
The Humdrum of Legality and the Ordering of an Ethic of Care

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This paper provides an ethnographic analysis of the ways that employees of an emergency shelter create and maintain order. The paper applies the framework of legal consciousness to explicate the practices of the employees that amount to “private ordering.” The employees administer the rules of the shelter in the context of an “ethic of care,” but one that is outside the purview of formal law. This ethic, however, is polysemic, and the employees, therefore, must adopt diverse styles based on their understandings of their professional roles regarding the needs of the clients. The practices of two employees are highlighted in detail, whose strategies in applying and maintaining adherence to shelter rules are at the opposite ends of the spectrum. Both make decisions in a somewhat spontaneous and, more importantly, inconsistent, fashion. Despite the complications that arise from applying the rules as such, the employees tolerate, even laud and celebrate, these methods. While this system of private ordering has little resemblance to the ordered, consistent, and rigid application of formal law, it allows the employees to administer diverse strategies of ethics of care and shape practices to fit their professional roles and the complex exigencies of an emergency shelter. The paper locates the extant private ordering not in the law, nor in its shadow—assumed to be preconditions—but outside or beyond them. Given that this ordering is founded against the law—it is not law, nor law-like and has no desire to so be—the paper suggests that it can be thought of as private ordering proper and lays the framework for theorization that accounts for its instrumental and symbolic dimensions.

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An emergency shelter¹ is an institution conceived primarily with welfare in mind. Its ethos is an ethic of care (see Thomas 1993). Based on the meaning of the word ethics—as an injunction, grounded upon moral principles, to act—I utilize the term ethic of care to refer to the provision of myriad services, ranging, for example, from the essentials of life, such as food and shelter, clothing and medical treatment, to miscellaneous services, such as treatment for drug and alcohol addictions or aid with securing employment or welfare, all of which is grounded upon and buttressed by a moral commitment and, thus, desire, to serve and help those in need. That the discourse of the shelter, like many others (see Conradson 2003; Friedman 1994; Karabanow 2002), is unequivocally about an ethic of care is found in its legality. By legality I refer to two interrelated aspects; first, the official and (often) codified norms, evinced in legislation or rules, and, second, the ways these are thought about and made sense of by actors, that is, legal consciousness (see Ewick and Silbey 1998: 22–23).

This paper draws on an ethnography of an emergency shelter for men in Ottawa, Ontario, Canada. The daily operations of the shelter unfold in two ways. First, the shelter is governed by law, for example, provincial legislation and by-laws of the city, which shapes its role and function—the province of Ontario's *Occupational Health and Safety Act* (1990), which regulates safety in the workplace, is one example. Second, myriad in-house rules and regulations—the focus of this paper—are crucial because they underscore the tenor and climate of the shelter. They seek to capture, mimic, and represent the ethic of care and it is in this attempt that light is shone not only on the limitations of law (as a broader aspect of rules) but also on the struggles that ensue in the discursive production of the narrative(s) of a particular site.

Despite being founded upon such an ethic, however, its implementation is, often, not as straightforward and simple, but, rather, marred by a complex array of issues (see Loseke 1992; Ranasinghe 2013a; Williams 2003). The law—in this particular case, rules—for all its purposes, functions in one way, namely, it must be unequivocal about what it stands for: where it does not, it fails to be clear and efficient and, therefore, is in need of revision or interpretation, or, at worst, abandonment. The law, in other words, can only operate

¹ While it is impossible to deny that the clientele of such shelters are visibly poor, it is unclear and difficult to know whether they are “homeless,” a problem that arises because the term lacks clarity (compare the myriad narratives of visible poverty, some focusing on homelessness, others on mental illness and still others on battered women, in Seider, 2010; Glasser, 1988; Ferrill, 1991; Connolly, 2000; Liebow, 1993; Williams, 2003; Loseke, 1992; and Desjarlais, 1997; on the difficulties of classification, see Hopper 2003: 15–24; and Rossi, 1989: 10–13; 45–81, the latter (1989: 13) admitting that, “In the end we are forced to resort to a certain arbitrariness” when classifying and counting the homeless).

upon a binary logic, namely, between what it demarcates as legal and, by extension, illegal.² Yet, many of the issues the law is called to address cannot (easily) be reduced to binary terms because they are complex and complicated and often composed of, even confounded by, numerous rationalities. This is also the case with an ethic of care, which, as will become apparent, is polysemic rather than uniform and singular. Thus, a rupturing between the polysemy of an ethic of care and the rules of the shelter is an inevitable outcome.

The ordering of the shelter reveals this rupturing in two related struggles, both significant in shaping an ethic of care. The first is between management and employees to define an ethic of care and how it will be implemented. The legal consciousness of both management and employees highlights important similarities, but, more significantly, points of departure. Both firmly believe that the rules serve an important function, namely, they provide consistency, and consistency breeds security and fairness, to name just two benefits. Yet, while management wholeheartedly believes that the rules provide an optimum balance between the delivery of care and other aspects of the governance of the shelter, the employees claim that the binary logic of the rules runs counter to the very ideal of an ethic care. They, therefore, see it as necessary to break or circumvent the rules. Their legal consciousness, in other words, is also constituted by a healthy skepticism toward rules. Thus, what results is a struggle between the two to lay claim over the deployment of rules in relation to the ordering of the shelter: where management believes in and requires the strict implementation of the letter of the law, the employees consciously seek to circumvent such rigidities.

The rules, however, are not the only problem. The more significant issue is that an ethic of care is not unified or singular, but polysemic, that is, that employees conceptualize and make sense of it in different and conflicting ways. These issues are philosophical in nature and run the gamut from the deservedness of aid to the types of aid that should be delivered and under what conditions, to name two examples, but these questions arise because, and their eventual resolution is determined through an examination, of the supplication itself. The administration of care, then, is fraught with difficulties not only because the notion of care is made sense of differently between management and employees but also between the employees themselves, who, as frontline workers, are tasked

² I am mindful that the law is driven by particular *principles*, in relation, for example, to “right” and “wrong,” “just” and “unjust” or “moral” and “immoral.” However, even in so-called “hard cases” where these principles guide the interpretation necessary to address these matters, the resulting judgment only reinforces this binary logic between legal and illegal (cf. Hart 1967/1961; Dworkin 1986).

with its daily deployment. This means that not only are the employees collectively in a battle against management, but they are also in a series of individual battles against one another, which might or might not be recognized as such. These struggles vividly illuminate the governance of the shelter, one based on a system of private ordering (see Hart and Sacks 1958: 6–9; 147–149; 183–185).

This paper explicates the private ordering of the shelter. This ordering is a product of, and premised upon, an ethic of care. The polysemy of an ethic of care, however, leads to a spontaneously ordered site, that is, one characterized by the appearance of high levels of disorganization, even disorder, visible in the inconsistent, even idiosyncratic and ad hoc, manner in which care is administered—this is admitted to by management and, as well, though begrudgingly so, the employees. What I seek to make sense of is how and why such disorganization and disorder are tolerated, even lauded, as useful and important by the employees, despite their recognition of these problems. I utilize two theoretical frameworks within law and society research, first, private ordering, second, legal consciousness, to accomplish three related tasks. First, and chiefly, I situate the importance of private ordering to the everyday governance of the shelter and theoretically develop the constitution, and locate the place, of private ordering in an effort to chart the conditions upon which it takes shape and is sustained. Second, I explicate how the study of private ordering can be enriched through a focus on legal consciousness. I build upon one strand of the legal consciousness literature, specifically the distinction between ideology and hegemony. I explicate how consciousness about the law is constituted not simply through the struggles and meanings about the law itself, but, crucially, through other, extraneous, factors, here, an ethic of care, and the ways these struggles are constituted and driven by ideology that is often in conflict with the hegemony of the law. Finally, I contribute to the voluminous literature on the shelter industry by constructing the voices of the employees not as uniform and singular, as is often the case (see Seider 2010: 196–200; Connolly, 2000: 131–142 for exceptions), but, rather, as diverse, fragmented and, often, conflicting and volatile. In so doing, I construct the shelter as one that is not only constituted by administrative chaos, but, celebrated as such, and, the ways this has profound implications for the provision and delivery of care.

