

*Ethics Institute
of South Africa*

FISA Conference

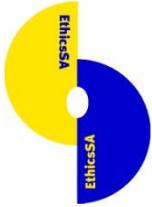
Ethics and law

Prof Leon van Vuuren

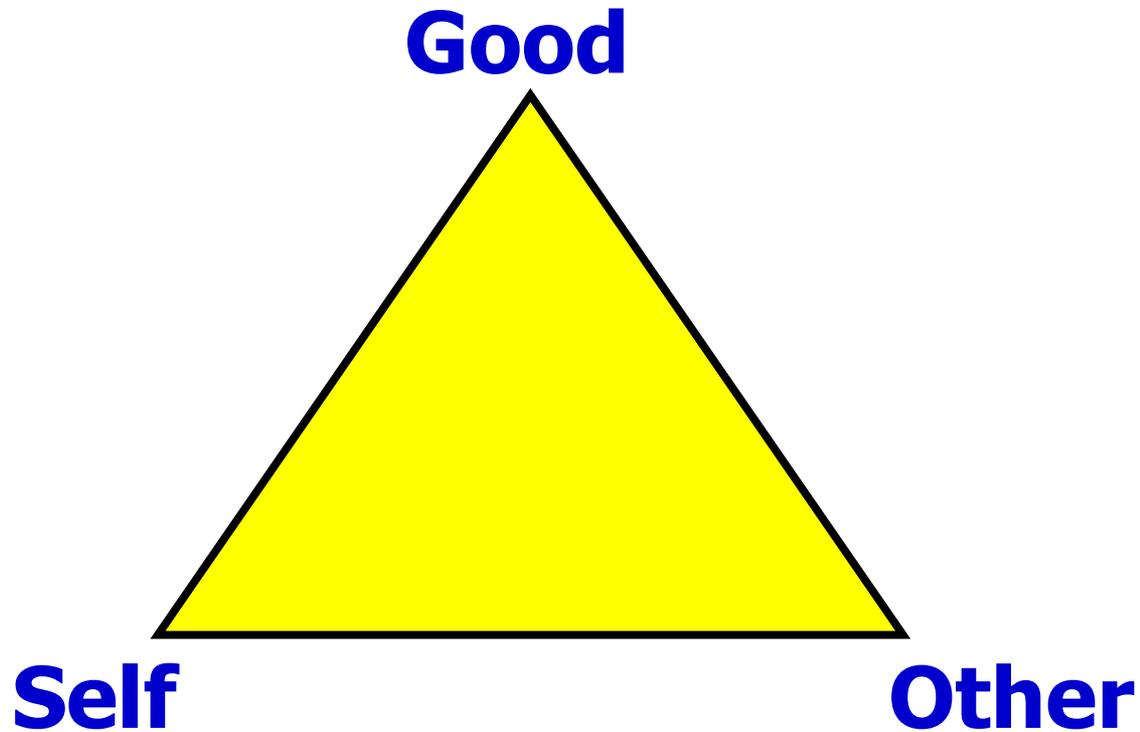
Leon.vanvuuren@ethicssa.org

September 2014





Ethics / morality

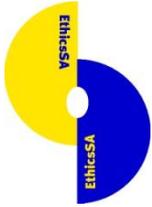




THE FIDUCIARY INSTITUTE OF SOUTH AFRICA



**Code of Ethics and of Professional and Responsible
Conduct**

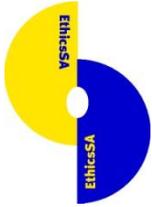


Case study ...

Lwazi is the ex-owner of the assets that now belong to the Mvovo family trust, of which he is also the founder and trustee. His wife is also a trustee. The couple's future grandchildren have been nominated as capital beneficiaries.

You have been appointed as independent trustee. You have been family's accountant for 8 years. You have had a lucrative, but very professional relationship with the family over this time.

Lwazi has a daughter, Nomsa, who is currently studying in the UK. She has miserably failed her first two years and appears to be squandering her parents' money.

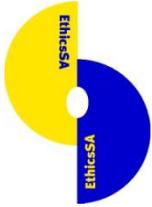


Case study (cont.) ...

