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Business Ethics

SENIOR CONTRIBUTING AUTHORS

STEPHEN M. BYARS, USC MARSHALL SCHOOL OF BUSINESS

KURT STANBERRY, UNIVERSITY OF HOUSTON-DOWNTOWN

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OpenStax
Rice University
6100 Main Street MS-375
Houston, Texas 77005

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Individual print copies and bulk orders can be purchased through our website.

PRINT BOOK ISBN-10	**1-947172-56-5**
PRINT BOOK ISBN-13	**978-1-947172-56-2**
PDF VERSION ISBN-10	**1-947172-57-3**
PDF VERSION ISBN-13	**978-1-947172-57-9**

10 9 8 7 6 5 4 3 2 1

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Preface

Welcome to *Business Ethics*, an OpenStax resource. This textbook was written to increase student access to high-quality learning materials, maintaining highest standards of academic rigor at little to no cost.

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Format

You can access this textbook for free in web view or PDF through OpenStax.org, and for a low cost in print.

About *Business Ethics*

Business Ethics is designed to meet the scope and sequence requirements of the single-semester standardized business ethics course across all majors. This title includes innovative features designed to enhance student learning, including case studies, application scenarios, and links to video interviews with executives, all of which help instill in students a sense of ethical awareness and responsibility. The book provides an important opportunity for students to learn the core concepts of business ethics and understand how to apply those concepts to their professional lives.

Coverage and scope

Our *Business Ethics* textbook adheres to the scope and sequence requirements of introductory business ethics courses nationwide. We have endeavored to make the core theories and practical concepts of business ethics engaging, relevant, and accessible to students. The guiding themes of the textbook are to promote high ethical standards and to assist the integration of ethical thinking across the business school curriculum, with an end result of encouraging even greater ethical consciousness on the part of business practitioners beyond their graduation. We particularly emphasize the reality of today’s global business community and observe that geography, culture, and time contribute to ethical concepts and constructs. With awareness of these issues in mind, the content of this textbook has been developed and arranged to emphasize the necessity—and difficulty—of ethical decision-making. The authors seek to help students recognize legal and moral issues, reason through the consequences of different courses of action, and promote social responsibility. The text emphasizes connections between topics such as ethical theories, legal responsibilities, the prioritization of stakeholders, and corporate social responsibility. The organization and pedagogical features were developed and vetted with feedback from business ethics instructors dedicated to the project.

Engaging feature boxes

Throughout *Business Ethics*, you will find features that engage students by taking selected topics a step further. Each feature box contains either a link to a deeper exploration of the topic at hand or critical thinking questions that may be geared toward class discussion, student projects, or written essays. Our features include:

- **Cases from the Real World**. This feature presents brief examples of real companies making ethical decisions in the midst of hectic competition. Each example includes follow-up critical thinking questions that encourage reflection on the case and how it relates to chapter concepts and themes.
- **What Would You Do?** This feature presents brief, fact-based scenarios in which students are challenged to put themselves into the shoes of ranking executives and balance a host of interests—some conflicting—as they make decisions for their businesses. Students provide an answer to a practical problem or ethical issue, as well as their reasoning.
- **Ethics across Time and Cultures**. This feature considers how geography, culture, and time influence the ethical values we have. Follow-up critical thinking questions allow for broader reflection on the chapter topics and encourage deeper integration of the chapter content.
- **Link to Learning.** This feature provides a very brief introduction to online resources and videos that are pertinent to students’ exploration of the topic at hand. Link to Learning boxes allow students to connect easily to some of the most important thought leaders and concepts in the field of business ethics. The

purpose is to highlight the complexities of ethical decision-making.

Module materials that reinforce key concepts

- **Learning Objectives.** Every module begins with a set of clear and concise learning objectives. These objectives are designed to help the instructor decide what content to include or assign, and to guide students on what they can expect to learn. After completing the module and end-of-module exercises, students should be able to demonstrate mastery of the learning objectives.
- **Summaries.** Section summaries distill the information in each module for both students and instructors down to key, concise points addressed in the section.
- **Key Terms.** Key terms are bold and are followed by a definition in context. Definitions of key terms are also listed in the glossary, which appears at the end of the chapter.
- **Assessments.** Multiple-choice and short-answer review questions provide opportunities to recall and test the information students learn throughout each module.

Additional resources

Student and instructor resources

We've compiled additional resources for both students and instructors, including Getting Started Guides, a test bank, and comprehensive PowerPoint slides. Instructor resources require a verified instructor account, which you can apply for when you log in or create your account on OpenStax.org. Take advantage of these resources to supplement your OpenStax book.

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About the authors

Senior contributing authors

Stephen M. Byars, USC Marshall School of Business

Stephen Byars received his BA from Claremont McKenna College, his MA from the University of San Diego, and his PhD from the University of Southern California. He teaches business ethics and oral and written communication at the Marshall School of Business at USC to both graduate and undergraduate business majors. He has served as associate director of the USC Writing Program, temporary director of the Writing

Center within the Writing Program, and as director of the USC Marshall Consulting Program. His scholarly interests include business and professional ethics, the constructive mediation of disputes in the workplace, and those best practices that permit leaders to direct business in ways that engender community, social, and corporate good.

Kurt Stanberry, University of Houston–Downtown

Kurt Stanberry is a professor of legal studies in the College of Business at the University of Houston Downtown and has held the PLM Endowed Professorship since 2011. He is also a licensed attorney. He received his BA from Yale University, an MBA from the Graduate School of Business at Temple University, and a JD from the University of Houston College of Law.

Kurt teaches courses at the undergraduate and graduate level in business law, contracts, employment law, negotiations, ethics, and other related topics. He also conducts continuing education seminars in topics such as negotiations, leadership, diversity, and ethics for CPAs, CFPs, attorneys, and business executives, through organizations such as the AICPA, FEI, and TSCPA at the state and national levels. He has published numerous articles in scholarly journals, two textbooks, various practice manuals, and cases. Prior to joining the faculty at UHD, Kurt was a professor in the California State University System and was also a visiting professor in international programs in London, Bonn, Tokyo, and Seoul. He has been teaching and practicing law for over 30 years.

Contributing authors

Barbara Boerner, Brevard College

Robert Brancatelli, Fordham University

Wade Chumney, California State University, Northridge

Laura Dendinger, Wayne State College

Bill Nantz, Houston Community College

Mark Poepsel, Southern Illinois University Edwardsville

David Shapiro, Pennsylvania State University

Reviewers

Justin Bateh, Florida State College at Jacksonville

Ronald Berenbeim, New York University

Kenneth Bigel, Touro College

Cindy Briggs, Salt Lake Community College

Barbara Chappell, Walden University

Maureen Chisholm, Quincy College

Valerie Collins, Sheridan College

Dixon Cooper, Ouachita Baptist University

Anastasia Cortes, Virginia Polytechnic Institute

Sarah Esveldt, Carroll University

Rand Fandrich, New England College of Business

Charles Fenner, State University of New York Canton

Mehran Ferdowsian, Wilkes University

Betty Fitte, Tidewater Community College

Robert Freeborough, Berkeley College

Martha Helland, University of Sioux Falls

Amy Jordan, Loyola University Chicago

Stephanie Jue, University of Texas

Cheryl Keymer, North Arkansas College

Nai Lamb, University of Tennessee at Chattanooga

Jolene A. Lampton, Park University–Austin Campus

Barbara Limbach, Chadron State College

Marilyn Marousek, Barry University

Russ Meade, Husson University

Michael Pakaluk, Catholic University

Tatyana Pashnyak, Bainbridge State College

Roslyn Roberts, California State University, Sacramento

Amber Ruszkowski, Ivy Tech Community College

Richard Savior, State University of New York Empire State College

Lon Schiffbauer, Salt Lake Community College

Nathan Smith, Houston Community College

Anne Snell, Tulane University

Chris Suprenant, University of New Orleans

Glen Taylor, Paradise Valley Community College

Sonia Toson, Kennesaw State University

Joel Webb, Loyola University New Orleans

Andy Wible, Muskegon Community College

Jeffrey Yoder, Fairfield University

1 Why Ethics Matter

Figure 1.1 Each of us makes innumerable decisions every day. In a business context, these choices have consequences for ourselves and others whom we must take into account in our decision-making process. (credit: modification of “business paper office laptop” by “rawpixel”/Pixabay, CC0)

Chapter Outline

1.1 Being a Professional of Integrity
1.2 Ethics and Profitability
1.3 Multiple versus Single Ethical Standards

Introduction

Ethics consists of the standards of behavior to which we hold ourselves in our personal and professional lives. It establishes the levels of honesty, empathy, and trustworthiness and other virtues by which we hope to identify our personal behavior and our public reputation. In our personal lives, our ethics sets norms for the ways in which we interact with family and friends. In our professional lives, ethics guides our interactions with customers, clients, colleagues, employees, and shareholders affected by our business practices (Figure 1.1).

Should we care about ethics in our lives? In our practices in business and the professions? That is the central question we will examine in this chapter and throughout the book. Our goal is to understand why the answer is *yes*.

Whatever hopes you have for your future, you almost certainly want to be successful in whatever career you choose. But what does success mean to you, and how will you know you have achieved it? Will you measure it in terms of wealth, status, power, or recognition? Before blindly embarking on a quest to achieve these goals, which society considers important, stop and think about what a successful career means to you personally. Does it include a blameless reputation, colleagues whose good opinion you value, and the ability to think well of yourself? How might ethics guide your decision-making and contribute to your achievement of these goals?

1.1 Being a Professional of Integrity

Learning Objectives

By the end of this section, you will be able to:

- Describe the role of ethics in a business environment
- Explain what it means to be a professional of integrity
- Distinguish between ethical and legal responsibilities
- Describe three approaches for examining the ethical nature of a decision

Whenever you think about the behavior you expect of yourself in your personal life and as a professional, you are engaging in a philosophical dialogue with yourself to establish the standards of behavior you choose to uphold, that is, your **ethics**. You may decide you should always tell the truth to family, friends, customers, clients, and shareholders, and if that is not possible, you should have very good reasons why you cannot. You may also choose never to defraud or mislead your business partners. You may decide, as well, that while you are pursuing profit in your business, you will not require that all the money on the table come your way. Instead, there might be some to go around to those who are important because they are affected one way or another by your business. These are your stakeholders.

Acting with Integrity

Clients, customers, suppliers, investors, retailers, employees, the media, the government, members of the surrounding community, competitors, and even the environment are **stakeholders** in a business; that is, they are individuals and entities affected by the business's decisions (Figure 1.2). Stakeholders typically value a leadership team that chooses the ethical way to accomplish the company's legitimate for-profit goals. For example, Patagonia expresses its commitment to environmentalism via its "1% for the Planet" program, which donates 1 percent of all sales to help save the planet. In part because of this program, Patagonia has become a market leader in outdoor gear.

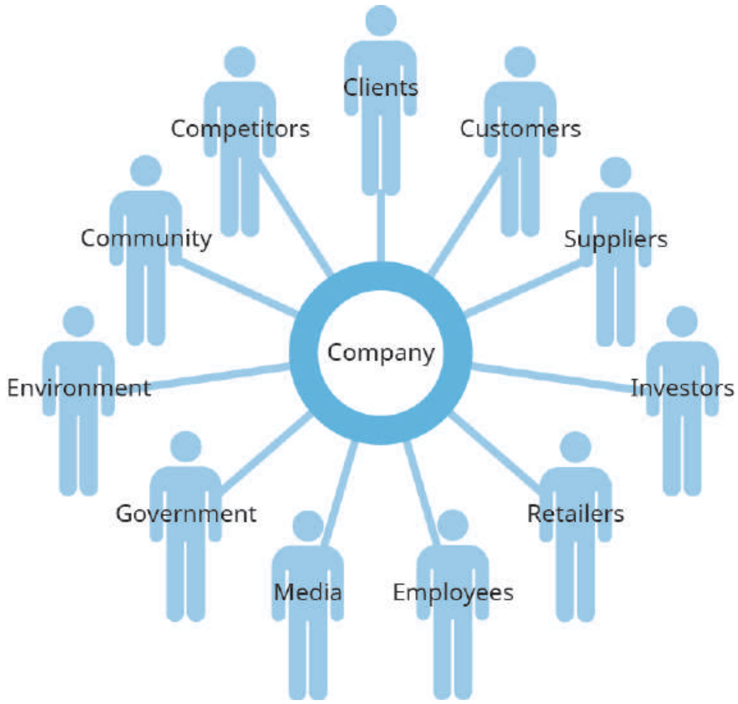

Figure 1.2 Stakeholders are the individuals and entities affected by a business's decisions, including clients, customers, suppliers, investors, retailers, employees, the media, the government, members of the surrounding community, the environment, and even competitors. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

Being successful at work may therefore consist of much more than simply earning money and promotions. It may also mean treating our employees, customers, and clients with honesty and respect. It may come from the sense of pride we feel about engaging in honest transactions, not just because the law demands it but because we demand it of ourselves. It may lie in knowing the profit we make does not come from shortchanging others. Thus, **business ethics** guides the conduct by which companies and their agents abide by the law and respect the rights of their stakeholders, particularly their customers, clients, employees, and the surrounding community and environment. Ethical business conduct permits us to sleep well at night.

LINK TO LEARNING

Are business ethics an oxymoron? Read "Why Ethics Matter" to understand (https://openstax.org/l/53oxymoron) just a few of the reasons to have values-driven management.

Nearly all systems of religious belief stress the building blocks of engaging others with respect, empathy, and honesty. These foundational beliefs, in turn, prepare us for the codes of ethical behavior that serve as ideal guides for business and the professions. Still, we need not subscribe to any religious faith to hold that ethical behavior in business is still necessary. Just by virtue of being human, we all share obligations to one another, and principal among these is the requirement that we treat others with fairness and dignity, including in our commercial transactions.

For this reason, we use the words *ethics* and *morals* interchangeably in this book, though some philosophers distinguish between them. We hold that "an ethical person" conveys the same sense as "a moral person," and we do not regard religious belief as a requirement for acting ethically in business and the professions. Because we are all humans and in the same world, we should extend the same behavior to all. It is the right way to behave, but it also burnishes our own professional reputation as business leaders of integrity.

Integrity—that is, unity between what we say and what we do—is a highly valued trait. But it is more than just consistency of character. Acting with **integrity** means we adhere strongly to a code of ethics, so it implies trustworthiness and incorruptibility. Being a professional of integrity means consistently striving to be the best person you can be in all your interactions with others. It means you practice what you preach, walk the talk, and do what you believe is right based upon reason. Integrity in business brings many advantages, not the least of which is that it is a critical factor in allowing business and society to function properly.

Successful corporate leaders and the companies they represent will take pride in their enterprise if they engage in business with honesty and fair play. To treat customers, clients, employees, and all those affected by a firm with dignity and respect *is* ethical. In addition, laudable business practices serve the long-term interests of corporations. Why? Because customers, clients, employees, and society at large will much more willingly patronize a business and work hard on its behalf if that business is perceived as caring about the community it serves. And what type of firm has long-term customers and employees? One whose track record gives evidence of honest business practice.

LINK TO LEARNING

In this interview, Mark Faris, a white-collar criminal convicted of fraud, claims that greed, arrogance, and ambition were motivating factors (https://openstax.org/l/53MarkFaris) in his actions. He also discusses the human ability to rationalize our behavior to justify it to ourselves. Note his proposed solutions: practicing ethical leadership and developing awareness at an individual level via corporate training.

Many people confuse legal and ethical compliance. They are, however, totally different and call for different standards of behavior. The concepts are not interchangeable in any sense of the word. The law is needed to establish and maintain a functioning society. Without it, our society would be in chaos. Compliance with these legal standards is strictly mandatory: If we violate these standards, we are subject to punishment as established by the law. Therefore, **compliance** in terms of business ethics generally refers to the extent to which a company conducts its business operations in accordance with applicable regulations, statutes, and laws. Yet this represents only a baseline minimum. Ethical observance builds on this baseline and reveals the principles of an individual business leader or a specific organization. Ethical acts are generally considered voluntary and personal—often based on our perception of or stand on right and wrong.

Some professions, such as medicine and the law, have traditional codes of ethics. The Hippocratic Oath, for example, is embraced by most professionals in health care today as an appropriate standard always owed to patients by physicians, nurses, and others in the field. This obligation traces its lineage to ancient Greece and the physician Hippocrates. Business is different in not having a mutually shared standard of ethics. This is changing, however, as evidenced by the array of codes of conduct and mission statements many companies have adopted over the past century. These have many points in common, and their shared content may eventually produce a code universally claimed by business practitioners. What central point might constitute such a code? Essentially, a commitment to treat with honesty and integrity customers, clients, employees, and others affiliated with a business.

The law is typically indebted to tradition and precedence, and compelling reasons are needed to support any change. Ethical reasoning often is more topical and reflects the changes in consciousness that individuals and society undergo. Often, ethical thought precedes and sets the stage for changes in the law.

Behaving ethically requires that we meet the mandatory standards of the law, but that is not enough. For example, an action may be legal that we personally consider unacceptable. Companies today need to be focused not only on complying with the letter of the law but also on going above and beyond that basic mandatory requirement to consider their stakeholders and do what is right.

LINK TO LEARNING

To see an example of a corporate ethical code (https://openstax.org/l/53J&Jcredo) or mission statement, visit Johnson & Johnson and read "Our Credo" written by former chair Robert Wood Johnson.

Forbes provides an annual list of companies recently deemed the most ethical (https://openstax.org/l/53EthicalBus) according to their standards and research.