I begin with an overview of the literature on private ordering and legal consciousness, which is followed by a discussion on the method of the study. Next, I locate the place of rules as thought about and made sense of by management and employees. This is followed by the life stories of two employees to illustrate the markedly different ways an ethic of care is conceptualized and made

sense of. Finally, I explicate how private ordering is invoked and deployed *for* care and how it functions against and outside the law and its shadow.

The Consciousness of Private Ordering

About a century ago, Roscoe Pound (1910) underscored the distinction between the “law on the books” and the “law in action,” the so-called “gap” problem (Nelken 1981), which is now the hallmark of law and society scholarship. This scholarship has underscored the existential problem of the law, a chasm between what the law is and what it does, that is, between “being” and “doing.” Thus, often, order is procured or established not directly through the law but via a negotiated product of private ordering that operates in its “shadow” (Mnookin and Kornhauser 1979). It is important to underscore, however, that while the law is not at the forefront of such orderings, it is still present, and importantly so. It is the law that creates autonomous subjects who are free to choose how disputes should be settled, whether legally or extra-legally (even illegally), not to mention that it is the law that sanctions this type of ordering in the first place (see Hart and Sacks 1958: 148 for a discussion of “autonomous ordering”). There are numerous narratives of private ordering, perhaps the classic example being that of a couple who decides not to invoke the law during separation (Mnookin and Kornhauser 1979). Other examples include the ways cattle owners settle their disputes extra-legally (Ellickson 1991) or, where, in one community, contract disputes are funneled into the legal system because breaches are seen as morally offensive, whereas personal injury claims are privately resolved to preserve local values (Engel 1984). Another example is the businessmen who negotiate “outside” the formalities and guarantees provided by contracts (Macaulay 1963). Thus, despite the fact that the “law is all over” (Sarat 1990) and operates as a powerful, constitutive, force, there is also evidence of its own vulnerabilities: often, even the so-called “haves” who are thought to “come out ahead” (Galanter 1974), lose confidence in the law’s promises (see Lande 1998; Ranasinghe 2010a). Private ordering is, if not a direct attack against the law, then, at least a reflection of a healthy skepticism toward it and its perceived problems.

An important condition for private ordering is a high level of organization among actors—at a minimum, in obtaining consent from those who are involved, even if that consent is brokered through force (see Sagy 2011). Organization among actors speaks to several things, including that the participants understand the need for a private system and rationalize it against the established

system of dispute resolution, and that they are disciplined not to invoke the official system. This conclusion, Tehila Sagy (2011) reaches in her discussion of private ordering, in making a case for its hierarchical nature. Like many who precede her, Sagy locates private ordering in the law itself, as a precondition, but goes further in claiming that “the public order is *intentionally proactive* in creating private orders” (2011: 945; emphasis in original). Building upon this, she questions the very nature of private orders by claiming that they “are not private” (2011: 944), a conclusion she reaches because private orders are, supposedly, “products of domination and serve the group’s privileged class” (2011: 944).

To theoretically inform the conditions upon which private ordering emerges, takes shape, and is sustained, I utilize the framework of legal consciousness, which “broadly denote[s] thoughts, feelings, and behaviors with respect to the law” (Levine and Mellema 2001: 173), that is, not only what people think about the law, but also the manner in which they come to do so (see Silbey 2005 for a good overview). I am mindful that despite the voluminous and heavily growing literature on this subject, it is hindered by the absence of a precise working definition not only about its constitution, but how a research endeavor ought to be framed and conducted (see Silbey’s 2005 scathing criticisms; see also Cowan 2004; Hertogh 2004). I refrain from canvassing what is now well-trodden terrain (see Ranasinghe 2010a: 327–328) and, instead, rely on the model developed by Patricia Ewick and Susan Silbey in *The Common Place of Law* (1998; see also 1992). I am mindful that this approach has several problems (cf. Engel and Munger 2003), and some of these have been brought to light most recently by Simon Halliday and Bronwen Morgan (2013) in their call for an expanded version of it. These problems and exhortations notwithstanding, I rely upon this model because it accounts for legal consciousness in terms of legality, by which I refer both to the official and (often) codified norms, found, for example, in laws and rules, and the myriad ways that these are thought about and made sense of by actors. Thus, Ewick and Silbey’s model allows an exploration of “how legality is experienced and understood by ordinary people as they engage, avoid or resist the law and legal meanings” (Ewick and Silbey 1998: 35) because they broadly define legality as “the meanings, sources of authority, and cultural practices that are commonly recognized as legal, regardless of who employs them or for what ends” (1998: 22). Even more importantly, this definition is mindful that “people may invoke and enact legality in ways neither approved nor acknowledged by the law” (1998: 22), a definition that explicitly recognizes the extra-legal, even illegal, means by which order is procured. Since I am interested in one aspect of this extra-legality, namely, rules that are official but not the product of

political authority, Ewick and Silbey's framework aptly aids my endeavor (cf. Halliday and Morgan 2013).

Additionally, this framework necessitates an engagement with the ways consciousness is constituted by ideology—located on one end of the continuum—and hegemony—located on the other (Silbey 2005: 333–334; see also Ewick and Silbey 1998, 1999) and the active struggles along it that shape thinking and acting. In this study, the rules, as they are perceived by the employees—in juxtaposition to, and in their struggles with, management—can be located along this continuum of hegemony (where the rules are inherently virtuous and valuable) and ideology (where the rules are problematic, though, not necessarily constitutively so, but, rather, and only, because they are brought into tension given the polysemy of an ethic of care). Both individually and collectively, then, the employees are in a series of struggles that is a product of their efforts to make sense of these rules in relation to the space in which they work and the mandate upon which their work is grounded. Therefore, the legal consciousness of the employees is a product not just of their views of the rules and their extant limitations, but, of matters that are a product beyond or outside the rules, that is, an ethic of care.

Thus, I locate private ordering not in the law or in its shadow—thought to be a precondition (see Sagy 2011)—but *beyond* or *outside* them. The law is the precursor to private ordering, the foundation upon which it emerges, which means that the necessity of law to its birth must be acknowledged. In so emerging, however, it constructs itself *against* the law and is truly private and, by extension, valued and lauded, precisely because it is *not* law nor law-like, in that it steadfastly refuses to found itself upon a binary logic, a logic that is *the* defining feature of the law, and, instead, celebrates polysemy, here, an ethic of care. I focus, then, not on the pedigree—that is, the genetics—of private ordering, but its operations which illustrate that it is devoid of law, including its shadow, and is lauded precisely because it is not law, despite being, unlike law, constituted by spontaneity. Thus, private ordering is truly private not simply in the instrumental sense—it refuses binary coding—but also in the symbolic sense—despite its apparent disorganization, idiosyncrasies, and ad hoc nature, it avowedly situates itself against law to the point of celebrating the very problems it creates. In what follows, I seek to shine light on these important, yet neglected, facets of private ordering.

A Note on Method

This paper is based on an ethnography of an emergency shelter for men in Ottawa, the Capital of Canada, undertaken over 15 months, between September 2010 and December 2011, involving

approximately 300 hours of observation and 16 interviews with various personnel (frontline staff, case workers, supervisors, and managers) working in the shelter. The observations commenced in September 2010 and comprised 51 visits, each lasting, on average, five to six hours. The interviews were conducted post-observation, beginning in late September 2011. The interviews were largely open-ended and each lasted, on average, one hour.

The manner in which this narrative is presented departs somewhat from conventional sociological enterprise. The words and deeds of two employees, “Captain Delight” and Elizabeth, who function as the “primary characters,” are heavily relied upon to organize particular portions of it. Other employees and members of the management team figure throughout as well, but as “secondary” characters.³ Given that I seek to connect the polysemy of an ethic of care to the production of legal consciousness, I find it fruitful to focus on these two characters, rather than many, in order to pay sufficient detail to the ways that consciousness is produced. In so doing, I do not claim that these two characters are necessarily representative of others. While there are many points of overlap, there are also numerous points of departure, especially as they relate to an ethic of care, and it is these differences that I focus upon.