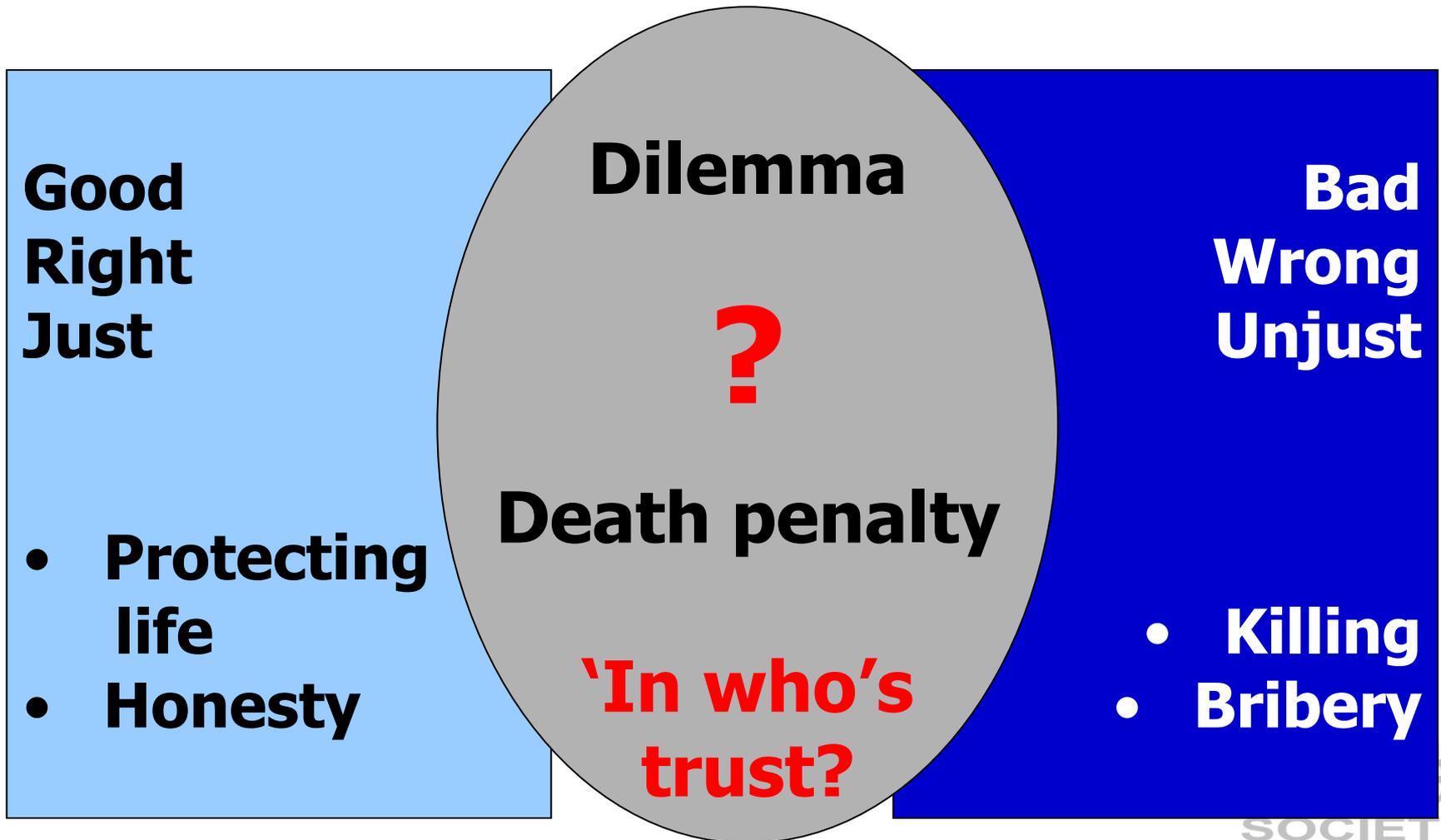
Lwazi is a gentle soul. His wife is, however, quite the opposite. Nomsa is very manipulative and pressurizes her parents to pay for another year of study. This will cost them R350,000. She has a brother, Siphwe, who finished his studies at UKZN last year and recently obtained a permanent job.

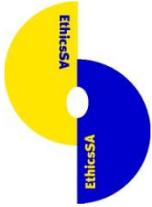
You vote against allocating her the money from the trust, as the first two years already cost the family R600,000. His wife tells you in no uncertain terms that they will terminate the accounting services contract that they have with you should you vote against the allocation of the money.

What do you do?