Ends, Means, and Character in Business

How, then, should we behave? Philosophy and science help us answer this question. From philosophy, three different perspectives help us assess whether our decisions are ethical on the basis of reason. These perspectives are called **normative ethical theories** and focus on how people ought to behave; we discuss them in this chapter and in later chapters. In contrast, *descriptive ethical theories* are based on scientific evidence, primarily in the field of psychology, and describe how people tend to behave within a particular context; however, they are not the subject of this book.

The first normative approach is to examine the ends, or *consequences*, a decision produces in order to evaluate whether those ends are ethical. Variations on this approach include utilitarianism, teleology, and consequentialism. For example, **utilitarianism** suggests that an ethical action is one whose consequence achieves the greatest good for the greatest number of people. So if we want to make an ethical decision, we should ask ourselves who is helped and who is harmed by it. Focusing on consequences in this way generally does not require us to take into account the means of achieving that particular end, however. That fact leads us to the second normative theory about what constitutes ethical conduct.

The second approach does examine the *means,* or actions, we use to carry out a business decision. An example of this approach is **deontology**, which essentially suggests that it is the means that lend nobility to the ends. Deontology contends that each of us owes certain duties to others (*deon* is a Greek word for duty or obligation) and that certain universal rules apply to every situation and bind us to these duties. In this view, whether our actions are ethical depends only on whether we adhere to these rules. Thus, the means we use is the primary determinant of ethical conduct. The thinker most closely associated with deontology is the eighteenth-century German philosopher Immanuel Kant (Figure 1.3).

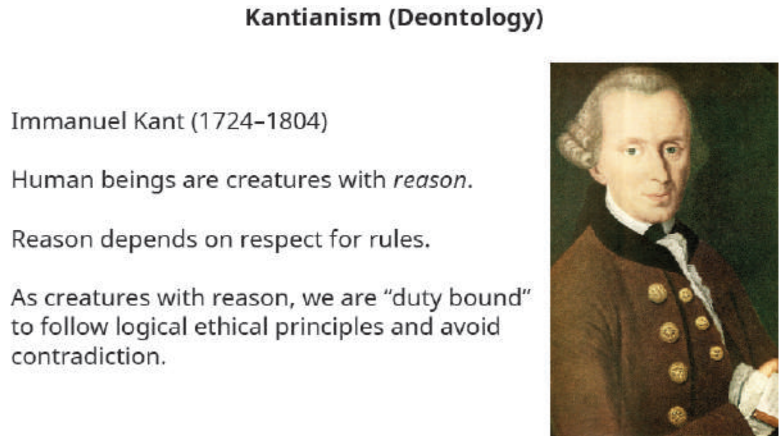

Figure 1.3 Immanuel Kant was an eighteenth-century philosopher, now associated with deontology, who spent nearly all his professional life teaching at the university in Königsberg (which today is Kaliningrad, the westernmost point in Russia). (credit right: modification of "Kant foto" by "Becker"/Wikimedia Commons, Public Domain)

The third normative approach, typically called **virtue theory**, focuses on the *character* of the decision-maker—a character that reflects the training we receive growing up. In this view, our ethical analysis of a decision is intimately connected with the person we choose to be. It is through the development of habits, the routine actions in which we choose to engage, that we are able to create a character of integrity and make ethical decisions. Put differently, if a two-year-old is taught to take care of and return borrowed toys even though this runs contrary to every instinct they have, they may continue to perfect their ethical behavior so that at age forty, they can be counted on to safeguard the tens of millions of dollars investors have entrusted to their care in brokerages.

Virtue theory has its roots in the Greek philosophical tradition, whose followers sought to learn how to live a flourishing life through study, teaching, and practice. The cardinal virtues to be practiced were courage, self-control, justice, and wisdom. Socrates was often cited as a sage and a role model, whose conduct in life was held in high regard.

ETHICS ACROSS TIME AND CULTURES

Aristotle and the Concept of Phronesis, or Practical Wisdom

Phrónēsis (fro-NEE-sis) is a type of practical wisdom that enables us to act virtuously. In "The Big Idea: The Wise Leader," a *Harvard Business Review* article on leadership and ethical decision-making, Ikujiro Nonaka, a Japanese organizational theorist, and Hirotaka Takeuchi, a professor of Management Practice at Harvard Business School, discuss the gap between the theory and practice of ethics and which characteristics make a wise leader.[1] The authors conclude that "the use of explicit and tacit knowledge isn't enough; chief executive officers (CEOs) must also draw on a third, often forgotten kind of knowledge, called practical wisdom. Practical wisdom is tacit knowledge acquired from experience that enables people to make prudent judgments and take actions based on the actual situation, guided by values and morals."

The concept of practical wisdom dates back to Aristotle, who considered phronesis, which can also be defined as prudence, to be a key intellectual virtue. Phronesis enables people to make ethically sound judgments. According to the authors, phronetic leaders:

- practice moral discernment in every situation, making judgments for the common good that are guided by their individual values and ethics;
- quickly assess situations and envision the consequences of possible actions or responses;
- create a shared sense of purpose among executives and employees and inspire people to work together in pursuit of a common goal;
- engage as many people as possible in conversation and communicate using metaphors, stories, and other figurative language in a way that everyone can understand; and
- encourage practical wisdom in others and support the training of employees at all levels in its use.

In essence, the first question any company should ask itself is: “Do we have a moral purpose?” Having a moral purpose requires focusing on the common good, which precedes the accumulation of profit and results in economic and social benefits. If companies seek the common good, profits generally will follow.

Critical Thinking

In the article cited, the authors stress the importance of being well versed in the liberal arts, such as philosophy, history, literature, and in the fine arts to cultivate judgment. How do you think a strong background in the liberal arts would impart practical wisdom or help you make ethical decisions?

1.2 Ethics and Profitability

Learning Objectives

By the end of this section, you will be able to:

- Differentiate between short-term and long-term perspectives
- Differentiate between *stockholder* and *stakeholder*
- Discuss the relationship among ethical behavior, goodwill, and profit
- Explain the concept of corporate social responsibility

Few directives in business can override the core mission of maximizing shareholder wealth, and today that particularly means increasing quarterly profits. Such an intense focus on one variable over a short time (i.e., a **short-term perspective**) leads to a short-sighted view of what constitutes business success.

Measuring true profitability, however, requires taking a long-term perspective. We cannot accurately measure success within a quarter of a year; a longer time is often required for a product or service to find its market and gain traction against competitors, or for the effects of a new business policy to be felt. Satisfying consumers’ demands, going green, being socially responsible, and acting above and beyond the basic requirements all take time and money. However, the extra cost and effort will result in profits in the long run. If we measure success from this longer perspective, we are more likely to understand the positive effect ethical behavior has on all who are associated with a business.

Profitability and Success: Thinking Long Term

Decades ago, some management theorists argued that a conscientious manager in a for-profit setting acts ethically by emphasizing solely the maximization of earnings. Today, most commentators contend that ethical business leadership is grounded in doing right by all stakeholders directly affected by a firm's operations, including, but not limited to, **stockholders**, or those who own shares of the company's stock. That is, business leaders do right when they give thought to what is best for *all* who have a stake in their companies. Not only that, firms actually reap greater material success when they take such an approach, especially over the long run.

Nobel Prize–winning economist Milton Friedman stated in a now-famous *New York Times Magazine* article in 1970 that the only "social responsibility of a business is to increase its profits."[2] This concept took hold in business and even in business school education. However, although it is certainly permissible and even desirable for a company to pursue profitability as a goal, managers must also have an understanding of the context within which their business operates and of how the wealth they create can add positive value to the world. The context within which they act is society, which permits and facilitates a firm's existence.

Thus, a company enters a **social contract** with society as whole, an implicit agreement among all members to cooperate for social benefits. Even as a company pursues the maximizing of stockholder profit, it must also acknowledge that all of society will be affected to some extent by its operations. In return for society's permission to incorporate and engage in business, a company owes a reciprocal obligation to do what is best for as many of society's members as possible, regardless of whether they are stockholders. Therefore, when applied specifically to a business, the social contract implies that a company gives back to the society that permits it to exist, benefiting the community at the same time it enriches itself.

LINK TO LEARNING

What happens when a bank decides to break the social contract? This press conference held by the National Whistleblowers Center (https://openstax.org/l/53Birken) describes the events surrounding the $104 million whistleblower reward given to former UBS employee Bradley Birkenfeld by the U.S. Internal Revenue Service. While employed at UBS, Switzerland's largest bank, Birkenfeld assisted in the company's illegal offshore tax business, and he later served forty months in prison for conspiracy. But he was also the original source of incriminating information that led to a Federal Bureau of Investigation examination of the bank and to the U.S. government's decision to impose a $780 million fine on UBS in 2009. In addition, Birkenfeld turned over to investigators the account information of more than 4,500 U.S. private clients of UBS.[3]

In addition to taking this more nuanced view of profits, managers must also use a different time frame for obtaining them. Wall Street's focus on periodic (i.e., quarterly and annual) earnings has led many managers to adopt a short-term perspective, which fails to take into account effects that require a longer time to develop. For example, charitable donations in the form of corporate assets or employees' volunteered time may not show a return on investment until a sustained effort has been maintained for years. A **long-term perspective** is a more balanced view of profit maximization that recognizes that the impacts of a business decision may not manifest for a longer time.

As an example, consider the business practices of Toyota when it first introduced its vehicles for sale in the

United States in 1957. For many years, Toyota was content to sell its cars at a slight loss because it was accomplishing two business purposes: It was establishing a long-term relationship of trust with those who eventually would become its loyal U.S. customers, and it was attempting to disabuse U.S. consumers of their belief that items made in Japan were cheap and unreliable. The company accomplished both goals by patiently playing its long game, a key aspect of its operational philosophy, “The Toyota Way,” which includes a specific emphasis on long-term business goals, even at the expense of short-term profit.[4]

What contributes to a corporation’s positive image over the long term? Many factors contribute, including a reputation for treating customers and employees fairly and for engaging in business honestly. Companies that act in this way may emerge from any industry or country. Examples include Fluor, the large U.S. engineering and design firm; illycaffè, the Italian food and beverage purveyor; Marriott, the giant U.S. hotelier; and Nokia, the Finnish telecommunications retailer. The upshot is that when consumers are looking for an industry leader to patronize and would-be employees are seeking a firm to join, companies committed to ethical business practices are often the first to come to mind.

Why should stakeholders care about a company acting above and beyond the ethical and legal standards set by society? Simply put, being ethical is simply good business. A business is profitable for many reasons, including expert management teams, focused and happy employees, and worthwhile products and services that meet consumer demand. One more and very important reason is that they maintain a company philosophy and mission to do good for others.

Year after year, the nation’s most admired companies are also among those that had the highest profit margins. Going green, funding charities, and taking a personal interest in employee happiness levels adds to the bottom line! Consumers want to use companies that care for others and our environment. During the years 2008 and 2009, many unethical companies went bankrupt. However, those companies that avoided the “quick buck,” risky and unethical investments, and other unethical business practices often flourished. If nothing else, consumer feedback on social media sites such as Yelp and Facebook can damage an unethical company’s prospects.

CASES FROM THE REAL WORLD

Competition and the Markers of Business Success

Perhaps you are still thinking about how you would define success in your career. For our purposes here, let us say that success consists simply of achieving our goals. We each have the ability to choose the goals we hope to accomplish in business, of course, and, if we have chosen them with integrity, our goals and the actions we take to achieve them will be in keeping with our character.

Warren Buffet (Figure 1.4), whom many consider the most successful investor of all time, is an exemplar of business excellence as well as a good potential role model for professionals of integrity and the art of thinking long term. He had the following to say: “Ultimately, there’s one investment that supersedes all others: Invest in yourself. Nobody can take away what you’ve got in yourself, and everybody has potential they haven’t used yet. . . . You’ll have a much more rewarding life not only in terms of how much money you make, but how much fun you have out of life; you’ll make more friends the more interesting person you are, so go to it, invest in yourself.”[5]

Figure 1.4 Warren Buffett, shown here with President Barack Obama in June 2010, is an investor and philanthropist who was born in 1930 in Omaha, Nebraska. Through his leadership of Berkshire Hathaway, he has become one of the most successful investors in the world and one of the wealthiest people in the United States, with an estimated total net worth of almost $80 billion. (credit: "President Barack Obama and Warren Buffett in the Oval Office" by Pete Souza/Wikimedia Commons, Public Domain)

The primary principle under which Buffett instructs managers to operate is: "Do nothing you would not be happy to have an unfriendly but intelligent reporter write about on the front page of a newspaper."[6] This is a very simple and practical guide to encouraging ethical business behavior on a personal level. Buffett offers another, equally wise, principle: "Lose money for the firm, even a lot of money, and I will be understanding; lose reputation for the firm, even a shred of reputation, and I will be ruthless."[7] As we saw in the example of Toyota, the importance of establishing and maintaining trust in the long term cannot be underestimated.

LINK TO LEARNING

For more on Warren Buffett's thoughts about being both an economic and ethical leader, watch this interview (https://openstax.org/l/53Buffet) that appeared on the PBS NewsHour on June 6, 2017.

Stockholders, Stakeholders, and Goodwill

Earlier in this chapter, we explained that stakeholders are all the individuals and groups affected by a business's decisions. Among these stakeholders are stockholders (or **shareholders**), individuals and institutions that own stock (or shares) in a corporation. Understanding the impact of a business decision on the stockholder and various other stakeholders is critical to the ethical conduct of business. Indeed, prioritizing the claims of various stakeholders in the company is one of the most challenging tasks business professionals face. Considering only stockholders can often result in unethical decisions; the impact on all stakeholders must be considered and rationally assessed.

Managers do sometimes focus predominantly on stockholders, especially those holding the largest number of shares, because these powerful individuals and groups can influence whether managers keep their jobs or are dismissed (e.g., when they are held accountable for the company's missing projected profit goals). And many believe the sole purpose of a business is, in fact, to maximize stockholders' short-term profits. However, considering only stockholders and short-term impacts on them is one of the most common errors business managers make. It is often in the long-term interests of a business *not* to accommodate stockowners alone but rather to take into account a broad array of stakeholders and the long-term and short-term consequences for a course of action.

Here is a simple strategy for considering all your stakeholders in practice. Divide your screen or page into three columns; in the first column, list all stakeholders in order of perceived priority (Figure 1.5). Some individuals and groups play more than one role. For instance, some employees may be stockholders, some members of the community may be suppliers, and the government may be a customer of the firm. In the second column, list what you think each stakeholder group's interests and goals are. For those that play more than one role, choose the interests most directly affected by your actions. In the third column, put the likely impact of your business decision on each stakeholder. This basic spreadsheet should help you identify all your stakeholders and evaluate your decision's impact on their interests. If you would like to add a human dimension to your analysis, try assigning some of your colleagues to the role of stakeholders and reexamine your analysis.

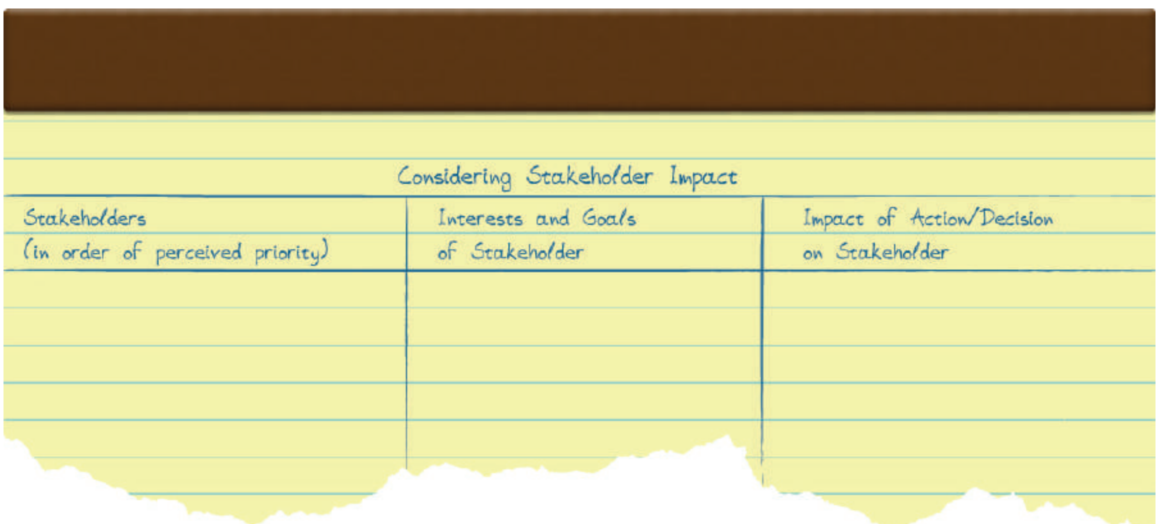

Figure 1.5 Imagine you are the CEO of a mid-sized firm—about five hundred employees—and your company is publicly traded. To understand what matters most to all your stakeholders, complete the preceding exercise to evaluate the impact of a particular action or decision. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

The positive feeling stakeholders have for any particular company is called **goodwill**, which is an important component of almost any business entity, even though it is not directly attributable to the company's assets and liabilities. Among other intangible assets, goodwill might include the worth of a business's reputation, the value of its brand name, the intellectual capital and attitude of its workforce, and the loyalty of its established customer base. Even being socially responsible generates goodwill. The ethical behavior of managers will have a positive influence on the value of each of those components. Goodwill cannot be earned or created in a short time, but it can be the key to success and profitability.