While this approach is not frequently employed, it is one that shares a long and robust history, evidenced, for example, in some classics of the Chicago school of sociology, such as *The Jack-Roller* (Shaw 1966/1930) or *The Professional Thief* (Sutherland 1956/1937). While these studies use “life history” of single subjects (see Becker 1966), this paper is closer to *Street Corner Society* (Whyte 1967/1943), which, through several characters, explores the lives of the inhabitants of “Cornerville” and how this neighborhood is organized.

The Shelter and the *Place* of Rules

The shelter provides services solely to men and these include the provision of a bed for the night (the shelter can accommodate up to 130 persons, but, often, especially in the winter, accepts another 20–30 who sleep on mats in the basement) and three meals (commonly referred to as “three-hots-and-a-cot”). There are also shower facilities and coin-operated washing machines and dryers.

³ The names are fictitious. One day, while conversing with several employees, one employee used the name “Captain Delight” in a facetious and humorous manner to refer to the morose attitude that constitutes “Captain Delight” and his outlook towards life and I thought that it perfectly captured everything that “Captain Delight” is not, but what others wished he would—but, perhaps, cannot—be.

Based on availability, clients are provided with clothing such as shirts, jeans, and socks, which can be obtained directly from front-line staff; where such is unavailable—as is often the case, especially during severe weather when socks are a “hot” commodity—clients can obtain from a caseworker a voucher in the value of up to \$50, which can be used to purchase clothing from a site that is affiliated with the shelter. Beyond the provision of these basic services, the shelter also offers medical, psychiatric, and alcohol and drug treatment services and assistance with securing employment or other financial aid such as welfare. Mostly, however, these services are not offered on-site; rather, the clients are referred to the appropriate channels by the caseworker in charge of their files.

Like any institution which, by invitation, attracts and welcomes myriad people from different backgrounds who must cohabit in a relatively small space, the shelter requires strict discipline (see Ranasinghe 2013a, 2013b). According to management and employees, this is achieved through the strict and consistent enforcement of the rules. The shelter is governed by two sets of “law”: first, provincial legislation and municipal by-laws, which define its mandate, for example, in relation to finances or health and safety; second, myriad in-house rules and regulations that order its day-to-day operations.

The in-house rules of the shelter are vast, diverse, and numerous, although, for present purposes, can be distinguished along three lines. The first concerns the provision of care, for example, the number of meals and the times they are served, the times clients can access and must evacuate their beds, the protocols for rebooking beds, and the times in which clients must check into the shelter for the night, along with a whole host of others pertaining to their rights and duties. The second concerns the appropriate conduct between clients and staff, for example, being treated with respect and dignity, prohibiting relations between staff and clients, whether of an intimate or platonic nature, sharing personal information and offering and accepting gifts, to name a few. The third outlines protocols regarding safety and security, both of the clients and of the staff, but particularly the latter, something of foremost concern to management (see Ranasinghe 2013a, 2013b). Thus, clients are prohibited from entering the shelter with weapons, drugs, or alcohol. They are also prohibited from entry if they are intoxicated or under the influence of drugs or appear to be overly angry or agitated and perceived to pose a risk to staff and other clients. The issue of safety is taken very seriously and the employees are exhorted to be vigilant while on duty and keep a fair distance from clients when conversing with them.

Management is certainly mindful that there is something amiss about the order in the shelter, but it is unclear whether it recognizes

that this is a product of the polysemy of an ethic of care. For management, problems can be easily resolved through the strict and consistent enforcement of the rules, a view grounded in the belief that such a practice provides consistency, which, in turn, creates order. “[Y]ou have to have consistency,” a supervisor claimed, because “if you don’t have consistency, it causes all kinds of problems. [A]ll kinds of things happen when [. . . the] rules get broken” (emphasis added). According to a manager, the consistent enforcement of the rules “is doable [. . .], it is practical.” This is not to claim, however, that management is unmindful that discretion is necessary, that is, the strict enforcement of the letter of the law is a virtual impossibility. Rather, it is to claim that management believes that the need, and right, to use discretion should rest solely with management, not the employees. Thus, when I asked the same manager whether he was “sympathetic [. . .] that the rules might not always be followed [. . .],” he emphatically responded, “No! *I don’t want that kind of discretion*” (emphasis added). “The way I explained it to the supervisors,” he continued, “is ‘the front line workers, *I want them black and white, following the rules, ‘yes’ or ‘no’ kind of thing*’ [. . .]. I put the supervisors in the positions they are [in] so [that] they can use the grey area” (emphasis added). “[C]onsistency,” he added, “is what I strive for,” a desire stemming from the steadfastly held belief that consistency provides—in fact, is—order.

This way of thinking illustrates that management embraces and celebrates the binary logic that constitutes the rules and, with it, dissuades, even prohibits, the wide and lenient interpretation and application of them. It also speaks to the very problem that faces the shelter because this position is considered by the employees to be fundamentally untenable. From an administrative standpoint, however, it makes sense why management has chosen the path it has. Beyond practicality and the optics of order, however, also lies the deeper issue of the *place* of rules that is tied to its symbolism. The rules serve an important purpose: they unequivocally state the tenor of the shelter and how it will be ordered. Hence, the symbolic value of rules—or, law (see Edelman 1964, 1971; Gusfield 1963, 1981)—is significant for what it reveals: the ordering of the shelter is tied to the legality of the rules and nothing else. There is also a related issue. Discretionary practices by employees means that the rules of the shelter—and, hence, its tenor—are produced not at the administrative level, but on the front lines, in the same ways, for example, that Barbara Yngvesson’s (1993) study of a New England courthouse demonstrated how the law is “made” at its doorway by the court clerks who decided which cases were worthy of the court’s time. From the standpoint of accountability, this bodes poorly for the shelter because it receives a significant portion of its funding from the city

and, thus, is accountable to it, and, yet, its policies are a creation of the ad hoc and idiosyncratic practices of the employees—who are paid at the rate of minimum wage, a commonality in the social service field (see Ferrill 1991: 85–86; Loseke 1992: 71)—rather than the personnel who are responsible for its administration. Framed in this way, it is not surprising that management has emphasized the importance of rules and seeks to eliminate, or at least limit, discretion in the hands of employees.

Yet, the problem is *not* necessarily that management and employees think differently. The employees, just like management, wholeheartedly believe that the rules are inherently valuable, a belief that further sustains the hegemony of these very rules. Additionally, they also believe that the rules need to be consistently enforced. “I think,” an employee commented, “if more rules were followed here it might be a little more efficient [. . .]. [I]t would be efficiency and consistency [be]cause consistency will lead to a more efficient[ly] run shelter [. . .].” Another employee echoed this sentiment: “if everybody was following the rules there is a consistence [*sic*] and then *we’ll be okay, we’ll be fine*” (emphasis added). These employees—and several others—explicitly use the word consistency in exactly the same ways that it was used by management to underscore the value of rules, this value tied specifically to the emergent order. This is best evinced in the comments of the latter employee who opines that the rules do not simply make things “okay,” but “fine,” a word that denotes wellness in relation to being. At least facially, then, the legal consciousness of management and employees is the same.