Right, wrong and ethical dilemmas





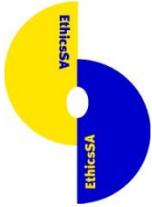
Ethical (moral) dilemma

An ethical dilemma occurs:

- When we face two choices, both of which lead to less than desirable consequences

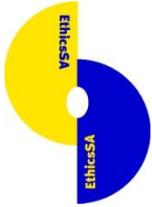
David Steward

- When certain values conflict
(e.g. professional duty vs. future income in the case study)



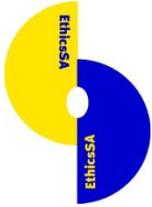
Apples and barrels

	Good Apple	Bad Apple
Good barrel	Decent but Dubious	
Bad Barrel		



Question

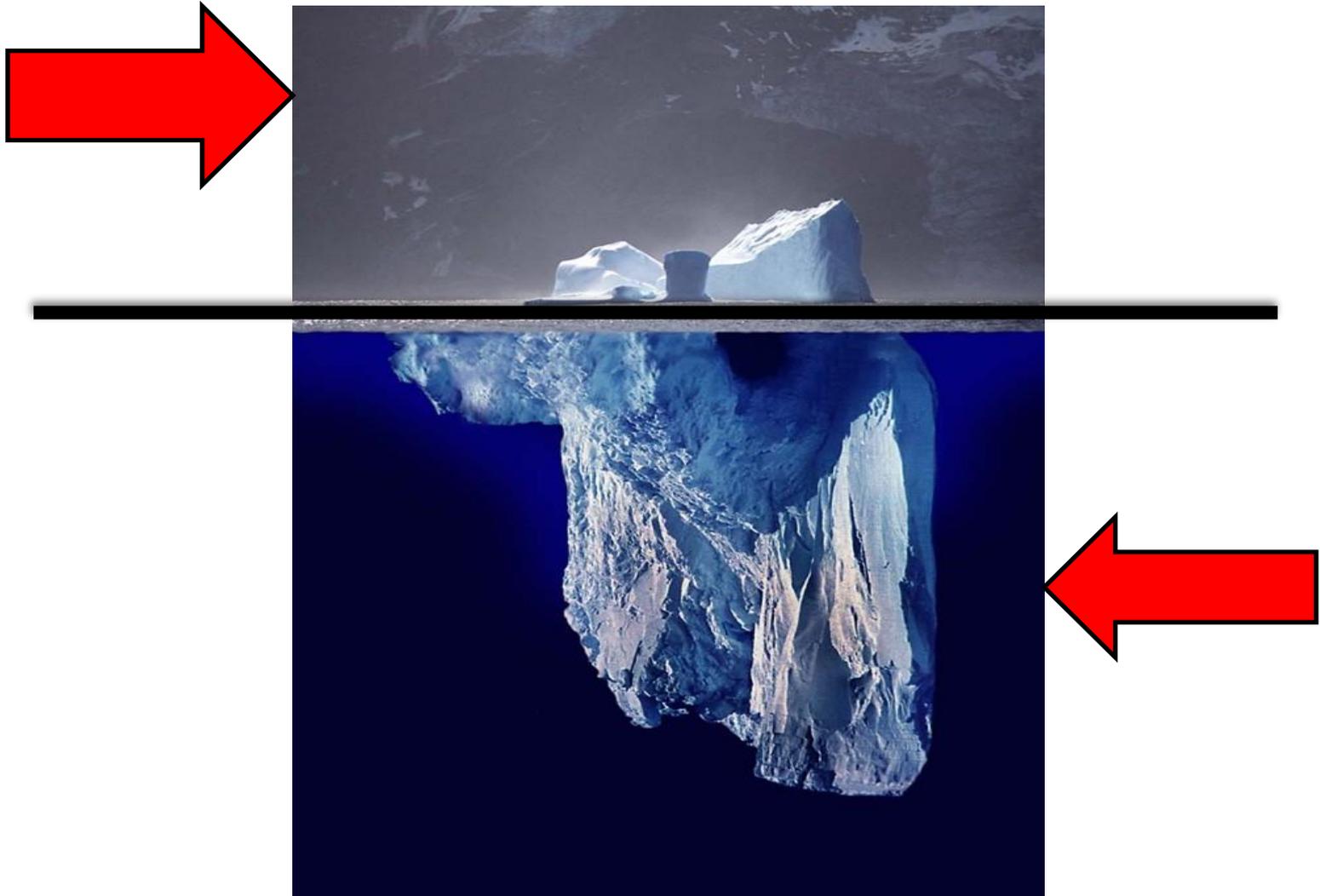
**Are ethics and the law
(regulations, rules, policies)
synonymous?**