A company's name, its corporate logo, and its trademark will necessarily increase in value as stakeholders view that company in a more favorable light. A good reputation is essential for success in the modern business world, and with information about the company and its actions readily available via mass media and the Internet (e.g., on public rating sites such as Yelp), management's values are always subject to scrutiny and open debate. These values affect the environment outside and inside the company. The **corporate culture**, for instance, consists of shared beliefs, values, and behaviors that create the internal or organizational context within which managers and employees interact. Practicing ethical behavior at all levels—from CEO to upper and middle management to general employees—helps cultivate an ethical corporate culture and ethical employee relations.

WHAT WOULD YOU DO?

Which Corporate Culture Do You Value?

Imagine that upon graduation you have the good fortune to be offered two job opportunities. The first is with a corporation known to cultivate a hard-nosed, no-nonsense business culture in which keeping long hours and working intensely are highly valued. At the end of each year, the company donates to numerous social and environmental causes. The second job opportunity is with a nonprofit recognized for a very different culture based on its compassionate approach to employee work-life balance. It also offers the chance to pursue your own professional interests or volunteerism during a portion of every work day. The first job offer pays 20 percent more per year.

Critical Thinking

- Which of these opportunities would you pursue and why?
- How important an attribute is salary, and at what point would a higher salary override for you the nonmonetary benefits of the lower-paid position?

Positive goodwill generated by ethical business practices, in turn, generates long-term business success. As recent studies have shown, the most ethical and enlightened companies in the United States consistently outperform their competitors.[8] Thus, viewed from the proper long-term perspective, conducting business ethically is a wise business decision that generates goodwill for the company among stakeholders, contributes to a positive corporate culture, and ultimately supports profitability.

You can test the validity of this claim yourself. When you choose a company with which to do business, what factors influence your choice? Let us say you are looking for a financial advisor for your investments and retirement planning, and you have found several candidates whose credentials, experience, and fees are approximately the same. Yet one of these firms stands above the others because it has a reputation, which you discover is well earned, for telling clients the truth and recommending investments that seemed centered on the clients' benefit and not on potential profit for the firm. Wouldn't this be the one you would trust with your investments?

Or suppose one group of financial advisors has a long track record of giving back to the community of which it is part. It donates to charitable organizations in local neighborhoods, and its members volunteer service hours toward worthy projects in town. Would this group not strike you as the one worthy of your investments? That it appears to be committed to building up the local community might be enough to persuade you to give it your business. This is exactly how a long-term investment in community goodwill can produce a long pipeline of potential clients and customers.

CASES FROM THE REAL WORLD

The Equifax Data Breach

In 2017, from mid-May to July, hackers gained unauthorized access to servers used by Equifax, a major credit reporting agency, and accessed the personal information of nearly one-half the U.S. population.[9] Equifax executives sold off nearly $2 million of company stock they owned after finding out about the hack in late July, weeks before it was publicly announced on September 7, 2017, in potential violation of insider trading rules. The company's shares fell nearly 14 percent after the announcement, but few expect Equifax managers to be held liable for their mistakes, face any regulatory discipline, or pay any penalties for profiting from their actions. To make amends to customers and clients in the aftermath of the hack, the company offered free credit monitoring and identity-theft protection. On September 15, 2017, the company's chief information officer and chief of security retired. On September 26, 2017, the CEO resigned, days before he was to testify before Congress about the breach. To date, numerous government investigations and hundreds of private lawsuits have been filed as a result of the hack.

Critical Thinking

- Which elements of this case might involve issues of legal compliance? Which elements illustrate acting legally but not ethically? What would acting ethically and with personal integrity in this situation look like?
- How do you think this breach will affect Equifax's position relative to those of its competitors? How might it affect the future success of the company?
- Was it sufficient for Equifax to offer online privacy protection to those whose personal information was hacked? What else might it have done?

A Brief Introduction to Corporate Social Responsibility

If you truly appreciate the positions of your various stakeholders, you will be well on your way to understanding the concept of **corporate social responsibility (CSR)**. CSR is the practice by which a business views itself within a broader context, as a member of society with certain implicit social obligations and environmental responsibilities. As previously stated, there is a distinct difference between legal compliance and ethical responsibility, and the law does not fully address all ethical dilemmas that businesses face. CSR ensures that a company is engaging in sound ethical practices and policies in accordance with the company's culture and mission, above and beyond any mandatory legal standards. A business that practices CSR cannot have maximizing shareholder wealth as its sole purpose, because this goal would necessarily infringe on the rights of other stakeholders in the broader society. For instance, a mining company that disregards its corporate social responsibility may infringe on the right of its local community to clean air and water if it pursues only profit. In contrast, CSR places all stakeholders within a proper contextual framework.

An additional perspective to take concerning CSR is that ethical business leaders opt to do *good* at the same time that they do *well.* This is a simplistic summation, but it speaks to how CSR plays out within any corporate setting. The idea is that a corporation is entitled to make money, but it should not only make money. It should also be a good civic neighbor and commit itself to the general prospering of society as a whole. It ought to make the communities of which it is part better at the same time it pursues legitimate profit goals. These ends are not mutually exclusive, and it is possible—indeed, praiseworthy—to strive for both. When a company approaches business in this fashion, it is engaging in a commitment to corporate social responsibility.

LINK TO LEARNING

U.S. entrepreneur Blake Mycoskie has created a unique business model (https://openstax.org/l/53TOMS) combining both for-profit and nonprofit philosophies in an innovative demonstration of corporate social responsibility. The company he founded, TOMS Shoes, donates one pair of shoes to a child in need for every pair sold. As of May 2018, the company has provided more than 75 million pairs of shoes to children in seventy countries.[10]

1.3 Multiple versus Single Ethical Standards

Learning Objectives

By the end of this section, you will be able to:

- Analyze ethical norms and values as they relate to business standards
- Explain the doctrine of ethical relativism and why it is problematic
- Evaluate the claim that having a single ethical standard makes behaving consistently easier

Business people sometimes apply different ethical standards in different contexts, especially if they are working in a culture different from the one in which they were raised or with coworkers from other traditions. If we look outside ourselves for ethical guidance, relying on the context in which we find ourselves, we can grow confused about what is ethical business behavior. Stakeholders then observe that the messages we send via our conduct lack a consistent ethical core, which can harm our reputation and that of the business. To avoid falling back on **ethical relativism**, a philosophy according to which there is no right or wrong and what is ethical depends solely on the context, we must choose a coherent standard we can apply to all our interactions with others.

Some people who adopt multiple ethical standards may choose to exhibit the highest standards with their families, because these are the people they most revere. In a business setting, however, this same person may choose to be an unethical actor whose sole goal is the ruthless accumulation of wealth by any means. Because work and family are not the only two settings in which we live our lives, such a person may behave according to yet another standard to competitors in a sporting event, to strangers on the street, or to those in his or her religious community.

Although the ethical standard we adopt is always a choice, certain life experiences can have more profound effects on our choice than others. Among the most formative experiences are family upbringing and cultural traditions, broadly defined here to include religious and ethnic norms, the standard patterns of behavior within the context in which we live. Culture and family also influence each other because the family exists in and responds to its cultural context, as well as providing us with the bedrock for our deepest values. Regardless of this initial coding, however, we can choose the ethical standards we apply in the business context.

Why should we choose a single ethical code for all the contexts in which we live? The Greek philosophers and later proponents of the normative ethical theories we discussed earlier would say that if you apply your reason to determine how to behave, it makes rational sense to abide by a single ethical code for all interactions with all persons in all contexts. By doing so, you maximize your ethical behavior no matter who the other party is. Furthermore, you have an internally consistent behavior for all family, friends, customers, clients, and anyone else with whom you interact. Thus, we need not choose different values in different contexts, and when people see us in different situations, they are more likely to trust us because they see we uphold the same values regardless of the context.

Indeed, proponents of all the normative ethical theories would insist that the only rational choice is to have a single ethical standard. A deontologist would argue that you should adhere to particular duties in performing your actions, regardless of the parties with whom you interact. A utilitarian would say that any act you take should result in the greatest good for the greatest number. A virtue ethicist would state that you cannot be virtuous if you lack integrity in your behavior toward all.

Adopting a consistent ethical standard is both selfless and in the manager’s self-interest. That is, would-be customers and clients are more likely to seek out a business that treats all with whom it interacts with honesty and fairness, believing that they themselves will be treated likewise by that firm. Similarly, business leaders who treat everyone in a trustworthy manner need never worry that they might not have impressed a potential customer, because they always engage in honorable commercial practices. A single standard of business behavior that emphasizes respect and good service appeals to all.

Normative ethics is about discovering right and delineating it from wrong; it is a way to develop the rules and norms we use to guide meaningful decision-making. The ethics in our single code are not relative to the time, person, or place. In this world, we all wear different hats as we go about our daily lives as employees, parents, leaders, students. Being a truly ethical person requires that no matter what hat we wear, we exhibit a single ethical code and that it includes, among others, such universal principles of behavior as honesty, integrity, loyalty, fairness, respect for law, and respect for others.

Yet another reason to adopt a universal ethical standard is the transparent character it nurtures in us. If a company’s leadership insists that it stands for honest business transactions at every turn, it cannot prosecute those who defraud the company and look the other way when its own officers do the same. Stakeholders recognize such hypocrisy and rightly hold it against the business’s leaders.

Business leaders are not limited to only one of the normative ethical theories we have described, however. Virtue theory, utilitarianism, and deontology all have advantages to recommend them. Still, what should not change is a corporate commitment to not make exceptions in its practices when those favor the company at the expense of customers, clients, or other stakeholders.

Moving from theory to daily life, we can also look at the way our reputation is established by the implicit and explicit messages we send to others. If we adopt ethical relativism, friends, family, and coworkers will notice that we use different standards for different contexts. This lack of consistency and integrity can alter their perception of us and likely damage our reputation.

WHAT WOULD YOU DO?

Taking Advantage of an Employee Discount

Suppose you work in retail sales for an international clothing company. A perk of the job is an employee discount of 25 percent on all merchandise you purchase for personal use. Your cousin, who is always looking for a bargain, approaches you in the store one day and implores you to give him your employee discount on a $100 purchase of clothes for himself.

Critical Thinking

- How would you handle this situation and why?
- Would it matter if the relative were someone closer to you, perhaps a brother or sister?
- If so, why?

Key Terms

business ethics the conduct by which companies and their agents abide by the law and respect the rights of their stakeholders, particularly their customers, clients, employees, and the surrounding community and environment

compliance the extent to which a company conducts its business operations in accordance with applicable regulation and statutes

corporate culture the shared beliefs, values, and behaviors that create the organizational context within which employees and managers interact

corporate social responsibility (CSR) the practice in which a business views itself within a broader context, as a member of society with certain implicit social obligations and responsibility for its own effects on environmental and social well-being

deontology a normative ethical theory suggesting that an ethical decision requires us to observe only the rights and duties we owe to others, and, in the context of business, act on the basis of a primary motive to do what is right by all stakeholders

ethical relativism a view that ethics depends entirely upon context

ethics the standards of behavior to which we hold ourselves in our personal and professional lives

goodwill the value of a business beyond its tangible assets, usually including its reputation, the value of its brand, the attitude of its workforce, and customer relations

integrity the adherence to a code of moral values implying trustworthiness and incorruptibility because there is unity between what we say and what we do

long-term perspective a broad view of profit maximization that recognizes the fact that the impact of a business decision may not manifest for a long time

normative ethical theories a group of philosophical theories that describe how people ought to behave on the basis of reason

shareholder an individual or institution that owns stock or shares in a corporation, by definition a type of stakeholder; also called stockholder

short-term perspective a focus on the goal of maximizing periodic (i.e., quarterly and annual) profits

social contract an implicit agreement among societal members to cooperate for social benefit; when applied specifically to a business, it suggests a company that responsibly gives back to the society that permits it to incorporate, benefiting the community at the same time that it enriches itself

stakeholders individuals and entities affected by a business’s decisions, including customers, suppliers, investors, employees, the community, and the environment, among others

stockholder an individual or institution that owns stock or shares in a corporation, by definition a type of stakeholder; also called shareholder

utilitarianism a normative theory of ethics suggesting that an ethical act is the one whose consequences create the greatest good for the greatest number of people

virtue theory a normative theory that focuses on proper conduct guided by the training we received growing up

Summary

1.1 Being a Professional of Integrity

Ethics sets the standards that govern our personal and professional behavior. To conduct business ethically, we must choose to be a professional of integrity. The first steps are to ask ourselves how we define success and to understand that integrity calls on us to act in a way that is consistent with our words. There is a distinct difference between legal compliance and ethical responsibility, and the law does not fully address all ethical dilemmas that businesses face. Sound ethical practice meets the company's culture, mission, or policies above and beyond legal responsibilities. The three normative theories of ethical behavior allow us to apply reason to business decisions as we examine the result (utilitarianism), the means of achieving it (deontology), and whether our choice will help us develop a virtuous character (virtue ethics).

1.2 Ethics and Profitability

A long-term view of business success is critical for accurately measuring profitability. All the company's stakeholders benefit from managers' ethical conduct, which also increases a business's goodwill and, in turn, supports profitability. Customers and clients tend to trust a business that gives evidence of its commitment to a positive long-term impact. By exercising corporate social responsibility, or CSR, a business views itself within a broader context, as a member of society with certain implicit social obligations and responsibility for its own effects on environmental and social well-being.

1.3 Multiple versus Single Ethical Standards

The adoption of a single ethical code is the mark of a professional of integrity and is supported by the reasoned approach of each of the normative theories of business ethics. When we consistently maintain the same values regardless of the context, we are more likely to engender trust among those with whom we interact.

Assessment Questions

1. Which of these concepts relates to utilitarianism?

A. consequences
B. actions
C. character
D. duty

2. True or false? According to the Greek system of logic introduced by Socrates, normative ethical theories ultimately are grounded in reason.

3. Explain why ethical responsibilities go beyond legal compliance.

4. Describe the difference between normative and descriptive ethical theories.

5. Which of the following is not a stakeholder?

A. the media
B. corporate culture
C. the environment
D. customers

6. True or false? According to Milton Friedman, a company's social responsibility consists solely of bettering the welfare of society.

7. What is corporate social responsibility (CSR)?

8. Describe a practical way to prioritize the claims of stakeholders.

9. Describe how a company's ethical business practices affect its goodwill.

10. True or false? Family is generally a strong influence on our ethical standards.

11. Which normative ethical theory supports the idea of holding multiple ethical standards?

A. deontology
B. utilitarianism
C. virtue ethics
D. none of the above

12. Describe the benefits of having a single ethical standard.

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2 Ethics from Antiquity to the Present

Figure 2.1 Their accuracy and practical use in the marketplace made scales, held aloft here by the figure of Justice in Bruges, Belgium, a common symbol in jurisprudence and law in the East and the West. Even today, the concept of counterbalancing different ideas and philosophies underlies many approaches to the law and ethics. (credit: modification of "Golden Lady Justice" by Emmanuel Huybrechts/Flickr, CC BY 2.0)

Chapter Outline

2.1 The Concept of Ethical Business in Ancient Athens
2.2 Ethical Advice for Nobles and Civil Servants in Ancient China
2.3 Comparing the Virtue Ethics of East and West
2.4 Utilitarianism: The Greatest Good for the Greatest Number
2.5 Deontology: Ethics as Duty
2.6 A Theory of Justice

Introduction

From the time of barter to the age of bitcoin, most people engaged in business transactions have sought trust. Without trust, which is a fundamental outcome of ethical behavior, not just business relationships but all relationships would collapse. To develop insight into our own concepts of ethics, this chapter looks at how ethical systems have developed over time, beginning with the distinction between ethics and the law.

Ethics are the standards of behavior to which we hold ourselves accountable in our personal and professional lives. Laws and regulations set the minimal standards by which society lives out those ethical norms. Because laws are minimal standards, it is not uncommon for an act to be legal but generally deemed unethical. The fact is that law and ethics are not always the same. Always, however, they are in dialogue, and each informs the other. The greatest challenge in business decision-making is moving beyond the letter of the law to create a culture of ethics (Figure 2.1).

Can you identify a moment in your life when it was hard to follow your conscience, or your personal morality conflicted with societal norms? What was the nature of the conflict, and how did you approach it?

2.1 The Concept of Ethical Business in Ancient Athens

Learning Objectives

By the end of this section, you will be able to:

- Identify the role of ethics in ancient Athens
- Explain how Aristotelian virtue ethics affected business practices

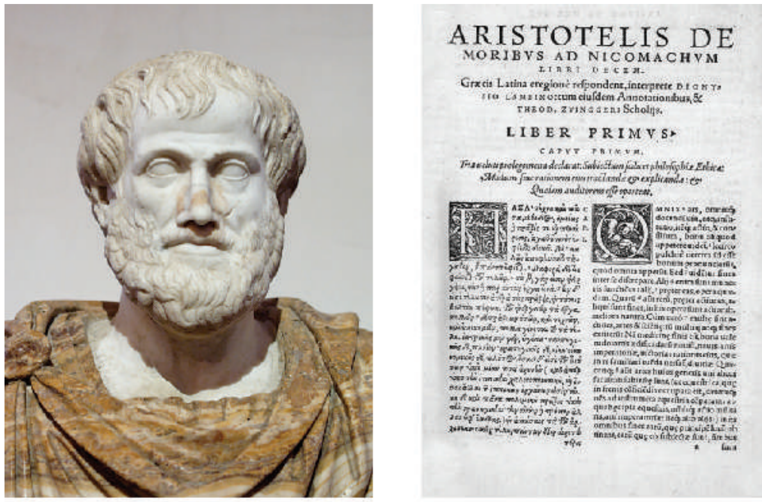
It would be hard to overstate the influence of ancient Athens on Western civilization. Athenian achievements in the arts, literature, and government have molded Western consciousness. Perennial themes, such as the search for individual identity and each person's place in the world, appear in countless novels and Hollywood screenplays. The role of Athenian ethical theories in philosophy has been profound, and Athenian principles continue to be influential in contemporary philosophy. Ethics, as a form of applied philosophy, was a major focus among the leaders of ancient Athens, particularly teachers like Socrates, Plato, and Aristotle. They taught that ethics was not merely what someone did but who someone was. Ethics was a function of being and, as the guiding principle for dealings with others, it naturally applied as well to the sensitive areas of money and commerce.

