemma can be resolved by discovering or creating an 'inflection point' – the point at which the underlying terms of a dilemma can be revisited and new possibilities explored.

Inflection points most often arise at the second phase of the decision making process outlined above – when one is 'shaping' the options. This is when the process is most creative and when apparently 'foolish' considerations can be most effective (with some modification). In other words, the seeds of a brilliant solution can often be found in the ground of an outlandish idea. Also, the 'shaping' phase allows a director to take into account perspectives that were gained in the first phase – especially from those whose legitimate interests might otherwise have been overlooked because of their relatively marginal status.

EXTENDING THE MATRIX

There is no set content with which a matrix must be populated. It is largely a matter of determining the ethical framework of the organisation. However, it is also possible to extend the matrix to take into account a wider set of ethical considerations that would typically be drawn on in wider society.

Core Principles:

+ Would I have this done to me?

This is derived from the established principle of 'do unto others as you would have them do unto you'. In one form or another, this principle of reciprocity occurs in many cultures across the world.

+ Will this produce the best outcome?

There is a long tradition of deciding matters according to their consequences. A key related question for a director becomes, 'what then counts as a good outcome'? This question drives back to the issue of an organisation's values (which define what is 'good').

+ Would this make a good rule for all?

This question tends to focus on issues of rules and duties – some arising from actions like promise-making, others embedded in legislation and regulation and others being the product of reason. Directors answering this question are required to look behind the rules to see what issue of substance they attempt to address.

+ Would I be proud to see this fully disclosed?

This is a version of the famous 'sunlight test' that champions the corrective effects of transparency. It is important to note that this question does not seek to determine what would be popular in the eyes of others. Rather, it calls on directors to decide if they would be proud to stand by their decision in the 'full light of day'.

+ Does this respect fundamental human rights?

Human beings have agreed, by formal means, that there is a set of fundamental human rights that each person and organisation must respect – whether or not bound by formal laws to do so. Human rights are being invoked with increasing frequency – for example in objections to modern slavery.

+ Does this show a proper care and regard for others?

This question seeks to look beyond issues of formal reasoning to invoke a notion of care for others. As much as anything else, this draws on an intuitive sense of how others might be affected by a decision – in terms of basic well-being and welfare.

+ How will this decision shape the character and culture of the organisation?

This is an oft-neglected question – but may be, for directors, one of the most important of all. Every decision by a board helps to shape the ethical environment of an organisation. Even apparently mundane matters of policy can be rich in their symbolism – conveying messages about what is truly valued within the organisation. Many of the problems revealed by the Financial Service Royal Commission can be traced back to a failure to take this question into account.

None of these questions is required to be asked. They are not necessary components in any matrix. However, boards may find them a useful complement to their decision making.

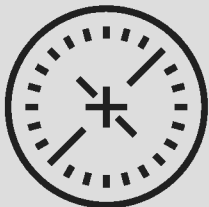
APPENDIX 02



The Everest Program

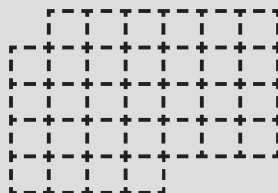
The Ethics Centre's Everest Program enables organisations to understand their current ethical culture and develop strategies to eliminate weaknesses and harness strengths in order to drive performance.

The process is undertaken in three stages:



Current State Analysis

Explores and measures the extent to which the organisation's stated purpose, values and principles are embedded and aligned through policies, practices and the lived reality of the organisation's day-to-day activities.



Insights

Extensively maps factors that constrain and enable an organisation to live its stated purpose, values and principles.



Actions

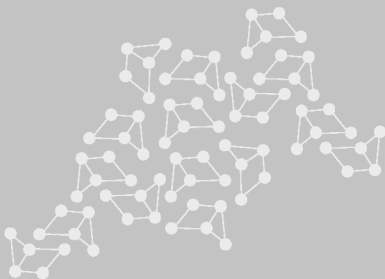
Establishes a clear pathway for change that will generate positive impacts throughout the organisation.

EVEREST PROCESS OVERVIEW



Current State Analysis

We use two independent frames of analysis – Ecosystem Analysis and Experience & Perceptions – to provide a rich picture of the cultural alignment between what an organisation says it is, and the lived experience.



Ecosystem Analysis

Our Ecosystem Analysis audits internal policies and documents that reflect an organisation's intent including pricing guidelines, employment policies and sales processes. It also reviews actual practices such as those revealed in minutes of steering committee decisions, management reports, talent management decisions and communications between key leaders and their teams.

Our Ecosystem Analysis provides a baseline assessment of:

- + the extent to which structures, policies and practices align with purpose, values and principles
- + the likely 'signaling' effect of misaligned policies
- + the documentation guiding the organisation's operation and actions (i.e. the explicit and formal expression of its 'intent')
- + the actual outcomes of relevant policies on behaviours.



Experience & Perceptions

The Experience & Perceptions stream recognises that organisational culture is a complex, self-organising system, with a distinctive history and a range of binding narratives, stories and behaviour, both explicit and implicit.

Using qualitative and quantitative research, we determine how internal and external stakeholders view the organisation and whether it aligns with its stated purpose and values.

Our Experience & Perceptions process provides a baseline analysis of:

- + the level of importance staff place on each of the values and principles, the extent to which the values and principles are applied in practice and quantifies the gaps between the 'ideal' and the 'actual'
- + the factors that enable or impede the values and principles to be realised consistently across the organisation.



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