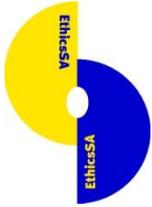


Ethics and the Law

	Legal	Illegal
Ethical		
Unethical		

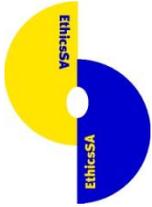
Law vs. ethics





Ethics and the law

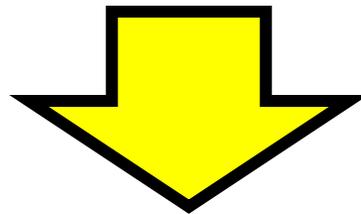
- The law reflects the ethics of society, but the law \neq ethics
- The law floats on a sea of ethics
- The law at its best, is a minimum ethic
- If something is legal, it being ethical is NOT guaranteed
- There is a time lag between ethics and the law
- One cannot make a new rule for everything that can go wrong .



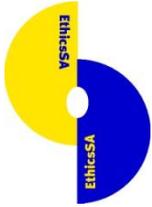
Purpose of Professional Ethics

Prevent abuse of Power

**Promote responsible use of
power**

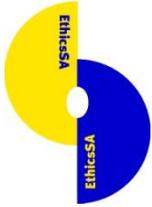


Trust in Profession



FISA Objectives

4. To ensure that members maintain the highest professional and ethical standards in the pursuance of their profession;



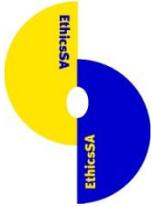
FISA Ethical Principles

Integrity

- **Honesty**
- **Fairness**
- **Independence of thought and behaviour**
- **Avoiding conflicts of interest**

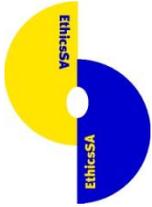
Diligence

- **Knowledge**
- **Competence**
- **Confidentiality**
- **Personal financial stability**



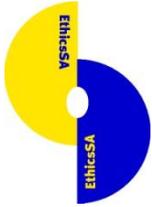
Our professional ethics role

- **Ethical sensitivity**
- **Ethical competence**
 - **Cognitive**
 - **Behavioural**
 - **Managerial**
- **Ethical imagination**
- **Ethical courage**



Practically ...

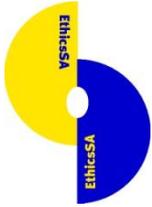
- **Talk about ethics**
- **Make ethics REAL (translate values)**
- **Consult codes**
- **Consult colleagues**
- **Explore and dialogue your profession's grey areas**
- **Make ethical decisions**



Ethical decision-making

How do we make ethical decisions?

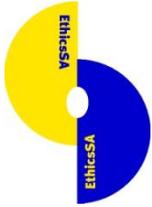
- Consult codes?
- Consult rules or policies?
- Base it on values?
- Base it on experience?
- Go with your gut feeling?



Recognising ethical issues

When you hear phrases like:

- **unfair**
- **we have to be careful here**
- **shouldn't we get legal advice on this one?**
- **you can make this decision, but I don't want my name attached**
- **everyone else is doing it ...**
- **we've always done it like this ...**

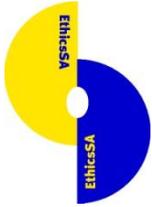


Ethical decision-making

Quick test:

1. Is it legal/procedural?
2. How will it look in a newspaper?
3. Is it consistent with my professional values?
4. Is it fair to all?
5. If I do it, will I feel bad?



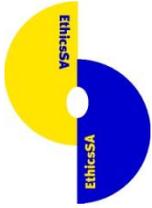


Conclusion

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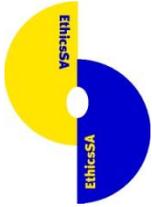
**“We’ve got to draw the line on unethical behavior.
But draw it in pencil.”**



**Goodness without knowledge
is weak.**

**Knowledge without goodness
is dangerous.**

Paul Tillich

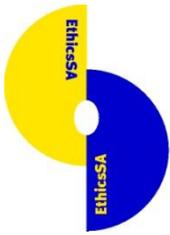


'Doen wat reg is as die regter weg is'.

Totius

'Character is doing the right thing when nobody's looking'.

J.C. Watts



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