Ancient Athens

Like a modern metropolis, the city-state (*polis*) of Athens in the fifth century BCE drew people from far afield who wanted a better life. For some, that life meant engaging in trade and commerce, thanks to the openness of the new democracy established under the lawgiver Cleisthenes in 508 BCE. Others were drawn to Athens' incredibly rich architecture, poetry, drama, religious practices, politics, and schools of philosophy. Youth traveled there hoping to study with such brilliant teachers as the mathematicians Archimedes and Pythagoras; dramatists like Sophocles and Euripides; historians Herodotus and Thucydides; Hippocrates, the father of medicine; and, of course, the renowned but enigmatic philosopher Socrates. More than being the equivalent of rock stars of their day, these thinkers, scholars, and artists challenged youth to pursue truth, no matter the cost to themselves or their personal ambitions. These leaders were interested not in fame or even in personal development but in the creation of an ideal society. This was the Golden Age of ancient Greece, whose achievements were so profound and enduring that they have formed the pillars of Western civilization for nearly two and a half millennia.

Philosophy, in particular, flourished during the Golden Age, with various schools of thought attempting to make sense of the natural and human worlds. The human world was thought to be grounded in the natural world but to transcend it in striking ways, the most obvious being humans use of reason and deliberation. Philosophers like Socrates, Plato, and Aristotle tackled fundamental questions of human existence with such insight that their ideas have remained relevant and universal even at the dawn of artificial intelligence. As British mathematician and philosopher Alfred North Whitehead (1861–1947) observed, "the safest general characterization of the European philosophical tradition is that it consists of a series of footnotes to Plato."[1]

Why are the insights of these Greek philosophers still relevant today? One reason is their development of the ancient concept of *virtue*. The person most closely associated with virtue in the West, and the development of what is now known as **virtue ethics**—that is, an ethical system based upon the exercise of certain virtues (loyalty, honor, courage) emphasizing the formation of character—is Plato's famous pupil Aristotle (384–322 BCE) (Figure 2.2).



(a) (b)

Figure 2.2 *Nicomachean Ethics*, by the ancient Greek philosopher Aristotle (a), is a rough collection of Aristotle’s lecture notes to his students on how to live the virtuous life and achieve happiness; it is the oldest surviving treatment of ethics in the West. The collection was possibly named after Aristotle’s son. This 1566 edition (b) was printed in both Greek and Latin. (credit a: modification of “Aristotle Altemps Inv8575” by “Jastrow”/Wikimedia Commons, Public Domain; credit b: modification of “Aristotelis De Moribus ad Nicomachum” by "Aavindraa"/Wikimedia Commons, Public Domain)

Aristotelian Virtue Ethics

For Aristotle, everything that exists has a purpose, or end, and has been designed to meet that end. For instance, the proper end of birds is to fly, that of fish to swim. Birds and fish have been designed with the appropriate means (feathers, fins) to achieve those ends. Teleology, from the Greek *telos* meaning goal or aim, is the study of ends and the means directed toward those ends. What is the *telos* of human beings? Aristotle believed it to be ***eudaimonia***, or happiness. By this, he did not mean happiness in a superficial sense, such as having fun or being content. Rather, he equated happiness with human flourishing, which he believed could be attained through the exercise of the function that distinguishes humans from the natural world: reason.[2] For Aristotle, reason was supreme and best used to increase not wealth but character. “But what is happiness?” he asked. “If we consider what the function of man is, we find that happiness is a virtuous activity of the soul.”[3]

However, because humans are endowed not only with reason but also with the capacity to act in an honorable and ethical manner, they may reject their end, either intentionally or by default. The great task of life, then, is to recognize and pursue happiness, no matter the constraints placed on the individual, the most dramatic of which are suffering and death. Birds and fish have little difficulty achieving their ends, and we can assume that much of this is due to their genetic coding. Because happiness might not be genetically encoded in human beings, they must learn how to be happy. How do they do that? According to Aristotle, *eudaimonia* is achieved by leading a virtuous life, which is attained over time. “Happiness is a kind of activity; and an activity clearly is developed and is not a piece of property already in one’s possession.”[4]

Aristotle identified two types of virtues, which the philosophical community of his day agreed were objective and not subjective. The two types were intellectual and moral. Intellectual virtues—including knowledge (*epistḗmē*), wisdom (*sophíā*), and, most importantly for Aristotle, prudence (***phrónēsis***), or practical wisdom—served as guides to behavior; that is, a person acted prudently based on the wisdom gained over time through the ongoing acquisition and testing of knowledge. To give an oversimplified but practical application of Aristotelian thinking, a hiring manager acts prudently when assessing a pool of candidates based on knowledge of their backgrounds and on insight gained after years of working in that role. The manager may even use intuitive reason regarding a candidate, which Aristotle believed was another way of arriving at truth. Understood in this way, the manager's intuition is an impression regarding character and someone's potential fit in an organization. Among the intellectual virtues, prudence played the major role because it helped individuals avoid excess and deficiency and arrive at the **golden mean** between the two. Prudence has been translated as "common sense" and "practical wisdom" and helps individuals make the right decision in the right way at the right time for the right reason. In Aristotle's view, only the truly prudent person could possess all the moral virtues.

The distinction Aristotle made is that the intellectual virtues are acquired purely through learning, whereas the moral virtues are acquired through practice and the development of habits. In contrast to the intellectual virtues, which focused on external acts, the moral virtues had to do with character. They included courage, self-control, liberality, magnificence, honor, patience, and amiability. Some of these virtues had different meanings in ancient Greece than they do today. "Liberal," for instance, referred not to a political or economic stance but rather to an aspect of personality. Someone would be considered liberal who was open and sharing of him- or herself and his or her talents without fear of rejection or expectation of reciprocity. The paragon of these virtues was the magnanimous individual, someone for whom fame and wealth held little attraction.[5] This person had self-knowledge; was not rash, quick to anger, or submissive to others; and acted with self-respect, control, and prudence. The magnanimous individual achieved happiness by leading a life characterized by reason and will. He or she remained in control of self and did not hand over his or her authority—or moral agency—to others, whether in judgment or in decision-making. "So, magnanimity seems to be a sort of crown of the virtues, because it enhances them and is never found apart from them. This makes it hard to be truly magnanimous, because it is impossible without all-round excellence," according to Aristotle.[6]

The relationship between the intellectual and the moral virtues was not as clear cut as it may appear, however, because Aristotle believed that action preceded character. In other words, the primary way to change character was through consistent, intentional behavior in the direction of virtue. Aristotle gave the example of courage. A person was not courageous first and then went about performing acts of courage. Rather, courage resulted from incremental change, small steps taken over time that molded the person's character. It relied on a recognition of justice, so that courage was directed toward the right end. The important task was developing the habit of leading the virtuous life. Anyone could do this; however, it was a discipline that had to be learned and practiced with dedication. We can see that this habit of virtue is especially relevant for business today, when the temptation to conform to an established organizational culture is overwhelming even when that culture may permit and even encourage questionable practices. Add the seductive power of money, and anyone's courage might be tested.

The most notable feature of virtue ethics is that it viewed the basic ethical unit—the fundamental agent of morality—as the individual, who lived out his or her worldview publicly. A life of virtue, therefore, took place in the economic and political spheres so that others might participate in and benefit from it. In Athenian society, it was important for business to be conducted competently and ethically. Even though Aristotle was suspicious of business, he acknowledged its importance in preserving and nurturing Athenian democracy. He also praised the creation of money to further the goal of justice, so that a shoemaker and a housebuilder, for instance, could trade their wares on an equal basis. Virtue in the marketplace was demonstrated through ethical behavior, according to Aristotle: "People do in fact seek their own good, and think that they are right to act in this way. It is from this belief that the notion has arisen that such people are prudent. Presumably, however, it is impossible to secure one's own good independently of domestic and political science."[7] This belief in the public nature of virtue was crucial for the flourishing of the city-state and also has implications for contemporary business, which must consider the individual, organization, industry, and society in its development and planning.

ETHICS ACROSS TIME AND CULTURES

Athenian Democracy

Just as time and place influence people's perception of ethics, so is their understanding of democracy also subjective.

You might be surprised to learn the Athenian version of democracy was significantly different from our own. For instance, although the word "democracy" comes from the Greek for people (*dêmos*) and power (*krátos*), only adult men who owned property could vote, and voting was direct; Athens was not a republic with elected representatives, like the United States. Resident aliens, or *metics*—those who change their home—were not eligible for citizenship and could not vote. They had limited rights and their status was second class, although this did not stop many of them from attaining wealth and fame. They were often among the best artisans, craftspeople, and merchants in the city-state. Metics were able to conduct business in the marketplace (*agora*) provided they paid special taxes yearly. One of the most famous was Aristotle, who was born outside Athens in northern Greece.

Women, even those who were citizens, were not allowed to vote and had limited rights when it came to property and inheritance. Their primary function in Athenian society was the care and management of the home. "The Athenian woman must be the perfect Penelope—a partner to the husband, a guard of the house, and one who practices the virtues defined by her husband. Physical beauty was not to be a goal, nor was it even a primary valued attribute. Total dedication to the welfare of husband, children, and household was the ultimate virtue"[8] (Figure 2.3).

Figure 2.3 Penelope and Odysseus in a scene from Homer's *Odyssey*, as depicted in 1802 by the German painter Johann Tischbein. For the ancient Greeks, Penelope represented all the virtues of a loving, dutiful partner. She remained faithful to her husband Odysseus despite his absence of some twenty years during and after the Trojan War. (credit: "Odysseus and Penelope" by H. R. Wacker and James Steakley/Wikimedia Commons, Public Domain)

Finally, not all transactions were as straightforward as selling Egyptian linen, dried fruit, or spices. Slave traders, too, brought their "wares" to market. Slavery was a customary part of many cultures throughout the ancient world, from Persia to Arabia and Africa and China. In Athens and its surrounding area, it is estimated that during the Golden Age (fifth century BCE) there were 21,000 citizens, 10,000 metics (non-native Athenians who still shared some of the benefits of citizenship), and 400,000 slaves.[9] Despite the Athenian emphasis on virtue and honor, there was little or no objection to owning slaves, because they formed an indispensable part of the economy, providing the labor for agriculture and food production.

Slavery persists even today. For instance, it is believed that nearly thirty million people worldwide are living and working as slaves, including three million in China and fourteen million in India.[10] Servitude also exists for migrant workers forced to live and work in inhuman conditions without recourse to legal help or even the basic necessities of life. Such conditions occur in industries as diverse as commercial fishing in Southeast Asia and construction in Qatar.[11]

Critical Thinking

- Consider how democracy has expanded since the Golden Age of Greece, eventually including universal suffrage and fundamental rights for everyone. Although we try not to judge cultures today as having right or wrong practices, we often judge earlier cultures and civilizations. How might you assess a practice like slavery in antiquity without imposing modern values on a civilization that existed more than two and a half millennia ago?
- Are there absolute truths and values that transcend time and space? If yes, where might these come from? If not, why not?

Honorable Behavior in Business

The common belief in ancient Greece that business and money were somehow tainted reflected Plato's concept that the physical world was an imperfect expression, or shadow, of the ideal. Everything in the physical world was somehow less than the ideal, and this included the products of human thought and labor. For example, a cow exists in the physical world as an imperfect and temporary expression of the ideal essence of a cow, what we might call "cowness." (This imperfection accounted for the many variations found in the earthly creature.) Business, as a human invention based on self-interest, also had no appreciable ideal or end. After all, what was the purpose of making money if not having more money? Any end beyond that was not evident. In other words, money existed simply to replicate itself and was fueled by avarice (the love of money) or greed (the love of material goods). "As for the life of the businessman, it does not give him much freedom of action. Besides, wealth is obviously not the good that we are seeking, because it serves only as a means; i.e., for getting something else," said Aristotle.[12]

Yet, business had an interesting effect that helped invigorate Athenian life and encouraged those engaged in it to be virtuous (or else risk their reputation). This effect was *association*. Business was based on the free and fair exchange of goods, which brought not only items of merchandise into association with each other but also buyers, sellers, and public officials. The way to ensure ethically sound association was through the exercise of prudence, especially in its demand that people act not rashly but deliberately. This deliberative aspect of prudence provided a way for buyers, sellers, and everyone engaged in a transaction to act honorably, which was of the utmost importance. Honor was not only a foundational virtue but the cultural environment in which the ancient world existed. One of the worst offenses anyone could commit, whether man, woman, free, or slave, was to act in a dishonorable way. Of course, although acting deliberately does not guarantee that one is acting honorably, for Athenians, acting in a calculated way was not an indication of dishonor. Dishonorable acts included any that disturbed the basic order (*dikē*) of life in which everyone had a role, including the gods.

Interestingly, the Aristotelian approach to business did not condemn money making or the accumulation of riches. What concerned Aristotle, particularly because of its harmful effects on the individual and the city-state, was greed. Aristotle considered greed an excess that tipped the scales of justice and led to scandal. Money might constitute the bait, but greed causes the person to reach out and grab as much as possible, falling into the trap of scandal. The Greeks considered the exercise of greed an irrational, and therefore ignoble, act. Only attention to honor and deliberative prudence could save someone from acting so foolishly.

Honor in ancient Greece was not just an individual characteristic but also a function of the group to which an individual belonged, and the person derived self-esteem from membership in that group. Civic virtue consisted of honorable living in community. Business scandals today often arise not from conflicts of interest but from conflicts of honor in which employees feel torn by their allegiance to a coworker, a supervisor, or the organization.[13] Although few people would use the term honor to describe contemporary workplace culture or corporate mission, nearly everyone understands the importance of reputation and its impact, positive or negative, on a business. Reputation is no accident. It is the product of a culture formed by individual and group effort. That effort is directed, intentional, and ongoing.

According to Aristotle, and later thinkers who expanded upon his work, such as thirteenth-century philosopher and theologian Thomas Aquinas, to act dishonorably casts disrepute on all concerned. Ends and means had to be aligned, particularly in business, which provided people's livelihoods and secured the economic health of the city-state. Acting honorably meant trying to be magnanimous in all transactions and rising above obsession with baser instincts. The honorable person was magnanimous, prudent, fair, and interested in self-advancement as long as it did not injure personal integrity or the body politic. The importance of prudence is evident because, said Aristotle, it is "concerned with human goods, i.e., things about which deliberation is possible; for we hold that it is the function of the prudent man to deliberate well; and nobody deliberates about things that cannot be otherwise, or that are not means toward an end, and that end is a practical good. And the man who is good at deliberation generally is the one who can aim, by the help of his calculation, at the best of the goods attainable."[14]

Aquinas further divided Aristotelian prudence into memory, reason, understanding, docility, shrewdness, foresight, circumspection, and caution.[15] To use these qualities in a constructive way, a business person had to direct them toward an appropriate end, which applies to business today just as it did in fourth-century Athens. A merchant could not make money in a random way but had to keep the needs of customers in mind and conduct business with fair prices and fees. This exercise of prudence was part of the cosmic order that ensured the right management of the home, the marketplace, and civilization itself. Similarly, committing fraud or deception to achieve an end, even if that end were good or just, was not considered an honorable act. Only when ends and means were aligned and worked in harmony were those engaged in the transaction considered virtuous. This virtue, in turn, would lead to the happiness Aristotle envisioned and toward which his entire system of virtue ethics aimed.

ETHICS ACROSS TIME AND CULTURES

Three Forms of Justice

Along with honor, justice—as depicted in the image at the beginning of this chapter—formed part of the cultural environment of Athenian society. Citizens often relied on litigation to settle disputes, particularly conflicts over business transactions, contracts, inheritance, and property. Justice existed in three forms, as it does today: legal, commutative, and distributive. In *legal justice*, the city-state was responsible for establishing fair laws for the welfare of its citizens. *Commutative justice* characterized relationships among individuals. Courts attempted to correct harms inflicted and return what had been unlawfully taken away from plaintiffs. *Distributive justice* governed the duty of the city-state to distribute benefits and burdens equitably among the people.

We can see these forms of justice at work today in very practical ways. For instance, within the framework of commutative justice, businesses are often held responsible ethically and financially for any harm caused by their products. And distributive justice is debated in such hotly contested issues as corporate and individual tax rates, universal health coverage, state and federal income assistance, subsidized housing, social security eligibility, college tuition aid (e.g., Pell grants), and similar programs designed to create a "safety net" for those least fortunate. Some safety net programs have been criticized for their excessive cost, inefficiency, and unfairness to those who pay into them while receiving no benefit or say in their administration.

Critical Thinking

- How is the ancient concept of distributive justice understood in today's political debate?
- What are the underlying values that inform each side of the debate (e.g., values like wealth maximization and corporate social responsibility)?
- Can these sides be reconciled and, if so, what must happen to bring them together? Does virtue have a role to play here; if so, how?