On a deeper level, however, this congruence is more apparent than real. For the employees, the solution to the concerns over order cannot be found in the strict and consistent application of the rules. That is, following the rules according to the binary logic upon which they are founded, the “black and white,” “yes or no” type of approach advocated, even demanded, by management, would lead to the imposition of a particular ethic of care, one designed and conceptualized by management, and this would result in the needs of the clients being placed second to bureaucratic goals. “I think,” Elizabeth opined, “they [management] [a]re intending not to let people get *comfortable* in here [. . .]” (emphasis added). This statement links comfort to care—a comfortable environment being a precondition for it—and, then, ties the supposed deterioration of comfort to the strict enforcement of the rules. If this link is only implicit in Elizabeth’s comments, it is clearly and forcefully made by one of her colleagues: “if followed to the tee, [the rules] will make the shelter run better; [but], [i]t won’t necessarily be better for the clients [. . .].” While explicitly acknowledging the inherent value of the rules—with respect to efficiency and effectiveness—this

statement is also mindful that the order of the shelter, and, by extension, the well-being of the employees, is constituted in *opposition* to the well-being of the clients, so that while the consistent enforcement of the rules will improve the work lives of the employees, it will not necessarily benefit the clients. Such views cannot be dismissed as embellishments on the part of the employees. For example, the pithy and direct comment of a supervisor—“*my primary concern is the safety of my staff*” (emphasis added), which locates the safety of the employees as more important than, and thus, and by extension, *against*, the clients—illustrates the basis upon which such views are founded (see Ranasinghe 2013a, 2013b). Thus, the employees are “forced” to make a difficult choice between following the letter of the law or either breaking or circumventing it. The result, according to another employee, is straightforward: “we [. . .] bend [the rules] when we can [. . .].” This employee, however, is more than mindful that even this course of action is fraught with difficulties, which only exacerbates the problem of order: “It’s [. . .] not a perfect system [. . .]. It’s very subjective and [. . .] we’re all humans [. . .] and we all unfortunately or [. . .] fortunately make judgments and we have to make those judgment calls fairly quickly when it’s busy [. . .].”

The employees, then, are in a difficult predicament. On the one hand, they know that the rules will benefit them immensely—in terms of providing order and security—and it is precisely this knowledge that illustrates the hegemony of the rules, cemented, and entrenched as inherently virtuous. Yet, they also recognize that these very benefits will pose numerous difficulties in implementing the type of care that they see as important and necessary to serve the clients well. Hence, the hegemony of the rules is brought into direct conflict with the ideology of an ethic of care which cannot, as they see it, be reduced to binary coding. It is this knowledge that “forces” them to make the tough decision regarding amending, circumventing, or disregarding the rules, one which, as they see it, is part of the job—“You just do it [. . .],” one employee matter-of-factly explained rule breaking.

Thus, it is possible to appreciate that the legal consciousness of the employees, one located on the continuum of hegemony and ideology (Silbey 2005: 333–334), is markedly different from that of management’s, whose views of the rules as virtuous and important to the function of the shelter is cemented as hegemony. This difference poses strife among the two parties not only in ordering the shelter but also in thinking about the concept itself. This, however, is only one aspect of the problem. What is also problematic is that even while most, if not all, employees are of the view that the rules need to be amended, circumvented, or disregarded, they cannot agree on how this ought to be done and the absence of this

congruence is a product of the polysemy of an ethic of care. What results is further confusion not only among the employees but throughout the shelter as well. This confusion is emblematic of the private ordering that is a hallmark of the shelter governance. In what follows, I explicate the relationship between the polysemy of an ethic of care and private ordering, beginning with a discussion of the former.

The Shelter and the Ethic of Care

That the mandate of shelter is unequivocally an ethic of care is evinced in the words of its personnel. “Well, *basically, we’re here to help* people get back on their feet” (emphasis added), stated the manager who steadfastly upheld the binary logic of the rules (that their application should be in “black and white,” “yes or no,” terms). A supervisor echoed this sentiment in detail, when he explained that the purpose of the shelter is to aid “a person who’s down on his luck or disadvantaged [get] back up on his feet with a foundation underneath him so that if they [*sic*] fall again they know where they can [go to] pick themselves up [. . .].” These beliefs are unwaveringly shared by the employees as well. “[*O*ur first priority,” an employee stated, “*is to help people* and we know [. . . that] we are here to help the homeless population” (emphasis added). Similarly, Elizabeth mentioned that the shelter “is a place where anyone can walk in for help.” Two commonalities underpin these views. First, the word “help” is used to define the mandate of the shelter. Second, the provision of help is not an auxiliary function, but, rather, the primary one, occupying the “first priority” as the above quoted employee put it. This is best evinced in the reflection of another employee: “if we are here to really help the [. . . clients] and we are not helping them, then that kind of defeats our purpose as [. . . an] organization or as our role as an employee to help the [. . .] people [who] are suffering [. . .].” These statements locate the ethic of care as the primary objective both at the institutional and individual levels.

For all this harmony, however, there is fundamental disagreement not only between management and employees but also, and for present purposes, more importantly, among the employees themselves, resulting in the polysemy of an ethic of care. Two issues form the crux of the problem: the first concerns the ways an ethic of care is conceptualized, that is, what it is that the shelter ought to provide to those deemed in need of assistance; the second, and related and more contentious, issue concerns whether those who frequent the shelter are truly in need of assistance and, therefore, deserving of it. These two issues sharply separate many of the

employees and significantly affect the administration and deployment of care.

The words and deeds of “Captain Delight” aptly illustrate one manner an ethic of care is conceptualized and made sense of. “Captain Delight” is a middle-aged man who was born in a poverty-stricken region in a lesser developed country. He moved to North America when he was a late-teenager, but was—and still has been—unable to escape poverty. His outlook on life, unsurprisingly, is shaped by this history and its experiences. So too is his work ethic. He recalls one job cleaning floors, work he recounts proudly and with fond memory. He is proud because the job requires patience, care, and precision to ensure the floors are clean, bright, and shiny—the work, he stated, “is like art” and cannot be rushed. Such a work ethic, according to him, hardly exists today. Reminiscent of the communitarian ethic advocated by Amitai Etzioni (1993: 1–11)—that rights presuppose responsibility—“Captain Delight” strongly believes that most people are lazy and think they are entitled to things that they have neither earned nor deserve. This is his view about most of the clients who walk into the shelter, whom he must deal with daily.

Like the other employees, “Captain Delight” believes that the shelter serves an important function in addressing visible poverty. “I do believe,” he claimed, “that [. . .] this place is [there] to help the homeless [. . .] and [. . .] [d]isadvantaged people.” He is, however, consumed by the belief that most of the people who enter the shelter are not in need of assistance. Similar to the social reformers of the eighteenth and nineteenth centuries who distinguished between the “deserving” and “undeserving” poor (see Himmelfarb 1995: 124–142; Katz 1986: 13–21; Ranasinghe 2010b: 59–61),⁴ “Captain Delight” also distinguishes between those he calls the “professional homeless” and the “working poor.” The “working poor” are genuinely in need and, therefore, deserving of assistance. They are

People [. . .] who [have] lost their job[s], people who have managed to go back to the work force but they are not doing what they were doing before, at minimum wage, or, something little to survive and this amount of money doesn’t allow them to support their families [. . .] and they, [in order] to fill their basic needs [. . . are] forced to come to these places.

For him, these people deserve help because they are proactively seeking to make a better life for themselves evinced in their

⁴ This distinction stems from its historical predecessor, found in early modern England, between the “sturdy” or “able-bodied” versus the “impotent” beggar (see Katz 1989: 11–16; Ranasinghe 2010b: 59–61).

willingness to (look for) work, even at a low wage—the title, the “*working* poor,” highlights this. In other words, a good work ethic is important to “Captain Delight” because such an ethic, supposedly, constitutes his history, one where he created “art” on the floors he cleaned.

Conversely, the “professional homeless” are men who “are making a business selling drugs.” They rely on a system designed to relieve vulnerability to advance their own agendas. “[W]hat I see,” “Captain Delight” commented,

Is [that] most of the population here [. . .] it is their home. Just because they live in [*sic*] the streets [does not mean that] they are [. . .] homeless. We can see a big percentage of people staying here a long, long, time [be]cause it’s good for their business, their illegal business [. . .]. [T]hey use this place to hide [. . .]. [T]hey have money [. . .]. I don’t know what it means to have money, but [. . .] people [are] using laptops [. . . and] you don’t see them getting desperate or anxious to be here. For them, this is [a] life they have made [. . .], a way of living. [T]hey are not homeless [. . .].