LINK TO LEARNING

For a further discussion of justice, read this article on justice and fairness (https://openstax.org/l/53justice) from the Markkula Center for Applied Ethics.

How, exactly, did honor and deliberative prudence prevent someone from acting foolishly in life and unethically in business? And what does it look like to follow these virtues today?

2.2 Ethical Advice for Nobles and Civil Servants in Ancient China

Learning Objectives

By the end of this section, you will be able to:

- Identify the key features of Confucian virtue ethics
- Explain how Confucian virtue ethics can be applied to contemporary business

The teachings and writings of Confucius (551–479 BCE; also called Kung Fu Tzu or Master Kung) not only have endured more than two and a half millennia but have influenced Chinese culture to such a degree that they remain part of the national character. In classical Confucianism, the practice of virtue constitutes the essence of governance. Differing from Aristotelian virtue (*arête*), Confucian virtue emphasizes relationships. Aristotle shows how a self-determining person might live well in society. Confucius showed how a relationship-determining person can live well with others. The reasons for this distinction will become clearer throughout the section.

As an iconic figure, Confucius had an impact on politics, literature, civil administration, diplomacy, and religion in China. Yet, by most accounts, he considered himself a failure, never having achieved the position and security he sought during his lifetime. However, his story is a testament to the reward of a life lived with integrity and simplicity.

Social Upheaval in Ancient China

More than a century and a half before Aristotle and on the other side of the globe, Confucius, a wandering preacher from the principality of Lu in China, also struggled to answer life's questions, although in a practical rather than a philosophical way. Confucius committed himself to healing the social divisions that were tearing China apart under the declining Zhou Dynasty. Those divisions led to what historians call the "Period of the Warring States," which persisted for two hundred years after Confucius's death. It was a time of constant warfare and violence.[16] To counter the social disintegration he found everywhere, Confucius looked to the past, or "the wisdom of the ancients." He called for a "return to ***li***," which was the proper order of the universe in which everyone had a role to play and there was harmony in the world.[17]

We might see this harmony in a contemporary business setting as a team of people bringing different talents to bear on a specific project for the good (and profit) of the company. In this sense, ***li*** refers to doing those tasks in collaboration with others to achieve the mission of the organization. For Confucius, *li* was expressed through ritual acts. When the correct rituals were followed in the right way with the right intention for the right end, all was well. Of course, corporate rituals also exist, and like all ritual acts, they reinforce cohesion and identity within the group. Identifying them helps improve employee awareness, productivity, and, perhaps, happiness. One example of this would be new-employee orientation, which is intended to acclimate newcomers to the corporate culture, the company ethos, and the traditions associated with the way the firm does business. Finally, anticipating Aristotle's golden mean, *li* emphasized the middle ground between deficiency and excess. "Nothing in excess" was its guiding principle.[18]

Huston Smith, noted historian of world religions, has observed that the widespread adoption of Confucius's teachings within a generation of his death was not due to the originality of his ideas.[19] What made the humble scholar the greatest cultural force in China's history was chance. Confucius appeared on the scene at the right time, offering a fractured country an alternative to two extremes, neither of which was working. These were a realism that was tyrannical and relied on brute force to restrain the rivaling factions, and an idealistic approach called Mohism that was based on universal love and mutual aid. Confucius rejected the first as crude and the second as utopian.[20] Instead, he offered a practical but empathetic approach, a sort of tough love for the times.

LINK TO LEARNING

Read this article that gives a helpful historical background on Confucianism (https://openstax.org/l/53Confucianism) to learn more.

Confucian Virtue Ethics

Scholars believe that, like Aristotle, Confucius stressed the virtuous life in his ethical system, with the goal of creating a ***junzi***, or a person who was gracious, magnanimous, and cultured: in other words, a flourishing human being. A *junzi* exhibited refinement, self-control, and balance in all things, acting neither rashly nor timidly. Such a person was the opposite of a "small" individual, who spent his or her time embroiled in petty rivalries and for whom power was the ultimate measure of success.

The concept of *junzi* and the Aristotelian magnanimous individual have much in common, except that for Confucius, there was added urgency. To be a *junzi* was a matter not just of honor but of survival. It is no exaggeration to say that China's very existence depended upon the ability of individuals—nobles and peasants alike—to rise above the barbarity around them and embrace a way of life directed both outward toward social, political, and administrative reform and inward toward spiritual development. Confucius (Figure 2.4) believed that living the virtues he taught would achieve both these ends.

Figure 2.4 Confucius (Kung Fu-tzu or Master Kung), depicted here in front of the Confucius Temple in Beijing, lived during a turbulent period in China's history. He sought to end violence and chaos through a return to order, harmony, and reverence, especially within the family. (credit: "KongZi, Confucius Temple with Gold Roof, Main Statue" by "klarititemplateshop.com"/Flickr, CC BY 2.0)

The keystone of Confucius's deliberate tradition was the *dao* of humanity, or the Way, which established humanity as the answer to rampant lawlessness.[21] Confucius believed people were inherently good and that the way to stop inhuman behavior was to make them even better, or more human. He identified three means to do this, which we explore next: "whole-hearted sincerity and truthfulness," the "constant mean," and "expediency" (*quan*).[22] Specific virtues like moral character, righteousness, wisdom, courage, respect, filial piety, and simplicity formed part of these means. Someone who lived virtuously became more human, which resulted in a flourishing individual and an ordered world.

"Whole-hearted sincerity and truthfulness" meant more than sincerity, because even liars can be convincing. The sincerity Confucius had in mind was closer to loyalty, and the thing to which humans had to be loyal was truth. Confucius intended to counter the blind loyalty that had contributed to the eruption of anarchy throughout China. For instance, if a subject were called upon to offer advice, the subject had to be truthful, even though the ruler might not like the advice, which actually happened to Confucius, causing him to resign his post as minister of justice in Lu.[23] What a subject owed the ruler was not cloying deference but the truth, which would benefit everyone in the long run. The implications for ethical behavior in modern corporations may be obvious. Reporting unethical behavior as a whistleblower or even standing up for truth in a meeting is sometimes easier said than done, which is why living virtuously requires disciplined practice and the support of like-minded individuals.

The "constant mean" refers to balance between excess and deficiency in an existential and in a practical sense. We are to follow the middle path, avoiding extremes of thought and action through ritual acts. We cannot claim to lead a balanced life; we must show it by performing acts that maintain personal and collective order. The *Book of Li* catalogues many of these acts, which form a guide for proper living, indicating the correct way to maintain the five great relationships that support Chinese society: parent/child, husband/wife, elder/junior sibling, master/apprentice, and ruler/subject. Confucius and his peers believed that properly observing these key five relationships was essential for social good and would invoke divine favor on the people.

Note that three of these are relationships within the family. The family was the basic unit of society and Confucius's hope for reform, because it was the primary and most influential school of character, virtue, and conscience. Thus, the return to *li* takes on greater significance than a simple longing for an idyllic past. As Huston Smith noted, "that three of the Five Relationships pertain within the family is indicative of how important Confucius considered this institution to be. In this he was not inventing but continuing the Chinese assumption that the family is the basic unit of society. This assumption is graphically embedded in Chinese legend, which credits the hero who 'invented' the family with elevating the Chinese from the animal to human level."[24]

WHAT WOULD YOU DO?

Yijing

The five great relationships upon which Chinese civilization is built prescribed definite roles for the social classes and sexes. As in ancient Greece, women in ancient China were in charge of domestic duties and care of the family. They were neither expected nor believed able to assume duties outside the home and certainly not in the competitive world of business. Yet consider the fictional case of Yijing.

Yijing was the daughter of the merchant Bei Li, who sold farming tools and agricultural products in Cao, which bordered Lu. Bei Li's business was very successful and he took great pride in it. He had three sons who worked with him, but none had the head for business that his daughter Yijing had. Moreover, none of them wanted to take over the business after his death. When Yijing begged for a chance to run the business for her father, he agreed, but he insisted she disguise herself as a man when traveling and doing business in the family name. If people knew she was a woman, they would ridicule the family and take advantage of her. Although surprised by her father's request, Yijing agreed and eventually took over the business, making it extremely prosperous.

Critical Thinking

If you were Yijing, what would you have done?

For Confucius, the third approach to the Way of humanity was the doctrine of expediency. Where Buddhism and Taoism advocated compassion and Mohism advocated universal love, Confucianism defined righteousness as the virtue that would temper compassion and love so that people could live together not just peacefully but justly.[25] Righteousness included a practical approach to problem solving that helped politics, diplomacy, and civil administration to flourish. This expediency, or ***quan***, is a noteworthy feature of Confucianism. Originally referring to a piece of metal used in balancing scales, *quan* is applied when weighing options in a moral dilemma and acts as a counterbalance to achieve fairness, enabling parties in a transaction to arrive at an equitable agreement. Ultimately, *quan* allows people and institutions to prioritize responsive action over ritual and serves as the way to align what people do with who they are, thus allowing them to become more human. For the businessperson, it might mean not fleeing the "tawdry" world of the marketplace but recognizing the humanity within it.

One example of the use of *quan* is the Broad Group, a Chinese manufacturer of central air conditioning products. The company produces clean energy systems and has developed an alternative to Freon. The new coolant has changed the way energy is delivered to such an extent that Zhang Yue, the company's chief executive officer, was awarded the Champions of the Earth prize by the United Nations in 2011 for his work in green energy.[26] Certainly, there is more opportunity for sustainable manufacturing and ethical business practices throughout China, and the state is attempting to promote such efforts.

A Confucian Business Model

The spirituality that emerges from *quan* as righteousness is not solely about the individual; it is about the act itself, that is, the transaction, whether that takes place in a market, shop, or loading dock. When righteousness is directed outward in this way, it becomes justice, compelling all parties in a transaction to act in good faith or risk upsetting the proper order of things. Justice in this sense allows for wealth creation, investment, and strategic planning as long as all fulfill their roles and act in the manner of a *junzi*. An overarching spirituality of business may even develop, arising from the people who collectively make up the company. This is a traditionally Confucian way of looking at corporate culture, as the reflection of a larger network of relationships.

The other two Confucian ways of humanity also relate to business, because wholeheartedness and sincerity can serve as models of risk assessment, requiring clearheaded thinking and action balanced with respect for markets, competitors, and stakeholders. The *dao* of humanity rejects the premise that greed reigns supreme by itself. Instead, its ethical counterpart is truth. Both qualities exist within business practices. In this ethical framework, loyalty to truth is not just a stock phrase but a commitment to value in all aspects of an enterprise, such as sales, finance, marketing, and the employment and hiring chain. An investment advisor might recommend the constant mean to clients so their money is in a diversified portfolio with a long-term strategy. The *dao* of humanity, wholeheartedness, sincerity, and the other virtues are treated in *The Analects* (Figure 2.5).

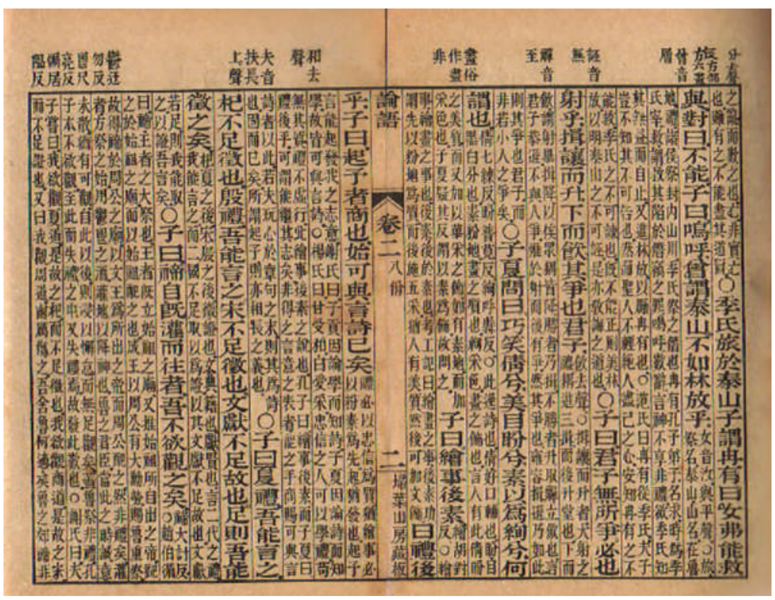


Figure 2.5 *The Analects of Confucius* is a collection of Confucius's teachings and sayings regarding the virtuous life and how to attain harmony. They were compiled by his followers and written with ink and brush on strips of bamboo. (credit: "Rongo Analects 02" by "Fukutaro"/Wikimedia Commons, Public Domain)

Some have criticized Confucianism for impeding progress in China in areas like education, the natural sciences, and business, because it has failed to adapt to the modern context. High-frequency trading, blockchain technology, artificial intelligence, and robotics do not work with cultural values thousands of years old, these critics say, so what we need is a new consciousness for a new era in human history. However, these criticisms miss the point. Confucius was interested in the same thing that concerned Aristotle—namely, the character of the person or persons making decisions rather than the decisions themselves. The importance of character has been proven repeatedly through business scandals like Enron, LIBOR, and the 2008 financial crisis, as well as the recent problems of Uber and Volkswagen, in which personal irresponsibility resulted in disaster. Indeed, business schools now offer seminars for executives integrating virtue ethics—both Aristotelian- and Confucian-inspired models—in leadership development.

LINK TO LEARNING

For a concise breakdown of the rise and collapse of Enron, see The Crime Network's episode on Enron (https://openstax.org/l/53Enron) in its *Corrupt Crimes* series.

The recent campaign of China's central government against unethical business practices has made a point of prosecuting executives for corruption in the form of bribery, kickbacks, and embezzlement, demonstrating that some Confucian thought has survived from ancient times. Jack Ma, cofounder of the giant Chinese ecommerce site Alibaba, has called this "clean communism," which might be another way of characterizing the form of state-sponsored capitalism that exists in China.[27] Of course, the former Communist regime did not embrace Confucian virtue. Mao Zedong was deeply suspicious of Confucius, holding him to be a relic of the Imperial Era and having little value for the new China he intended to create with the founding of the People's Republic of China in 1949.

LINK TO LEARNING

To what extent are children in China responsible for their parents' businesses? In this article, Kelly Zong, daughter of billionaire Zong Qinghua, explains how she believes modern-day China has "lost its soul" (https://openstax.org/l/53China) through selfish individualism and an obsession with wealth. If Kelly Zong is correct, would it be safe to say that China needs another return to ancient wisdom? Why or why not? Do you agree with her assessment of the current generation and individualism?

2.3 Comparing the Virtue Ethics of East and West

Learning Objectives

By the end of this section, you will be able to:

- Compare the origins and goals of virtue ethics in the East and the West
- Describe how these systems each aimed to establish a social order for family and business
- Identify potential elements of a universally applied business ethic

Aristotle and Confucius each constructed an ethical system based on virtue, with Aristotle's ultimate aim being happiness and Confucius's being harmony. Each addressed a particular problem. For Aristotle, happiness consisted of the search for truth, which, in turn, required a centered, stable individual who could surmount misfortune or weak character. Confucius looked to settle the soul of the Chinese people by creating a system that reflected the heavenly order on Earth. Both systems rely on reasoned means to achieve reasoned ends.

East Meets West

Given the vastly different cultural and historical settings of ancient Greece and China, you may be surprised to find similarities between the Aristotelian and Confucian systems of virtue ethics. Yet not only are there similarities but the two systems share the theme of control. For Aristotle, control manifested itself through the deliberative process of *phrónēsis*, resulting in virtuous living, harmony, and happiness. This application of practical wisdom was related to self-restraint, or temperance. In Confucian virtue ethics, control was a function of self-regulation; primitive instincts were held at bay and the person gained the capacity and courage to act more humanely (Figure 2.6). This achievement of control benefited not only the individual but also the family and, by extension, the nation. Self-regulation was Confucius's way of establishing order.

	CONTROL	
	Aristotle	Confucius
Characteristics	*phrónēsis* self-restraint temperance	self-regulation ability courage
Behavior	virtuous living harmony happiness	*junzi* *ru* (humanity)

Figure 2.6 The Aristotelian and Confucian systems of virtue ethics have in common the theme of control, as this comparison shows. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

In a business context, control bears directly on **managerial ethics**, which is a way of relating to self, employees, and the organization that balances individual and collective responsibility, and in which management also includes planning, organizing, and leading to achieve organizational goals.[28] A self-controlled, disciplined manager is able to work through layers of bureaucracy and the complexities of human interaction to attain goals in a way that is responsible and profitable and that enhances the organization's mission and culture. These goals are achieved not at the expense of stakeholders but in a way that is fair for all. We might even say that righteousness leads to justice, which includes profit. We saw earlier that neither Aristotle nor Confucius disapproved of profit as long as it benefitted humanity in some way. Both men would have a very definite opinion about the optimization of shareholder wealth.

Despite these similarities between the two traditions, there are differences—the most notable being the locus of ethics. Aristotle placed this locus on individuals, who were called to fulfill their purpose honorably, accepting fate with dignity and aplomb. The basis of this acceptance was reason. For Confucius, reflecting the historical plight of China, the locus was the family, which he envisioned as putting an end to anarchy and setting the nation on its proper course by providing the basic pattern of relationships for personal and professional life. To be sure, family counted for Aristotle just as the individual counted for Confucius, but the emphasis in each system was different. Aristotle acknowledged that “a solitary man has a hard life, because it is not easy to keep up a continuous activity by oneself; but in company with others and in relation to others it is easier.”[29]

Regardless of the source of ethical behavior, those engaged in business were required to act with accountability and responsibility. They were accountable to customers and suppliers when delivering commodities like figs, pottery, or olive oil. And they had to conduct themselves responsibly to maintain their personal and professional reputation. Thus, business was the perfect expression of ethics in both East and West, because it provided a forum within which virtues were tested in very real ways. Confucius urged each follower to be a great or humane person, or *ru*, not a small one.[30] This was so important that the school established after his death was known as the Ru School, and the principles it taught are called Ruism.[31]

Personal and Professional Roles

Another important characteristic of Eastern and Western systems of virtue ethics is the integration of personal and professional life. A person could not act one way at home and a completely different way in public, especially civic leaders, merchants, teachers, and rulers. The modern tendency to compartmentalize various aspects of ourselves to accommodate circumstances would have puzzled those living in ancient Greece or China. A retail manager who contributes generously to help protect endangered species but thinks nothing of working the sales staff to the point of burnout to achieve monthly goals has not successfully integrated the personal and the professional, for instance, and even poses obstacles to individual happiness and life in the community. Everyone desires efficiency in business, but compartmentalizing our personal and professional ideals can lead to “dispersed personal accountability” in an organization and the kind of financial meltdown that occurred, through greed and rule-breaking, in the housing and financial industries and led to the worldwide recession of 2008.[32]

What might the integration of personal and professional life look like, and how can we apply it within the relationships that are the foundation of business? To answer this question, consider the essence of the virtuous person that each ethical system strove to create. For Aristotle, the virtuous person saw the truth in every kind of situation. Once acknowledged and recognized, the truth could not be denied without compromising honor. Similarly, Confucius taught that “A gentleman will not, for the space of a meal, depart from humanity. In haste and flurry, he adheres to it; in fall and stumble, he adheres by it.”[33]

Despite the emphasis these systems placed on character, however, character was not ultimately what defined the virtuous individual, family, city-state, or nation. Instead, it was the individual’s transformation, through education, into a different kind of being who will act virtuously even if no one is watching. When the person concentrates on the means used to achieve an end, eventually the means become a way of life even more important than the end itself. It is not merely that the means must match the end, but that they come to define the virtuous person.

The integration of personal and professional lives has two effects: motive and awareness. Motive is the willingness to do the right thing because it is the right thing, even though there may be no perceived benefit. Arguably, it is here that the individual’s true nature is revealed. The other effect, awareness, is the ability to see the ethical dimension in all events, choices, decisions, and actions. Many business scandals could be avoided if more people understood the value of human capital and the need to see the larger picture; to put it differently: responsibility over profitability. Or, as Confucius would say, it is the person who can broaden the Way, not the Way that broadens the person.[34]

Is There a Universal Ethics?

A fundamental question in the study of ethics is whether we can identify universal, objective moral truths that cut across cultures, geographic settings, and time. At the most foundational level, the answer might be yes. As Aristotle noted, ethics is not a science but an art.[35] Perhaps the best way to answer the question is to consider the methods used for moral decision-making. This strategy would be in line with Aristotelian and Confucian models if we assume that once they attain insight, most people will follow their conscience and act in reasonable, responsible ways. Methods of decision-making then could be adapted to any context or dilemma. But what constitutes a reasonable, responsible method, and who gets to choose it?

It is possible that standards of ethical conduct could be created to guide business affairs fairly and justly. Such standards already exist in most industries and professions. The Generally Accepted Accounting Principles (GAAP) give direction to those working in accounting and finance in the United States. The International Standards Organization offers guidelines and protocols for many industries. Together with governmental regulation, these might serve as the basis for ethical behavior, perhaps even globally. Of course, those fashioning guidelines would have to be sensitive to individual autonomy and national sovereignty, especially when it comes to international jurisdiction, privacy, and human rights. For example, the International Financial Reporting Standards serve as a kind of international GAAP to help companies report financial results in a common accounting language across national boundaries.

Despite our best efforts, someone who wishes to conduct business selfishly and unethically always will be drawn to do so unless given a compelling incentive not to. It is evident why Aristotle and Confucius stressed the importance of schooling. Perhaps what is needed now, building on these two ancient approaches, is business education focused on transformation rather than on conformity to guidelines. This proposal touches the core of both Aristotelian and Confucian teachings: training and education. Training and education help internalize in us more altruistic business practices. They also permit greater integration between our personal and professional understandings of the way we should treat friends, family, customers, and clients. No matter the context, we are then encouraged to treat others with honesty and respect, so that even someone certain to get away with the most outrageous corruption or money-laundering scheme would not do it. Why not? Because doing so would be a betrayal of the person’s conscience and identity. A business education that is truly effective—one for the twenty-first century—would produce a graduate who could stand up and say no to that kind of self-betrayal.

WHAT WOULD YOU DO?

Scenario with Aristotle and Confucius

Imagine a scenario in which Aristotle and Confucius sit down to discuss Chiquita Brands International, a global produce conglomerate that paid “protection” money to right-wing and Marxist guerrilla groups in Colombia between 1997 and 2004 to ensure there would be no violence against its employees, banana plantations, and facilities. The payment violated the U.S. Foreign Corrupt Practices Act (1977), which prohibits bribes and kickbacks to foreign officials. Chiquita claimed it was the victim of extortion and had no choice. However, for its actions, it eventually paid $25 million in fines to the U.S. government. In 2007, a group of Colombians filed a lawsuit against the company under the Alien Tort Claims Act, alleging that, because of its illegal payments, Chiquita was "complicit in extrajudicial killings, torture, forced disappearances, and crimes against humanity" perpetrated against plantation workers by the guerilla "death squads."[36] The case went to the U.S. Supreme Court in 2015, but the Court declined to hear it.

Critical Thinking

- What do you suppose Confucius and Aristotle, teachers of virtue ethics, would say about the Colombians' case, and how would they go about assessing responsibility? What would they identify as the crime committed? Would they think the executives at Chiquita had acted prudently, cravenly, or deceitfully?
- What would you do if confronted with this case?

LINK TO LEARNING

The Business and Human Rights Resource Centre provides helpful, detailed information concerning ethics cases and the role of business in society, including more information about the Chiquita lawsuit (https://openstax.org/l/53Chiquita) and other interesting cases.

2.4 Utilitarianism: The Greatest Good for the Greatest Number

Learning Objectives

By the end of this section, you will be able to:

- Identify the principle elements of Jeremy Bentham's utilitarianism
- Distinguish John Stuart Mill's modification of utilitarianism from Bentham's original formulation of it
- Evaluate the role of utilitarianism in contemporary business

Although the ultimate aim of Aristotelian virtue ethics was *eudaimonia*, later philosophers began to question this notion of happiness. If happiness consists of leading the good life, what is good? More importantly, who decides what is good? Jeremy Bentham (1748–1842), a progressive British philosopher and jurist of the Enlightenment period, advocated for the rights of women, freedom of expression, the abolition of slavery and of the death penalty, and the decriminalization of homosexuality. He believed that the concept of good could be reduced to one simple instinct: the search for pleasure and the avoidance of pain. All human behavior could be explained by reference to this basic instinct, which Bentham saw as the key to unlocking the workings of the human mind. He created an ethical system based on it, called utilitarianism. Bentham's protégé, John Stuart Mill (1806–1873), refined Bentham's system by expanding it to include human rights. In so doing, Mill reworked Bentham's utilitarianism in some significant ways. In this section we look at both systems.

Maximizing Utility

During Bentham's lifetime, revolutions occurred in the American colonies and in France, producing the Bill of Rights and the *Déclaration des Droits de l'Homme* (Declaration of the Rights of Man), both of which were based on liberty, equality, and self-determination. Karl Marx and Friedrich Engels published *The Communist Manifesto* in 1848. Revolutionary movements broke out that year in France, Italy, Austria, Poland, and elsewhere.[37] In addition, the Industrial Revolution transformed Great Britain and eventually the rest of Europe from an agrarian (farm-based) society into an industrial one, in which steam and coal increased manufacturing production dramatically, changing the nature of work, property ownership, and family. This period also included advances in chemistry, astronomy, navigation, human anatomy, and immunology, among other sciences.

Given this historical context, it is understandable that Bentham used reason and science to explain human behavior. His ethical system was an attempt to quantify happiness and the good so they would meet the conditions of the scientific method. Ethics had to be empirical, quantifiable, verifiable, and reproducible across time and space. Just as science was beginning to understand the workings of cause and effect in the body, so ethics would explain the causal relationships of the mind. Bentham rejected religious authority and wrote a rebuttal to the Declaration of Independence in which he railed against natural rights as "rhetorical nonsense, nonsense upon stilts."[38] Instead, the fundamental unit of human action for him was *utility*—solid, certain, and factual.

What is utility? Bentham's fundamental axiom, which underlies utilitarianism, was that all social morals and government legislation should aim for producing the greatest happiness for the greatest number of people. Utilitarianism, therefore, emphasizes the consequences or ultimate purpose of an act rather than the character of the actor, the actor's motivation, or the particular circumstances surrounding the act. It has these characteristics: (1) universality, because it applies to all acts of human behavior, even those that appear to be done from altruistic motives; (2) objectivity, meaning it operates beyond individual thought, desire, and perspective; (3) rationality, because it is not based in metaphysics or theology; and (4) quantifiability in its reliance on utility.[39]

ETHICS ACROSS TIME AND CULTURES

The "Auto-Icon"

In the spirit of utilitarianism, Jeremy Bentham made a seemingly bizarre request concerning the disposition of his body after his death. He generously donated half his estate to London University, a public university open to all and offering a secular curriculum, unusual for the times. (It later became University College London.) Bentham also stipulated that his body be preserved for medical instruction (Figure 2.7) and later placed on display in what he called an "auto-icon," or self-image. The university agreed, and Bentham's body has been on display ever since. Bentham wanted to show the importance of donating one's remains to medical science in what was also perhaps his last act of defiance against convention. Critics insist he was merely eccentric.

Figure 2.7 At his request, Jeremy Bentham's corpse was laid out for public dissection, as depicted here by H.H. Pickersgill in 1832. Today, his body is on display as an "auto-icon" at University College, London, a university he endowed with about half his estate. His preserved head is also kept at the college, separate from the rest of the body.) (credit: "Mortal Remains of Jeremy Bentham, 1832" by Weld Taylor and H. H. Pickersgill/Wikimedia Commons, CC BY 4.0)

Critical Thinking

- What do you think of Bentham's final request? Is it the act of an eccentric or of someone deeply committed to the truth and courageous enough to act on his beliefs?
- Do you believe it makes sense to continue to honor Bentham's request today? Why is it honored? Do requests have to make sense? Why or why not?

Bentham was interested in reducing utility to a single index so that units of it could be assigned a numerical and even monetary value, which could then be regulated by law. This **utility function** measures in "utils" the value of a good, service, or proposed action relative to the utilitarian principle of the greater good, that is, increasing happiness or decreasing pain. Bentham thus created a "hedonic calculus" to measure the utility of proposed actions according to the conditions of intensity, duration, certainty, and the probability that a certain consequence would result.[40] He intended utilitarianism to provide a reasoned basis for making judgments of value rather than relying on subjectivity, intuition, or opinion. The implications of such a system on law and public policy were profound and had a direct effect on his work with the British House of Commons, where he was commissioned by the Speaker to decide which bills would come up for debate and vote. Utilitarianism provided a way of determining the total amount of utility or value a proposal would produce relative to the harm or pain that might result for society.

Utilitarianism is a consequentialist theory. In **consequentialism**, actions are judged solely by their consequences, without regard to character, motivation, or any understanding of good and evil and separate from their capacity to create happiness and pleasure. Thus, in utilitarianism, it is the consequences of our actions that determine whether those actions are right or wrong. In this way, consequentialism differs from Aristotelian and Confucian virtue ethics, which can accommodate a range of outcomes as long as the character of the actor is ennobled by virtue. For Bentham, character had nothing to do with the utility of an action. Everyone sought pleasure and avoided pain regardless of personality or morality. In fact, too much reliance on character might obscure decision-making. Rather than making moral judgments, utilitarianism weighed acts based on their potential to produce the most good (pleasure) for the most people. It judged neither the good nor the people who benefitted. In Bentham's mind, no longer would humanity depend on inaccurate and outdated moral codes. For him, utilitarianism reflected the reality of human relationships and was enacted in the world through legislative action.

To illustrate the concept of consequentialism, consider the hypothetical story told by Harvard psychologist Fiery Cushman. When a man offends two volatile brothers with an insult, Jon wants to kill him; he shoots but misses. Matt, who intends only to scare the man but kills him by accident, will suffer a more severe penalty than his brother in most countries (including the United States). Applying utilitarian reasoning, can you say which brother bears greater guilt for his behavior? Are you satisfied with this assessment of responsibility? Why or why not?[41]

LINK TO LEARNING

A classic utilitarian dilemma considers an out-of-control streetcar and a switch operator's array of bad choices. Watch the video on the streetcar thought experiment (https://openstax.org/l/53streetcar) and consider these questions. How would you go about making the decision about what to do? Is there a right or wrong answer? What values and criteria would you use to make your decision about whom to save?

Synthesizing Rights and Utility

As you might expect, utilitarianism was not without its critics. Thomas Hodgskin (1787–1869) pointed out what he said was the "absurdity" of insisting that "the rights of man are derived from the legislator" and not nature.[42] In a similar vein, the poet Samuel Taylor Coleridge (1772–1834) accused Bentham of mixing up morality with law.[43] Others objected that utilitarianism placed human beings on the same level as animals and turned people into utility functions. There were also complaints that it was mechanistic, antireligious, and too impractical for most people to follow. John Stuart Mill sought to answer these objections on behalf of his mentor but then offered a synthesis of his own that brought natural rights together with utility, creating a new kind of utilitarianism, one that would eventually serve to underpin neoclassical economic principles.[44]

Mill's father, James, was a contemporary and associate of Bentham's who made sure his son was tutored in a rigorous curriculum. According to Mill, at an early age he learned enough Greek and Latin to read the historians Herodotus and Tacitus in their original languages.[45] His studies also included algebra, Euclidean geometry, economics, logic, and calculus.[46] His father wanted him to assume a leadership position in Bentham's political movement, known as the Philosophical Radicals.[47] Unfortunately, the intensity and duration of Mill's schooling—utilitarian conditions of education—were so extreme that he suffered a nervous breakdown at the age of twenty years. The experience left him dissatisfied with Bentham's philosophy of utility and social reform. As an alternative, Mill turned to Romanticism and poets like Coleridge and Johann Wolfgang Goethe (1749–1832).[48] What he ended up with, however, was not a rejection of utilitarianism but a synthesis of utility and human rights.

Why rights? No doubt, Mill's early life and formation had a great deal to do with his championing of individual freedom. He believed the effort to achieve utility was unjustified if it coerced people into doing things they did not want to do. Likewise, the appeal to science as the arbiter of truth would prove just as futile, he believed, if it did not temper facts with compassion. “Human nature is not a machine to be built after a model, and set to do exactly the work prescribed for it, but a tree, which requires to grow and develop itself on all sides, according to the tendency of the inward forces which make it a living thing,” he wrote.[49] Mill was interested in humanizing Bentham’s system by ensuring that everyone’s rights were protected, particularly the minority’s, not because rights were God given but because that was the most direct path to truth. Therefore, he introduced the **harm principle**, which states that the “only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant.” [50]

To be sure, there are limitations to Mill’s version of utilitarianism, just as there were with the original. For one, there has never been a satisfactory definition of “harm,” and what one person finds harmful another may find beneficial. For Mill, harm was defined as the set back of one’s interests. Thus, harm was defined relative to an individual’s interests. But what role, if any, should society play in defining what is harmful or in determining who is harmed by someone’s actions? For instance, is society culpable for not intervening in cases of suicide, euthanasia, and other self-destructive activities such as drug addiction? These issues have become part of the public debate in recent years and most likely will continue to be as such actions are considered in a larger social context. We may also define intervention and coercion differently depending on where we fall on the political spectrum.

Considering the social implications of an individual action highlights another limitation of utilitarianism, and one that perhaps makes more sense to us than it would to Bentham and Mill, namely, that it makes no provision for emotional or cognitive harm. If the harm is not measurable in physical terms, then it lacks significance. For example, if a reckless driver today irresponsibly exceeds the speed limit, crashes into a concrete abutment, and kills himself while totaling his vehicle (which he owns), utilitarianism would hold that in the absence of physical harm to others, no one suffers except the driver. We may not arrive at the same conclusion. Instead, we might hold that the driver’s survivors and friends, along with society as a whole, have suffered a loss. Arguably, all of us are diminished by the recklessness of his act.

LINK TO LEARNING

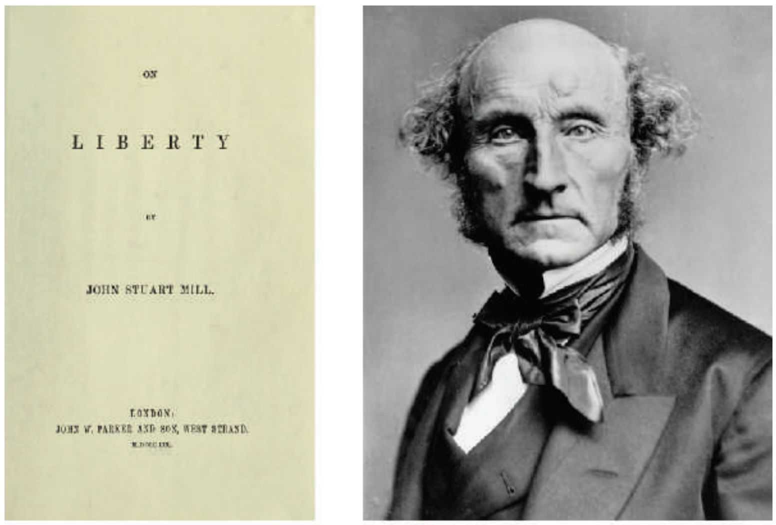
Watch this video for a summary of utilitarian principles (https://openstax.org/l/53utilitarian) along with a literary example of a central problem of utility and an explanation of John Stuart Mill’s utilitarianism.