The “professional homeless,” for him, are unworthy of assistance because they do not need it: “They are not poor. They don’t know what being poor means.” The proof, he claimed, can be found “if you check their pockets [and you will see that] they have more money than we do”—a statement illustrating his resentment toward them, especially when considering his earlier comment, “I don’t know what it means to have money.” This is a view shared by several employees as well, one example being the comments of an elderly woman who, rather disgustingly, admitted that “These guys make more money than me sometimes” and “they are eating better than people living in homes.” Unsurprisingly, “Captain Delight’s” disdain for the “professional homeless” is palpable and he boldly stated that “They need to be kicked out. There are people who deserve to be kicked out.”

For “Captain Delight,” the problem is systemic, that is, the institutionalization of poor relief and its numerous problems easily permit the “professional homeless” to thrive (there is even a hint of respect for, and admiration of, their guile and sage—for example, when he readily admitted that “They are manipulating us [. . .]. [T]hey know to work the system [. . . and] [t]hey know how to read us”—although this is immediately followed by a scathing criticism of the system and the credulity of its employees, he, of course, being the one, laudable, exception). In fact, “Captain Delight” believes that a system of poor relief only breeds more problems by creating a culture of dependency, commonly referred to as a culture of poverty (Lewis 1966; see also, Katz 1989: 16–22)—again, the

similarities between the views of the social reformers of the eighteenth and nineteenth centuries and “Captain Delight’s” is visible (see Ranasinghe 2012: 538–543). Thus, he considers being homeless in a developed nation a “privilege” because in the country he was born in, “they don’t feed you for free.”

The foregoing locates and contextualizes the ways “Captain Delight” thinks about and makes sense of an ethic of care. While his ideological position represents one extreme end of the spectrum, it is far from anomalous. In fact, some employees are in agreement with his views, but do not take it to such extremes. Thus, it would be misleading to paint “Captain Delight” as a misanthrope whose attitude toward the visible poor leads to insensitivity and malice. This is not the case.⁵

If “Captain Delight” is representative of one end of the spectrum, Elizabeth is representative of the other. Elizabeth is a young woman in her mid-twenties. She is polite and kind, and her time and efforts are spent attending to virtually every request she receives, so that by the end of each shift, she is exhausted. As she put it: “I love to help people. I have always loved to bring something to the people that I am around. I love to take care of people. I love to feed them. I love to give them clothing. I love to see people smile. I like to hear people’s stories.” As her comments indicate, she is full of love and compassion and this is can be further appreciated in the following: “Some people, I don’t have compassion for, but I help them anyway [. . .]. It’s a hard thing to do.”

Born in Canada, Elizabeth grew up in poverty, in conditions which, while not necessarily identical to those of “Captain Delight’s,” nevertheless contain the commonality of struggle. Elizabeth’s mother was a drug addict and from very early on in her life she remembers being around other addicts, alcoholics, and prostitutes. Her childhood was volatile and unstable: “I grew up a lot in this atmosphere and this community [. . .]. I have dealt with drugs in my family and in my friends [*sic*]; a lot of poverty and just building your life up basically from nothing.” Her adult life is more stable even though it too is characterized by numerous difficulties and struggles, most relating to finances and personal relationships.

There is at least one aspect about her early childhood, however, that she is unable to extricate herself from. The same men who, in her presence, (ab)used drugs and alcohol with her mother, continue to be in her life as clients of the shelter. “[A] lot of these people [. . .],” she explained, “used to know my mother, and [. . .] she has

⁵ “Captain Delight’s” beliefs cohere well with many in the social services. There is ample evidence of the ways that workers provide services based their notions of deservedness (see Lyon-Callo 2004: 123–126; 140–146; Williams 2003: 3–4; 6; Loseke 1992: 75). Similarly, there is evidence that workers believe that indiscriminate charity breeds further dependency (see Desjarlais 1997: 149; Liebow 1993: 141; Williams 2003: 70).

addiction problems. She is still out there in the community, so a lot of these gentlemen are known to her and they know me.” It is this familiarity with their struggles that spawned a desire to help. “I knew a lot of the people here,” she stated, “and I knew the situations they were in and I knew that I could help them because I knew a little bit about it.” Yet, this familiarity also poses numerous difficulties, especially in understanding and making sense of her life and work. “I have trouble,” she reflected, “putting that boundary in this middle [*sic*] [that], this is not my friend, this is a client. This is [. . .] not the guy who used to baby sit me when I was five years old, he is a client now [and] he has addiction problems [. . .]. I’m still working on it every day [. . .].”

Elizabeth believes that the purpose of a shelter is to help people who are in need (recall her belief that it “is a place where anyone can walk in for help”). Thus, she and “Captain Delight” are very much alike. Unlike him, however, she refuses to distinguish between the deserving and undeserving: such a distinction is meaningless because the very entrance into a shelter is itself evidence of need, if not desperation (cf. Hopper 2003: 86, who writes of the employees in the shelter he studied, who believe that “only the desperate [. . .] would willingly undergo the ordeal” of a shelter). Her experiences have taught her this and she resolutely holds on to it despite the difficulties it creates. “Captain Delight,” like Elizabeth, believes that the purpose of the shelter is to provide help. However, he views most of the clients differently: at best, they are negligent, irresponsible, and lazy; at worst, they are criminals. In both scenarios, they are undeserving of help. These differences, products of individual histories, shine light on the ways these employees make sense of and conceptualize an ethic of care, resulting in its polysemy. It is this polysemy that leads to problems of order, thereby resulting in the private ordering that constitutes the shelter. To explicate this, I draw on the example of “boundaries,” as one aspect of rules, and its relation to the polysemy of an ethic of care.

Private Ordering *for* an Ethic of Care

For management, the rules unequivocally state what is and is not accepted and, thus, establish boundaries within which (in)action should be comported. Quite often intentionally, sometimes unintentionally, the words and deeds of the employees breach these boundaries. These infractions can be minor—accepting “small” gifts such as cards, drawings, or notes from clients, or, where young female employees are concerned, lending a sympathetic ear to their flirtations—or, more serious—sharing personal information with clients, doing personal favors for them, and, in some instances

where young female employees are concerned, commencing intimate relationships with them. These infractions are of serious concern to management for many reasons, the safety of the staff being paramount (cf. Connolly 2000: 131–142; Ferrill 1991: 172). I use the example of the rules surrounding a mundane everyday activity, namely, communication between staff and clients, to illustrate how different ethics of care lead to different ways that boundaries are circumvented or disregarded and the problems that ensue as such. Again, I draw on the words and deeds of “Captain Delight” and Elizabeth to give “color” to this discussion.

Facially, “Captain Delight” thinks about the rules and their application straightforwardly. In lamenting the absence of consistency, he stated, “they are very *simple* rules [. . .], [s]o I don’t see the problem [. . . as to] why we don’t do it” (emphasis added). For all this posturing, however, the equation of the rules with their simplicity fails to accurately portray the complexities involved, something that “Captain Delight” is mindful of. He acknowledged that “It is not [. . .] all black and white; grey also exists for me,” an acknowledgment that the binary logic of the rules, so valued by management—recall the “black and white,” “yes or no,” philosophy—is problematic and impossible to follow. Thus, he explained how he makes sense of and applies this middle-ground:

I don’t bend the rules just because I want to [. . .] and this is what happen[s] with other people [. . .]. I will break the rules if the client is clear and sits there with me and says, ‘I need this because’ and if there is nothing behind that [presumably, honesty], I will break the rules. I will, because, in my way and in my head, I am rewarding his good behaviour [. . .] (emphasis added).

Rule breaking itself, then, is not problematic. Rather, the bases upon which they are broken is the problem, that is—as paradoxical as it is—there should be consistency to the inconsistent application of the rules. “Captain Delight” believes that, unlike him, his colleagues break the rules without good reason—“just because [they] want to”—an accusation that connotes the inconsistencies associated with rule violation. For him, the justification for rule breaking is deservedness and this is found not simply in “being”—being (apparently) poor—but, in “doing”—doing something that demonstrates worthwhileness, for example, by actively seeking employment. This is what deservedness looks and feels like, evinced, for example, in his earlier comment, “I am rewarding [. . .] good behaviour.” Thus, particular scenarios warrant the violation of rules because of the binary logic which constitutes them (recall, again, the “black and white” approach); the failure to do so, thus, will be tantamount to injustice. Hence, “Captain Delight’s” description of the rules as “simple”—“they are very simple rules”—

could also be read as a recognition of the problem with this very logic, which, because it is constituted by rigidities, makes the provision of care cumbersome. His response to (the enforcement of) the rules must be understood as such, as an exercise to set the scales of justice right.

The way “Captain Delight” interacts with the “professional homeless” illustrates this. Given that he regards them as undeserving of care, he devotes virtually his entire work life to making (or, trying to make) their lives as difficult and unpleasant as possible. He does this by either not attending to their requests for assistance or stalling as much as possible, either by pretending to be busy or not have heard them, before finally conceding. Thus, when “the professional homeless” approach the front desk with a question or a request, “Captain Delight” pretends that he has not heard them. About 20 seconds later—and after some probing on their part—he will abruptly ask, “What?” or “What do you want?”, a powerful question because it vividly portrays annoyance, even disgust, especially because, more often than not, he is simply doing nothing other than sitting on a chair and, hence, his annoyance signifies that it is his very mundaneness that is disrupted. Such questions are often accompanied by a rather baffled look to further convey that he is unsure why the client is even standing in front of him. Thus, once, when a client asked him “Has ‘Frank’ [a supervisor] come back?”, he, donning a look of puzzlement and while pointing to the supervisor’s office, retorted, “Oh, he’s not there?” Then, after a long pause, one meant to portray concern, he simply ended the “conversation” with the sound, “Hmmm.” The client waited for a while and realizing that he was not going to receive a further response—even acknowledgment of his presence—left. Unsurprisingly, the clients are mindful of “Captain Delight’s” beliefs and avoid interacting with him as much as possible. On one occasion, a client requested help from an employee, who, because he was supervising the meal line, told the client to request assistance at the front desk. The client, however, was aware that “Captain Delight” was working at the front desk and rather than risk hassling him and being hassled by him, told the employee, “Can’t ask him to do anything,” and added, “I’ll wait for you. You’ll make the call quicker than he will.”

The latter example illustrates that it is not only the clients who are inconvenienced by “Captain Delight.” His co-workers are also inconvenienced and this leads to frustration. This is evinced, for example, in the comment of an employee, who, in speaking about “Captain Delight,” stated, “he is a good guy, but working with him is [. . .] very hard and frustrating,” so much so, he admitted, “it’s even better when he’s not here.” These absences, however, are ephemeral, when, for example, “Captain Delight” is on vacation or

when this worker changes shifts, as he sometimes does. This recognition leads to a defeated and jaded attitude, evident in the answer the employee provided to his own question: “but, what you gonna do? Just take it easy, that’s all.” It is not just him, however, who disagrees with “Captain Delight.” One morning, when I asked a worker—who generally works the overnight shift and who had switched shifts with the employee discussed above—how it is to work with “Captain Delight,” he commented: “He’s got a lot of support for his ideas” and, then, sarcastically added, “in his own mind, that is.” This statement captures the ways that different ways of thinking about and implementing an ethic of care can pose strife between employees.

“Captain Delight” is mindful that his actions appear to be unsympathetic, even callous, an appearance, however, he consciously propagates. Appearances aside, callousness, or the lack of sympathy does not accurately represent his values because, for him, the “professional homeless” are undeserving of care and, therefore, not helping them is deploying justice. This is why, for example, he refused to seriously respond to the client who wanted to know whether the supervisor was in his office because the client could have walked another 20 feet to find out. For “Captain Delight,” such an attitude, indeed laziness, is indicative of how clients consider themselves entitled to services that have been translated into rights through the extant rules.

That it is, undoubtedly, an overwhelming sense of justice—not irrationality, callousness, nor the absence of sympathy or empathy—that constitutes “Captain Delight,” his thinking and behavior, is further evinced in the way he interacts with clients whom he deems deserving of care, that is, the “working poor.” One afternoon, a client who had an overly worried look on his face approached the front desk rather sheepishly and politely asked “Captain Delight” whether his bed was still assigned to him. He was so inquiring because he had violated a rule of the shelter by not vacating his bed in the morning by the stipulated time. He was additionally worried because it was “Captain Delight” who was on duty that morning and “Captain Delight” has a reputation for vigorously enforcing particular rules, especially this one (in contrast to some others who are somewhat lax in enforcing this rule). “Captain Delight” simply nodded his head to indicate that he still did. The client was shocked. Perhaps being caught up in the moment—perhaps to placate him, or perhaps, as gratitude—the client exclaimed, “Why does everyone misunderstand you? You are a hospitable guy and since the very first day I have been here, you have been very hospitable to me.” “Captain Delight” nonchalantly turned to the client—an act laden with meaning because he wished to clearly reveal that he did not require this type of disingenuous

gratitude—and explained that there were several men who had overslept that morning and that he was aware that some had done so because of fatigue due to working late into the night. Thus, he decided that he would make an exception in this case. Given that he made an exception for them, he explained that he thought it would be unfair to single out particular clients to be booked out and, therefore, decided not to enforce the rule that morning. In so stating, “Captain Delight” was intimating that the reprieve he provided was specifically to the clients who worked late into the night, not to this client, who was fortunate to have overslept on this morning given these circumstances.

Here, concerns over justice drove “Captain Delight” to not apply a rule that would have required these clients to vacate their beds in the early morning despite having had very little sleep. It was not the rule itself, then, that was deemed unjust. Rather, it was after accounting for the particular circumstances that “Captain Delight” concluded that its application would have been unjust. In arriving at this conclusion, it was a sense of deservedness—the clients deserved more sleep because they are hardworking men—that guided his actions. Thus, there is a great deal of thought behind “Captain Delight’s” actions.

This example also illustrates that “Captain Delight’s” actions are driven by *his* sense of justice, that is, his sense of right and wrong, one that is highly personalized and based on his history and experiences, and, therefore, one that cannot appeal or be reduced to, nor be rationalized within, a broader, objective, even abstract, sense of it. This is important because—as I illustrate below, through Elizabeth—it poses numerous problems to the ordering of the shelter. Additionally, however, even accounting for “Captain Delight’s” own sense of justice, this example reveals numerous and profound inconsistencies in the ways he thinks and behaves. Ostensibly, lumping the clients who were tired because of their night jobs with those who were, presumably, lazy, is itself unjust because it does not distinguish between the deserving and undeserving—philosophically, the very opposite of what he believes in. While such an argument might not be completely fair—he appears to distinguish the two groups, evidenced in how he labels the client who approached him as undeserving of his generosity—what is clear is that there is still some ambiguity with respect to the ways that “Captain Delight” enforces the rules. Thus, this example shows that even taken on his own terms, “Captain Delight’s” logic can be confusing and inconsistent, and has the potential to pose problems to the governance of the shelter (recall the comment of the worker who facetiously lauded “Captain Delight’s” ideas when he said that their value can only be appreciated by “Captain Delight” himself). Competing logics between employees clash and pose immense

problems to the shelter, as the juxtaposition of Elizabeth to “Captain Delight” illustrates.

Like “Captain Delight,” Elizabeth believes that in particular instances, namely, when the provision of care is jeopardized, rule violation is just and necessary. As the employee who matter-of-factly explained rule breaking—“you just do it”—Elizabeth simply stated, “*I don’t rationalize it!*” and explained:

What *I feel is good and bad is what I’m going to do*. Whether it has to do with the job or not [. . .], if I am not allowed to give this person food before nine o’clock [in the night, when clients receive a snack, the final ‘meal’ provided for the day] and they’re hungry, I will go to the back and get them some food [. . .]. [*T*his place is there for stuff like that [. . .] (emphasis added).