The Role of Utilitarianism in Contemporary Business

Utilitarianism is used frequently when business leaders make critical decisions about things like expansion, store closings, hiring, and layoffs. They do not necessarily refer to a “utilitarian calculus,” but whenever they take stock of what is to be gained and what might be lost in any significant decision (e.g., in a cost-benefit analysis), they make a utilitarian determination. At the same time, one might argue that a simple cost-benefits analysis is not a utilitarian calculus unless it includes consideration of all stakeholders and a full accounting of externalities, worker preferences, potentially coercive actions related to customers, or community and environmental effects.

As a practical way of measuring value, Bentham’s system also plays a role in risk management. The utility function, or the potential for benefit or loss, can be translated into decision-making, risk assessment, and strategic planning. Together with data analytics, market evaluations, and financial projections, the utility function can provide managers with a tool for measuring the viability of prospective projects. It may even give them an opportunity to explore objections about the mechanistic and impractical nature of utilitarianism, especially from a customer perspective.

Utilitarianism could motivate individuals within the organization to take initiative, become more responsible, and act in ways that enhance the organization's reputation rather than tarnish it. Mill's *On Liberty* (Figure 2.8), a short treatment of political freedoms in tension with the power of the state, underscored the importance of expression and free speech, which Mill saw not as one right among many but as the foundational right, reflective of human nature, from which all others rights derive their meaning. And therein lay the greatest utility for society and business. For Mill, the path to utility led through truth, and the main way of arriving at truth was through a deliberative process that encouraged individual expression and the clash of ideas.


ON

LIBERTY

BY

JOHN STUART MILL.

LONDON:
JOHN W. PARKER AND SON, WEST STRAND.
M.DCCC.LIX.

(a) (b)

Figure 2.8 In *On Liberty* (1859) (a), John Stuart Mill (b) combined utility with human rights. He emphasized the importance of free speech for correcting error and creating value for the individual and society. (credit a: modification of "On Liberty (first edition title page via facsimile)" by "Yodin"/Wikimedia Commons, Public Domain; credit b: modification of "John Stuart Mill by London Stereoscopic Company, c1870" by "Scewing"/Wikimedia Commons, Public Domain)

As for Mill's harm principle, the first question in trying to arrive at a business decision might be, does this action harm others? If the answer is yes, we must make a utilitarian calculation to decide whether there is still a greater good for the greatest number. Then we must ask, who are the others we must consider? All stakeholders? Only shareholders? What does harm entail, and who decides whether a proposed action might be harmful? This was the reason science and debate were so important to Mill, because the determination could not be left to public opinion or intuition. That was how tyranny started. By introducing deliberation, Mill was able to balance utility with freedom, which was a necessary condition for utility.

Where Bentham looked to numerical formulas for determining value, relying on the objectivity of numbers, Mill sought value in reason and in the power of language to clarify where truth lies. The lesson for contemporary business, especially with the rise of big data, is that we need both numbers and reasoned principles. If we apply the Aristotelian and Confucian rule of the mean, we see that balance of responsibility and profitability makes the difference between sound business practices and poor ones.

2.5 Deontology: Ethics as Duty

Learning Objectives

By the end of this section, you will be able to:

- Explain Immanuel Kant’s concept of duty and the categorical imperative
- Differentiate between utilitarianism and deontology
- Apply a model of Kantian business ethics

Unlike Bentham and Mill, Immanuel Kant (1724–1804) was not concerned with consequences of one’s actions or the harm caused to one’s individual interests. Instead, he focused on motives and the willingness of individuals to act for the good of others, even though that action might result in personal loss. Doing something for the right reason was much more important to Kant than any particular outcome.

Aroused From “Dogmatic Slumber”

In 1781, at the age of fifty-six years, Kant published *Critique of Pure Reason* (*Kritik der Reinen Vernunft*) in Königsberg, Prussia (Figure 2.9).[51] Almost immediately, it transformed him from an obscure professor of metaphysics and logic into a preeminent figure in the world of philosophy. In the 800-page tome, Kant criticized the way rationalism (“pure reason”) had assumed the mantle of absolute truth, supplanting both religious faith and empirical science. Kant referred to the unquestioned acceptance of rationalism as *dogmatism*. Whether Christian or revolutionary, dogmatic thinking was to be avoided because it obscured the truths of science and religion through flawed logic.

(a) (b)

Figure 2.9 First published in 1781, Immanuel Kant’s *Critique of Pure Reason* provided a new system for understanding experience and reality. It defended religious faith against atheism and the scientific method against the skepticism of the Enlightenment. (credit a: modification of “Immanuel Kant (1724-1804)” by “Daube aus Böblingen”/Wikimedia Commons, Public Domain; credit b: modification of “Title page of 1781 edition of Immanuel Kant's Critique of Pure Reason” by “Tomisti”/Wikimedia Commons, Public Domain)

Kant credited the skepticism of empirical philosopher David Hume (1711–1776) with awakening him from "dogmatic slumber," although he disagreed with Hume, who claimed that the mind did not exist at all but was the result of mental associations derived from sensory experience.[52] For Kant, reality could be discerned not through reasoning or sensory experience alone but only by understanding the nature of the human mind. Kant argued that sensory experience did not create the mind but rather that the mind created experience through its internal structures. And within the mind's complex structures there also existed an inherent and unconditional duty to act ethically, which Kant called the "categorical imperative," first outlined in *Groundwork of the Metaphysic of Morals* (1785).[53]

In its initial form, Kant's described his concept of the **categorical imperative** as follows: "Act only according to that maxim whereby you can, at the same time, will that it should become a universal law."[54] Kant's categorical (or unconditional) imperative has practical applications for the study of ethics. The categorical imperative contains two major suppositions: (1) We must act on the basis of goodwill rather than purely on self-interested motives that benefit ourselves at the expense of others; (2) we must never treat others as means toward ends benefitting ourselves without consideration of them also as ends in themselves. Kant held that observing the categorical imperative as we consider what actions to take would directly lead to ethical actions on our part.

LINK TO LEARNING

Watch this video about the categorical imperative (https://openstax.org/l/53categorical) to learn more.

How do you see the imperative working in your own life? Within your family? In your personal and professional relationships? Does Kant's understanding of the relationship between art and beauty accord with your own?

In Kant's view, rationalism and empiricism prevented people from perceiving the truth about their own nature. What was that truth? What was sufficient to constitute it? Kant identified an a priori world of knowledge and understanding in which truth lay in the structures and categories of the mind that were beyond perception and reason. This was a radical concept for the times.

In the end, Kant's systematic analysis of knowing and understanding provided a much-needed counterweight to the logic of Enlightenment rationalism. The existence of the mental structures he proposed has even been confirmed today. For instance, the scientific consensus is that humans are born with cognitive structures designed specifically for language acquisition and development. Even more surprising, there may be similar cognitive structures for morality, conscience, and moral decision-making.[55] So, it is quite possible that conscience, if not happiness, may have a genetic component after all, although Kant himself did not believe the categories of the understanding or the a priori structures of the mind were biological.

LINK TO LEARNING

Read a good survey of Kant's critique of Enlightenment rationalism and of empiricism (https://openstax.org/l/53KantCritique) in this article.

Utilitarianism and Deontology

From a Kantian perspective, it is clear that adherence to duty is what builds the framework for ethical acts. This is in direct contradiction of Bentham's view of human nature as selfish and requiring an objective calculus for ethical action to result. Kant rejected the idea of such a calculus and believed, instead, that perceptions were organized into preexisting categories or structures of the mind. Compare his notion of an ordered and purposeful universe of laws with the similar *logos*, or logic, of the ancient Greeks. One of those laws included implementation of the categorical imperative to act ethically, in accordance with our conscience. However, even though that imperative ought to be followed without exception, not everyone does so. In Kant's moral teachings, individuals still had free will to accept or reject it.

There is a definite contrast between utilitarianism, even Mill's version, and Kant's system of ethics, known as deontology, in which duty, obligation, and good will are of the highest importance. (The word is derived from the Greek *deon*, meaning duty, and *logos* again, here meaning organization for the purpose of study.[56]) An ethical decision requires us to observe only the rights and duties we owe to others, and, in the context of business, act on the basis of a primary motive to do what is right by all stakeholders. Kant was not concerned with utility or outcome—his was not a system directed toward results. The question for him was not how to attain happiness but how to become worthy of it.

Rather like Aristotle and Confucius, Kant taught that the transcendent aspects of human nature, if followed, would lead us inevitably to treat people as ends rather than means. To be moral meant to renounce uninformed dogmatism and rationalism, abide by the categorical imperative, and embrace freedom, moral sense, and even divinity. This was not a lofty or unattainable goal in Kant's mind, because these virtues constituted part of the systematic structuring of the human mind. It could be accomplished by living truthfully or, as we say today, authentically. Such a feat transcended the logic of both rationalism and empiricism.

WHAT WOULD YOU DO?

Les Misérables

You may have seen the very popular Broadway show or movie *Les Misérables*, based on Victor Hugo's epic nineteenth-century French novel of the same name. The main character, Jean Valjean, steals a loaf of bread to feed his sister's starving family and is arrested and sent to prison. If we apply conventional reasoning and principles of law to his crime, Valjean genuinely is guilty as charged and we do not need to consider any extenuating circumstances. However, in a Kantian ethical framework, we would take into account Valjean's motives as well as his duty to treat his sister's family as ends in themselves who deserve to live. Valjean's fate demonstrates what might occur when there is a gap between the legal and the moral. Clearly, Valjean broke the law by stealing the bread. However, he acted morally by correcting a wrong and possibly saving human lives. According to Kantian ethics, Valjean may have been ethical in stealing bread for his family, particularly because the action was grounded in good will and provided benefit to others more than to himself.

Critical Thinking

- It has been said that in Kantian ethics, duty comes before beauty and morality before happiness. Can you think of other instances when it is appropriate to break one moral code to satisfy another, perhaps greater one? What are the deciding factors in each case?
- What would you do if you were Jean Valjean?

Kantian Business Ethics

Unlike utilitarianism, which forms the philosophical foundation for most cost-benefit analysis in business, Kantian ethics is not so easily applied. On one hand, it offers a unique opportunity for the development of individual morality through the categorical imperative to act ethically, which emphasizes humanity and autonomy.[57] This imperative addresses one major side of business ethics: the personal. Character and moral formation are crucial to creating an ethical culture. Indeed, business ethics is littered with cases of companies that have suffered damaging crises due to their leaders' lack of commitment to act on the basis of a good will and with regard for what benefits others. Recent examples include Uber, where a toxic work environment was allowed to prevail, and Volkswagen, which knowingly misrepresented the emissions level of its cars.[58] Such examples exist in government as well, as the recent Theranos and "Fat Leonard" scandals confirm.[59] The latter consisted of graft and corruption in the U.S. Navy's Pacific fleet and has been a continual source of embarrassment for an institution that prides itself on the honorable conduct of its officers. One person can make a difference, either positively or negatively.

On the other hand, Kant's categorical imperative is just that: categorical or unconditional. It calls for morally upright behavior regardless of external circumstance or the historical context of a proposed act or decision. Kant affirmed that "the moral law is an imperative, which commands categorically, because the law is unconditioned."[60] Unconditional ethics could be a challenge for a global organization dealing with suppliers, customers, and competitors in sometimes vastly different cultures. It raises a larger philosophical issue: namely, was Kant correct in believing that morality and mental categories are independent of experience? Or can they be culturally conditioned, and, if so, does that make them relative rather than absolute, as Kant believed them to be?

This question whether ethics is universal is distinctly Kantian, because Kant believed that not only must a moral agent act with others' interests in mind and have the right intentions, but also that the action be universally applicable. Think of how Kantian ethics might be applied not just on an individual level but throughout an organization, and then society. Kant would judge a corporate act to be ethical if it benefitted others at the same time it benefitted company leadership and stockholders, and if it did not place their interests above those of other stakeholders. If loyalty to a coworker conflicted with loyalty to a supervisor or the organization, for instance, then acts resulting from such loyalty might not meet the conditions of deontology. Either the supervisor or the company would be treated as a means rather than an end. Although the qualitative or humanizing element of Kantian ethics has broad appeal, it runs into limitations in an actual business setting. Whether the limitations have good or bad effects depends on the organization's culture and leadership. In general, however, most companies do not adhere to strict Kantian theories, because they look to the outcome of their decisions rather than focusing on motives or intentions.

CASES FROM THE REAL WORLD

Samsung

In the fall of 2016, Samsung Electronics experienced a massive public relations disaster when its Galaxy Note 7 smartphones started exploding due to faulty batteries and casings. Initially, the company denied there were any technical problems. Then, when it became obvious the exploding phones posed a safety and health threat (they were banned from airplanes), Samsung accused its suppliers of creating the problem. In reality, the rush to beat Apple's iPhone 7 release date was the most likely reason corners were cut in production. Samsung finally owned up to the problem, recalled more than two million phones worldwide, and replaced them with new, improved Galaxy Note 7s.

The company's response and its replacement of the phones went a long way toward defusing the disaster and even boosting the company's share price. Whether management knew it, its response was Kantian. Samsung focused on the end (i.e., customer safety and satisfaction) with the motive of doing the ethically responsible thing. Although some might argue the company could have done far more and much more quickly, perhaps it still acted in accordance with the categorical imperative. What do you think?

Critical Thinking

- How might the categorical imperative become a part of organizational culture? Could it ever work in business?
- Do you see the categorical imperative as applicable to your own interests and hope for a career?

2.6 A Theory of Justice

Learning Objectives

By the end of this section, you will be able to:

- Evaluate John Rawls's answer to utilitarianism
- Analyze the problem of redistribution
- Apply justice theory in a business context

This chapter began with an image of Justice holding aloft scales as a symbol of equilibrium and fairness. It ends with an American political philosopher for whom the equal distribution of resources was a primary concern. John Rawls (1921–2002) wanted to change the debate that had prevailed throughout the 1960s and 1970s in the West about how to maximize wealth for everyone. He sought not to maximize wealth, which was a utilitarian goal, but to establish justice as the criterion by which goods and services were distributed among the populace. Justice, for Rawls, had to do with fairness—in fact, he frequently used the expression **justice as fairness**—and his concept of fairness was a political one that relied on the state to take care of the most disadvantaged. In his **justice theory**, offered as an alternative to the dominant utilitarianism of the times, the idea of fairness applied beyond the individual to include the community as well as analysis of social injustice with remedies to correct it.

Justice Theory

Rawls developed a theory of justice based on the Enlightenment ideas of thinkers like John Locke (1632–1704) and Jean-Jacques Rousseau (1712–1778), who advocated **social contract theory**. Social contract theory held that the natural state of human beings was freedom, but that human beings will rationally submit to some restrictions on their freedom to secure their mutual safety and benefit, not subjugation to a monarch, no matter how benign or well intentioned. This idea parallels that of Thomas Hobbes (1588–1679), who interpreted human nature to be selfish and brutish to the degree that, absent the strong hand of a ruler, chaos would result. So people willingly consent to transfer their autonomy to the control of a sovereign so their very lives and property will be secured. Rousseau rejected that view, as did Rawls, who expanded social contract theory to include justice as fairness. In *A Theory of Justice* (1971), Rawls introduced a universal system of fairness and a set of procedures for achieving it. He advocated a practical, empirically verifiable system of governance that would be political, social, and economic in its effects.

Rawls's justice theory contains three principles and five procedural steps for achieving fairness. The principles are (1) an "original position," (2) a "veil of ignorance," and (3) unanimity of acceptance of the original position.[61] By **original position**, Rawls meant something akin to Hobbes' understanding of the state of nature, a hypothetical situation in which rational people can arrive at a contractual agreement about how resources are to be distributed in accordance with the principles of justice as fairness. This agreement was intended to reflect not present reality but a desired state of affairs among people in the community. The **veil of ignorance** (Figure 2.10) is a condition in which people arrive at the original position imagining they have no identity regarding age, sex, ethnicity, education, income, physical attractiveness, or other characteristics. In this way, they reduce their bias and self-interest. Last, **unanimity of acceptance** is the requirement that all agree to the contract before it goes into effect. Rawls hoped this justice theory would provide a minimum guarantee of rights and liberties for everyone, because no one would know, until the veil was lifted, whether they were male, female, rich, poor, tall, short, intelligent, a minority, Roman Catholic, disabled, a veteran, and so on.

The five procedural steps, or "conjectures," are (1) entering into the contract, (2) agreeing unanimously to the contract, (3) including basic conditions in the contract such as freedom of speech, (4) maximizing the welfare of the most disadvantaged persons, and (5) ensuring the stability of the contract.[62] These steps create a system of justice that Rawls believed gave fairness its proper place above utility and the bottom line. The steps also supported his belief in people's instinctual drive for fairness and equitable treatment. Perhaps this is best seen in an educational setting, for example, the university. By matriculating, students enter into a contract that includes basic freedoms such as assembly and speech. Students at a disadvantage (e.g., those burdened with loans, jobs, or other financial constraints) are accommodated as well as possible. The contract between the university and students has proven to be stable over time, from generation to generation. This same procedure applies on a micro level to the experience in the classroom between an individual teacher and students. Over the past several decades—for better or worse—the course syllabus has assumed the role of a written contract expressing this relationship.