That Elizabeth does not rationalize rule breaking, however, is untrue; there is a great deal of thought behind her actions. The supposed absence of rationality, rather, highlights that an ethic of care does not require justification because it speaks for itself. The shelter exists to help clients—“this place is there for stuff like that,” “a place where anyone can walk in for help”—and not doing so “is very inhumane.” That is, not helping because of the rigidities of the rules is what is irrational and it is this that she refuses to accept, even if her actions are grounded upon, and driven by, her personal feelings of right and wrong—“what I feel is good and bad is what I’m going to do.”

It is easy, then, to appreciate that different ethics of care will compete and clash. For “Captain Delight,” deservedness is not simply tied to “being,” but, “doing.” Conversely, for Elizabeth, it is tied directly to “being”—in fact, the notion of deservedness itself is foreign to her because the shelter is for anyone and, thus, everyone. Simply entering it is sufficient for the receipt of care; all other reasons are irrelevant and redundant.

I return to the “boundaries” surrounding communication with clients to illustrate the interplay between competing visions of justice, ethics of care and rule violation. For Elizabeth, boundaries detract from caring:

There are boundaries [. . . that] you cannot get close to the clients as much as you would like to. That is a boundary that I have always struggled with [. . .]. I do speak about my personal life [. . .] because [. . .] you have to give a little bit in order to get anything back [. . .]. [*T*hey want to know how you feel about what you’re hearing; they want to know about your life so they feel *comfortable* speaking to you (emphasis added).

For her, communication is an important precondition for the delivery of care. Communication functions as a means of knowledge

production, a “vehicle” allowing the employees to know and understand exactly what the clients need and how these can be effectively and efficiently provided. Additionally, communication reveals compassion towards the clients. For Elizabeth, this presupposes that communication is natural, that is, organic, rather than artificial. The rules, she believes, steer conversations towards a contrived model making caring unnecessarily difficult. Thus, even the ability to lend a sympathetic ear, she believes, requires not just listening to the personal and intimate stories of clients, but, also revealing one’s similar experiences; to not do so shows both a lack of compassion and interest. Recall that Elizabeth spoke of the importance of comfort as an aspect of care that management was seeking to eliminate. Revealing personal stories on the part of both parties, she believes, is paramount to creating a space that is comfortable and this is crucial for the delivery of care.

Thus, Elizabeth feels she has little—or, no—choice but to circumvent or break the rules, a feeling that is in sync with the beliefs of “Captain Delight.” The problem, however, is given the reasons upon which their rule violations are grounded, that is, different ethics of care, the hitherto discursively extant congruence breaks down, revealing the fissures and inconsistencies that constitute the deployment of care. “My problem,” “Captain Delight” stated, “is when there is no respect for boundaries,” which means, he added, “we don’t have consistency.” This, he continued, “creates conflict; [it] poses [. . .] big problem[s]” leading to “frustration.” Similar to his colleagues—certainly, his supervisors—“Captain Delight” is lamenting the absence of order that is directly a product of the inconsistent enforcement of the rules. This is one way his lamentations can be made sense of. They can also be understood as a reflection of the very inconsistencies associated with the ways the rules are broken. That is, “Captain Delight” is not frustrated that the rules are broken—his own story reveals that sometimes rule violation is a precondition for justice. Rather, he is frustrated because the rules are not broken in ways approved by him, ways congruent with his views of the clients as deserving or undeserving.

It is frustration, then, that explains “Captain Delight’s” excoiations of his colleagues, especially those like Elizabeth, as “totally unprofessional.” In the quest to promote what they see as care, he believes that they have become too friendly with the clients. Thus, he explained that when many young women, though with good intentions, greet clients by saying, “hey, sweetie” or, “hi sweetheart,” it “makes it difficult for us to deal with these guys.” “I won’t cross that *friendly line*,” he added, because “that will destroy what we do” (emphasis added). This statement, a warning of sorts, shines light on “Captain Delight’s” conceptualization of care, one devoid of

emotions. That is, the provision of care is a professional obligation, not a friendship.

While Elizabeth would not necessarily acknowledge that her actions are unprofessional—she would not recognize them as such—there is evidence that she is mindful that she might be taking things too far: “I mean not everybody should be doing what I’m doing. *I don’t think I should be doing half the stuff I am doing sometimes, but to me, it’s right*” (emphasis added). This is a powerful statement highlighting that she is capable of seeing the problem. More powerfully, this is exactly the “ammunition” that “Captain Delight” draws on in his excoriations of her and others like her. Yet—and a poignant “moment” in her reflections—for all these admonitions, even ridicule, she is steadfast, unflappable, and indefatigable: she is “right” and seeks to champion her views (recall her position: “what I feel is good and bad is what I’m going to do”). Thus, she and “Captain Delight” are very much the same, but, the different ways they make sense of an ethic of care and, by extension, justice, markedly separate them and their work lives. These differences, as I have sought to explicate, are what constitute the ordering of the shelter, one characterized by private ordering.

I use the example of the provision of beds to clients to “paint” a portrait of what this ordering looks and feels like, that is, its tenor and landscape. Each client who has a bed registered to his name—whether occupied for a single night or longer—is guaranteed a bed for the next night. There is, however, one condition that must be continuously fulfilled. Daily, between 4 and 6 p.m., the client must reserve, that is, re-book, his bed, although this need not be done in person; rather, the client can telephone the shelter, an allowance that many clients, especially those who work, find useful and, therefore, utilize. The failure to follow this policy should result in the loss of the bed, leaving the client to register anew for one, in person, beginning at 7 p.m., at which time beds are provided on a first-come, first-served basis. This rule is made known to all the employees so that their cognizance of it is undisputed. However, it is not consistently nor evenhandedly enforced.

The afternoon shift—between approximately 2 and 3 p.m. and approximately 10 and 11 p.m.—is often worked by about four different young female employees, one being Elizabeth (the shift itself is composed of three workers). While these women do not necessarily share a similar ethic of care, they appear to work well to ensure that their work unfolds as smoothly as possible. They have developed a different—what they believe is a simpler—approach to this policy. When they begin their shift, they print the list of the beds that were assigned to clients the previous night and reserve beds for particular clients. They rely on their experiences with each

client—allowing them to create an extensive knowledge profile of him from which they are able to know the client, that is, to predict him and his behaviour—to make this decision (recall, again, the importance that Elizabeth places on uncontrived communication and its resultant benefits). Once a client is well known, his bed is always reserved in this fashion. This, however, creates profound implications for the ordering of the shelter. While it is unclear whether this practice makes the clients unaware of the foregoing rule, it is clear that even if they are aware of it, they do not pay heed to it because of an *expectation* that *their* beds will be reserved—“It conditions them” to think and behave as such, an employee, who disagrees with these women, stated. This practice frustrates “Captain Delight” (and some others also) because it illuminates that the clients believe that they are rightfully entitled to particular services. (To some extent, “Captain Delight’s” views are grounded in fact. On numerous occasions, I overheard these women, especially Elizabeth, telling the clients whom they know that their beds have already been reserved, essentially intimating that the telephone call was wasteful and the clients can count on the future reservation of their beds. Here, recall “Captain Delight’s” approach to booking-out clients who oversleep, one that philosophically runs counter to this policy).

The women who “authored” this “policy” explicitly acknowledge that it lessens their workload by significantly reducing the number of calls that need to be answered. There is, however, much more than the workload that is relevant. For them, this approach is more compassionate than the shelter’s because it delivers care in an effective and efficient manner. Such thinking is, if not a product of, then, at least aligned with, Elizabeth’s rationales. Recall that she seeks to create a space that is comfortable, an aspect that is important to the provision of care. Thus, her application of this rule removes pressure from the client to find time and a payphone—a difficulty in the age of high cell phone usage—to telephone the shelter. It also eliminates the client’s anxiety about whether his bed would be guaranteed for him. Finally, the client can save the 50 cents that he needs for the call, a savings of about \$15 a month. This policy, then, both instrumentally and symbolically, is an explicit renunciation of the binary logic of the rules which stipulates “black and white” conditions upon which the right to a bed is founded.

This approach works well when these women work the afternoon shift: the clients are unsurprised when they arrive at the shelter in the late evening or night because, as they expected, their beds await them and everything unfolds smoothly. Sometimes, however, things go horribly awry, causing numerous problems to all the parties concerned: the client, the employees, and the supervisors. This happens when the employees who do not regularly work

the afternoon shift, or who do not necessarily subscribe to the views of these women, work this shift. In these instances, clients arrive at the shelter to find out that because they failed to follow protocol, their beds were not reserved for them. After pleading their case, often claiming, perhaps truthfully, that they were unaware of the policy, further indignation ensues on those occasions when the shelter is filled to capacity and additional beds are unavailable. Tired and grumpy by this point, they turn their anger, frustration, and misery toward the employees and the shelter system itself, revealing the perils and fragility of private ordering.

Thus, once, when several employees were facing precisely this situation, they provided an irate client with the bed that was reserved for another client whom they thought would not arrive at the shelter that night. This provided a modicum of respite, but within an hour or so, the client whose bed was given away arrived. He was incensed upon hearing what had transpired and turned his outrage and indignation toward the employees. Upon hearing the yelling, replete with profanity, a supervisor intervened and asked the client to provide the employees some time to examine what had transpired and explore possible solutions. After discussing this matter for about 30 minutes, the client was provided another bed. Exactly how this solution was brokered is somewhat unclear—some of this discussion took place away from my presence in the supervisor's office—although it appeared that a client who was to be booked out that evening for violating a rule, was promptly booked out, thereby opening up space for the client who had lost his bed.

While this solution resolved the conflict, it was not before a vast amount of confusion, frustration, and anger enveloped the shelter and its personnel. More poignantly, this situation is emblematic of the order that constitutes the shelter, that is, private ordering that is often spontaneous, thus, leaving room for additional problems to arise. Perhaps recognizing this fact, that very night, prompted by this incident, the supervisor on duty created small pocket-sized sheets which had printed on them several of the rules of the shelter, including the one in question, which he provided to the employees and clearly instructed them to tell their colleagues that each client who books into the shelter is to be provided with one and that the rules of the shelter are to be clearly explained to each client prior to registration. This was his effort to counteract not just private ordering but the manner in which clients rely upon it to avoid following the rules by claiming that they are unaware of them.

As this supervisor and management see it, the rules might be rigid, but rigidity prevents the frequently occurring problems in the shelter, many of which *they* have to address. They, therefore, explicitly denounce the private ordering that constitutes the daily governance of the shelter. For the employees, however, these

“problems” signify that an ethic of care, despite its polysemy, shapes the daily practices of the shelter, even though this order—characterized by spontaneity, even, disorganization, and idiosyncrasy—renders the implementation of care difficult. This is the paradox they face daily. Elizabeth’s reflections capture this: “I think that we are all trying to help [. . .] but, I think, we are all getting different versions of them sometimes. And that is where the conflict [. . .] comes from. I don’t think we get angry at each other, we just get frustrated [. . .].” The “different versions” she mentions, I suggest, is the polysemy of an ethic of care which is safeguarded because of, and reflected in, private ordering. Despite these difficulties and troubles—frustrations as she and others put it—private ordering is tolerated, even lauded and celebrated, because it allows for the deployment of care as they see fit and this is what they cling to, in fact, what makes their work somewhat meaningful. Thus, when explored through the lens of operations, rather than in terms of pedigree, the truly private nature of this ordering is illuminated. That is, both instrumentally and symbolically, private ordering renounces and rejects the binary logic of formal rules, thereby illustrating that it is not law, nor law-like, and has no desire to be.

Conclusion

This paper has explicated the ordering of an emergency shelter. The shelter is constituted by an ethic of care evinced in its legality. This ethic, however, is polysemic and this poses problems to its ordering because the constitution of the rules, its binary coding, is unable to mirror this polysemy. The legal consciousness of the employees, thus, reveals the rupturing between the rules and the polysemy of an ethic of care. Thus, while the virtuosity of the rules remains intact, thereby further entrenching the hegemony of the place and significance of this aspect of legality, the ideology of an ethic of care renders the application of the rules complicated.

The polysemy of an ethic of care, then, reveals that private ordering constitutes the everyday governance of the shelter. This ordering is spontaneous—even, disorganized and idiosyncratic—and this is problematic because inconsistency is its chief characteristic. Unsurprisingly, private ordering is not approved by management; it only serves to raise its ire. While the employees approve such ordering, it is begrudgingly so because they recognize its inherent flaws, which make the deployment of care, even ones based upon personalized notions, difficult (recall that both “Captain Delight” and Elizabeth do what they think is right, so that their notions of deservedness, differentiated along the lines of “doing” and “being,” create conflict). Even the provision of a bed is

complicated because of the myriad ethics of care which shape and drive this practice. Despite contrary examples (cf. Sagy 2011), this study reveals the spontaneous and highly unorganized and inconsistent nature of private ordering that is uncooperative (cf. Ellickson 1991: vii), and, which, while making and sustaining “community” (employees versus management), also eviscerates the very “community” it creates (the divisions among employees) (cf. Engel 1984).

It is, however, this very spontaneity and its inherent inconsistencies that are viewed as the virtues of private ordering and explain and situate it as a system of governance. Private ordering is tolerated, even lauded and celebrated, by the employees because they believe it is the only way to administer care, no matter its polysemy—in fact, it is this polysemy that leads to and necessitates private ordering in the first place. Private ordering is everything the rules—orderly, consistent and, importantly, structured and rigid—are not. In both the instrumental sense—existing beyond and against a binary logic—and the symbolic sense—an explicit renunciation of this logic—private ordering embraces and celebrates polysemy; that is, it celebrates the multiplicities, the disorderly, and the absence of guarantees or certainties (see Sennett 1970, who discusses the “function” of disorder). Thus, the ordering of the shelter is truly private, operating beyond the law and its shadow, because it is not law, nor law-like and has no desire to so be. It is true that private ordering is a product of the law itself, that it is the law that permits and, by extension, facilitates, it. In other words, constitutionally—in terms of genetics or pedigree—there is interaction between private ordering and the law. In practice, however, that is, at the level of application, private ordering is an explicit renunciation of its pedigree both instrumentally and symbolically. This makes it truly private.

Yet, while private ordering is constituted by an explicit renunciation of the law and everything it stands for, the *place* of law in private ordering is far from irrelevant and highlights the ambivalence of this system of ordering. That is, while private ordering is unlike law, it is a system of governance like law, in fact, existing alongside, though against, it (e.g., the formal law which dictates the basic tenets of the shelter in relation to its budget or health and safety regulations). Thus, the cultural power of law, as Sally Merry (2000) labels it in her study of the colonization of Hawaii, remains—at least somewhat, though in abstracted form—intact. This existence, like the law, is premised upon an “othering,” an “othering,” here, however, of the law itself. In this “othering,” private ordering is like-law in that situates itself against something else, that is, by highlighting difference. Thus, the optics of private ordering is ambivalent—just like, as I have argued elsewhere (Ranasinghe 2010a), perceptions about the law itself—operating

both as an explicit renunciation of the law, while at the same time being unable to fully escape some of its core features. This is illuminated in the legal consciousness of the employees whose beliefs, recall, traverse (or perhaps vacillate between) the hegemony of the law—as virtuous and beneficial, thus, sustaining its cultural power—and the ideology of law—an awareness of its very limitations. Yet, and what needs underscoring, is that while the employees’ perceptions of both the law and private ordering are mindful of inherent problems, private ordering is celebrated precisely because its core features—spontaneity, disorganization, idiosyncrasy, and inconsistency—are the opposite of what the law is, can be, and stands for. This is why, in the end, private ordering is *the* preferred form of governance. In other words, it is in, and through, private ordering that the employees’ freedom – in fact, their very essence of ‘being’ – is acknowledged, maintained and brought to light.

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