Rawls gave an example of what he called "pure procedural justice" in which a cake is shared among several people.[63] By what agreement shall the cake be divided? Rawls determined that the best way to divide the cake is to have the person slicing the cake take the last piece. This will ensure that everyone gets an equal amount. What is important is an independent standard to determine what is just and a procedure for implementing it.[64]

The Problem of Redistribution

Part of Rawls's critique of utilitarianism is that its utility calculus can lead to tyranny. If we define pleasure as that which is popular, the minority can suffer in terrible ways and the majority become mere numbers. This became clear in Mills's attempt to humanize Bentham's calculus. But Mills's harm principle had just as bad an effect, for the opposite reason. It did not require anyone to give up anything if it had to be done through coercion or force. To extend Rawls's cake example, if one person owned a bakery and another were starving, like Jean Valjean's sister in *Les Misérables*, utilitarianism would force the baker to give up what he had to satisfy the starving person without taking into account whether the baker had greater debts, a sick spouse requiring medical treatment, or a child with educational loans; in other words, the *context* of the situation matters, as opposed to just the consequences. However, Mill's utilitarianism, adhering to the harm principle, would leave the starving person to his or her own devices. At least he or she would have one slice of cake. This was the problem of distribution and redistribution that Rawls hoped to solve, not by calculating pleasure and pain, profit and loss, but by applying fairness as a normative value that would benefit individuals and society.[65]

The problem with this approach is that justice theory is a radical, egalitarian form of liberalism in which redistribution of material goods and services occurs without regard for historical context or the presumption many share that it inherently is wrong to take the property legally acquired by one and distribute it to another. Rawls has been criticized for promoting the same kind of coercion that can exist in utilitarianism but on the basis of justice rather than pleasure. Justice on a societal level would guarantee housing, education, medical treatment, food, and the basic necessities of life for everyone. Yet, as recent political campaigns have shown, the question of who will pay for these guaranteed goods and services through taxes is a contentious one. These are not merely fiscal and political issues; they are philosophical ones requiring us to answer questions of logic and, especially in the case of justice theory, fairness. And, naturally, we must ask, what is fair?

Rawls's principles and steps assume that the way in which the redistribution of goods and services occurs would be agreed upon by people in the community to avoid any fairness issues. But questions remain. For one, Rawls's justice, like the iconic depiction, is blind and cannot see the circumstances in which goods and services are distributed. Second, we may question whether a notion of fairness is really innate. Third, despite the claim that justice theory is not consequentialist (meaning outcomes are not the only thing that matters), there is a coercive aspect to Rawls's justice once the contract is in force, replacing utility with mandated fairness. Fourth, is this the kind of system in which people thrive and prosper, or, by focusing on the worst off, are initiative, innovation, and creativity dampened on the part of everyone else? Perhaps the most compelling critic of Rawls in this regard was his colleague at Harvard University, Robert Nozick (1938–2002), who wrote *A Theory of Entitlement* (1974) as a direct rebuttal of Rawlsian justice theory.[66] Nozick argued that the power of the state may never ethically be used to deprive someone of property he or she has legally obtained or inherited in order to distribute it to others who are in need of it.

Still, one of the advantages of justice theory over the other ethical systems presented in this chapter is its emphasis on method as opposed to content. The system runs on a methodology or process for arriving at truth through the underlying value of fairness. Again, in this sense it is similar to utilitarianism, but, by requiring unanimity, it avoids the extremes of Bentham's and Mill's versions. As a method in ethics, it can be applied in a variety of ways and in multiple disciplines, because it can be adapted to just about any value-laden content. Of course, this raises the question of content versus method in ethics, especially because ethics has been defined as a set of cultural norms based on agreed-upon values. Method may be most effective in determining what those underlying values are, rather than how they are implemented.

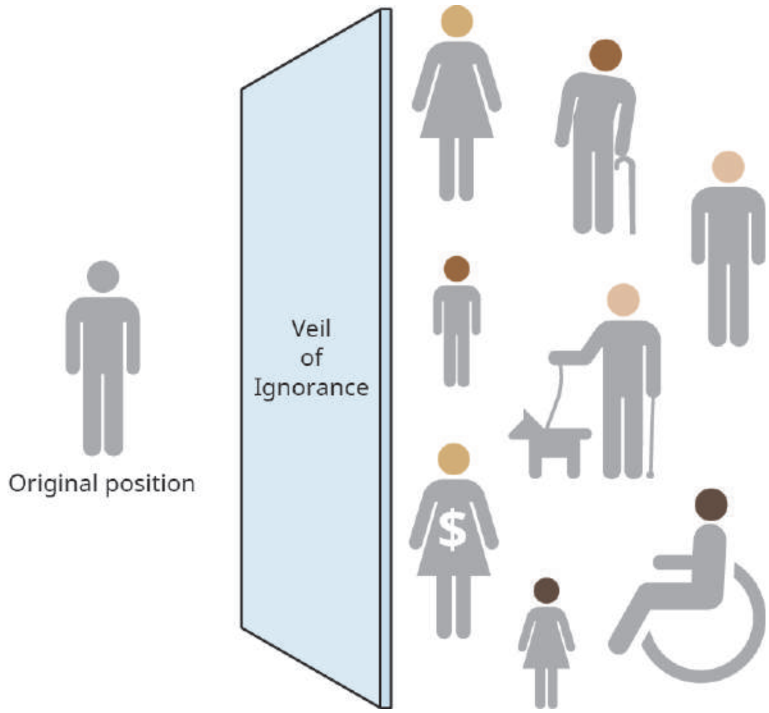


Figure 2.10 The “veil of ignorance” in Rawls’s “original position.” Those in the original position have no idea who they will be once the veil (wall) has been lifted. Rawls thought such ignorance would motivate people in the community to choose fairly. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

LINK TO LEARNING

The “veil of ignorance” is a central concept in Rawls’s justice theory. What is it? What does it attempt to accomplish? Watch this video on how “ignorance can improve decision-making” (https://openstax.org/l/53Rawls) to explore further.

Justice in Business

Although no ethical framework is perfect or fits a particular era completely, Rawls’s justice theory has distinct advantages when applied to business in the twenty-first century. First, as businesses become interdependent and globalized, they must pay more attention to quality control, human resources, and leadership in diverse settings. What will give greater legitimacy to an organization in these areas than fairness? Fairness is a value that is cross-cultural, embraced by different social groups, and understood by nearly everyone. However, what is considered fair depends on a variety of factors, including underlying values and individual characteristics like personality. For instance, not everyone agrees on whether or how diversity ought to be achieved. Neither is there consensus about affirmative action or the redistribution of resources or income. What is fair to some may be supremely unfair to others. This presents an opportunity for engaged debate and participation among the members of Rawls’s community.

Second, as we saw earlier, justice theory provides a method for attaining fairness, which could make it a practical and valuable part of training at all levels of a company. The fact that its content—justice and fairness—is more accessible to contemporary people than Confucian virtue ethics and more flexible than Kant's categorical imperative makes it an effective way of dealing with stakeholders and organizational culture.

Justice theory may also provide a seamless way of engaging in corporate social responsibility outwardly and employee development inwardly. Fairness as a corporate doctrine can be applied to all stakeholders and define a culture of trust and openness, with all the corresponding benefits, in marketing, advertising, board development, client relations, and so on. It is also an effective way of integrating business ethics into the organization so ethics is no longer seen as the responsibility solely of the compliance department or legal team. Site leaders and middle managers understand fairness; employees probably even more so, because they are more directly affected by the lack of it. Fairness, then, is as much part of the job as it is an ongoing process of an ethics system. It no doubt makes for a happier and more productive workforce. An organization dedicated to it can also play a greater role in civic life and the political process, which, in turn, helps everyone.

WHAT WOULD YOU DO?

John Rawls's Thought Experiment

John Rawls's original position represents a community in which you have no idea what kind of person you will end up being. In this sense, it is like life itself. After all, you have no idea what your future will be like. You could end up rich, poor, married, single, living in Manhattan or Peru. You might be a surgeon or fishing for sturgeon. Yet, there is one community you will most likely be a part of at some point: the aged. Given that you know this but are not sure of the details, which conditions would you agree to *now* so that senior citizens are provided for? Remember that you most likely will join them and experience the effects of what you decide now. You are living behind not a spatial veil of ignorance but a temporal one.

Critical Thinking

- What are you willing to give up so that seniors—whoever they might be—are afforded care and security in their later years?
- Should you have to pay into a system that provides medical coverage to other people less health conscious than you? Why or why not?

Key Terms

categorical imperative Kant’s unconditional precept that we must “act only according to that maxim whereby you can, at the same time, will that it should become a universal law”; to act on the basis of good will rather than purely self-interested motives and never treat others as means toward an end without consideration of them as ends in themselves

consequentialism an ethical theory in which actions are judged solely by their consequences without regard to character, motivation, or absolute principles of good and evil and separate from their capacity to produce happiness and pleasure

eudaimonia the happiness or human flourishing that results from virtuous activity; it is more than contentment or satisfaction

golden mean in Aristotelian virtue ethics, the aim of ethical behavior, a value between excess and deficiency

harm principle the idea that the only purpose for which the power of the state can rightly be used is to prevent harm to others

junzi a person who is gracious, magnanimous, and cultured; a flourishing human being

justice as fairness Rawls’s summary of the essence of his theory of justice

justice theory the idea of fairness applied beyond the individual to include the community as well as analysis of social injustice with remedies to correct it

li the proper order of the universe and the customs and rituals that support order and harmony on Earth

managerial ethics a way of relating to self, employees, and the organization that balances individual and collective responsibility

original position in Rawls’s justice theory, a hypothetical situation in which rational people can arrive at a contractual agreement about how resources are to be distributed in accordance with the principles of justice as fairness

phrónēsis prudence or practical wisdom; the intellectual virtue Aristotle considered most important

quan expediency; a practical consideration of the relative rightness of options when considering a moral dilemma

social contract theory a theory that holds the natural state of human beings is freedom, but that human beings will rationally submit to some restrictions on their freedom to secure their mutual safety and benefit

unanimity of acceptance in Rawls’s theory, the requirement that all agree to the contract before it goes into effect

utility function a measure, in “utils,” of the value of a good, service, or proposed action relative to the utilitarian principle of the greater good, that is, increasing happiness or decreasing pain

veil of ignorance in Rawls’s theory, a condition in which people arrive at the original position imagining they have no identity regarding age, sex, ethnicity, education, income, physical attractiveness, or other characteristics; in this way, they reduce their bias and self-interest

virtue ethics an ethical system based on the exercise of certain virtues (loyalty, honor, courage) emphasizing the formation of character

Summary

2.1 The Concept of Ethical Business in Ancient Athens

The role of ethics in Athens during Greece’s Golden Age (fifth century BCE) was substantial. Aristotle focused on the role of virtue in developing individual character and social stability. He believed a person’s actions determined whether he or she was virtuous, and the point of the virtuous life was happiness, or *eudaimonia*.

Aristotle identified two types of virtues: intellectual and moral. Intellectual virtues were acquired through learning and served as guides to behavior by helping the individual discover truth. Moral virtues were acquired through habit and built character by helping someone pursue what is beneficial and avoid what is harmful in daily life. Aristotle considered *phrónēsis*, or prudence, the most important virtue, because of its practical application.

The thirteenth-century philosopher and theologian Thomas Aquinas agreed with Aristotle that to act dishonorably casts disrepute on all concerned. Ends and means had to be aligned, particularly in business, which provided people's livelihoods and secured the economic health of the city-state.

2.2 Ethical Advice for Nobles and Civil Servants in Ancient China

Confucius (551–479 BCE) attempted to revise ancient Chinese traditions and mores to counter the social chaos of his times. His system of virtue ethics emphasized relationships and, when followed faithfully, led to the *dao* of humanity, that is, true harmonious living. There were three ways to achieve *dao*: "whole-hearted sincerity and truthfulness," the "constant mean," and "expediency" (*quan*). Someone who lived virtuously became more humane, which resulted in a flourishing individual and an ordered nation.

In Confucian virtue ethics, business was viewed as a network of relationships dependent on trust and righteousness. Righteousness was a form of justice that compelled everyone to act in good faith. Considered in this way, justice allows for wealth creation, investment, and strategic planning as long as everyone fulfills his or her role and acts in accordance with the basic pattern of relationships Confucius identified.

2.3 Comparing the Virtue Ethics of East and West

Aristotle and Confucius each constructed an ethical system based on virtue, with Aristotle's anticipated result being happiness and Confucius's being harmony. For Aristotle, happiness consisted of the search for truth. Confucius looked to create a system that put an end to civil chaos. Although both systems relied on reason and control to achieve their ends, Aristotle placed the locus of ethical behavior on individuals, but he held that a moral upbringing and good political governance also contributed to the formation of moral character. Confucius saw this locus in the family, which provided the basic pattern of relationships for personal and professional life. Reason prevailed throughout, as in the cultivation of a more just and humane person.

In a business context, reason and control bear directly on management, leadership, and corporate culture. They constitute a way of cultivating individual virtue and corporate ethos such that the two go hand in hand. The environment or culture of an organization needs individuals of character who can follow their conscience and experience moral conversion. We might envision the emergence of universal values like reason and control that nurture both the individual and the organization.

2.4 Utilitarianism: The Greatest Good for the Greatest Number

Jeremy Bentham developed a quantifiable method for determining what was beneficial and what was detrimental. He called this method utilitarianism, because its basic unit, the "util," acted like a monetary unit. Bentham's protégé, John Stuart Mill, refined this system to include human rights. His "harm principle" is an outstanding element in his version of utilitarianism.

Utilitarianism in business can lead to a bottom-line mentality in which decisions are based on achieving the greatest good for the organization as it pertains to the greatest number of stakeholders, including shareholders and all others affected by the actions of the organization The outcome is the determining factor, not the intent of the actors or whether people are treated humanely.

2.5 Deontology: Ethics as Duty

Rejecting dogmatic thinking of all kinds, Kant believed people were not the sum total of reactions to stimuli but complex beings with innate structures of understanding and inborn moral sensitivity. In his view, everyone had a duty to obey a categorical imperative to do the just and moral thing, regardless of the consequences. The outcome of an act was not as important as the intent of the actor and whether the act treated others as ends or means. Here, Kant reflected Aristotelian virtue ethics in seeing people as ends in themselves and not as “living tools” or human resources.

This view does not typically govern most management decisions in business; arguably, utilitarianism is the efficient, go-to theory on which corporate leaders often rely. Yet a Kantian understanding of business ethics remains viable even today and sometimes displays itself in the most compassionate and humane actions that evolving commercial organizations take.

2.6 A Theory of Justice

Rawls developed a theory of justice based on social contract theory, holding that the natural state of human beings is freedom, not subjugation to a monarch, no matter how benign or well intentioned. Rawls’s theory views human beings as inherently good and, echoing Kant, inclined toward moral rectitude and action. In his theory, Rawls included the “veil of ignorance,” which ensures objectivity in our choices and the avoidance of bias. Criticism of Rawls’s theory focuses primarily on the issue of distribution, because decisions made in ignorance can neither reward innovation and enterprise nor encourage risk.

Assessment Questions

1. Which of the following is not an intellectual virtue according to Aristotle?

A. the basic order of life
B. knowledge
C. wisdom
D. prudence

2. Deliberative prudence does all the following except ________.

A. align ends and means
B. encourage prodigality
C. avoid conflict
D. prevent rash behavior

3. True or false? According to Aristotle, happiness is a virtuous activity of the soul.

4. True or false? It is possible to act deliberately and shrewdly in a good way or toward a good end.

5. How might virtue ethics apply to contemporary business?

6. *Quan* means which of the following?

A. adherence to the past
B. philosophic tradition
C. practicality
D. insistence on protocol

7. *The Analects of Confucius* _______.

A. are similar to Aristotle's *Nicomachean Ethics*
B. represent an oral tradition
C. reflect Buddhist ideals
D. codify a system of virtue ethics

8. True or false? Confucian virtue ethics is similar to the Aristotelian version in that both are very practical.

9. True or false? According to Confucius, the hope for reform of Chinese society was a centralized planning system.

10. How can wholeheartedness and sincerity serve as models of risk assessment?

11. "Control" as used in this section does not refer to which of the following?

A. reverence
B. *phrónēsis*
C. temperance
D. Confucian self-regulation

12. Managerial ethics is related to which of the following?

A. shareholder wealth
B. righteousness
C. bureaucracy
D. honor

13. True or false? In both East and West, the means used to achieve a certain end are often more important than the end.

14. True or false? Individualism was the greatest value in Confucian ethics.

15. Utilitarianism is a system that _______.

A. considers historical conditions
B. approaches Aristotelian deliberation
C. builds on natural law theory
D. attempts to quantify the good

16. In *On Liberty*, John Stuart Mill _______.

A. proposes a harm principle
B. exalts libertarianism
C. prescribes a consequentialist answer to ethical crises
D. rejects rights

17. True or false? John Stuart Mill's emphasis on human rights distinguishes him from Jeremy Bentham.

18. How does utilitarianism affect contemporary business practice?

19. Does the value that John Stuart Mill placed on the deliberative process and individual expression as the main ways of arriving at truth have any relevance for political debate today?

20. Immanuel Kant objected to dogmatism in _______.

A. religion

B. science

C. both A and B

D. neither A nor B

21. True or false? Immanuel Kant contended that people often interpret reason subjectively.

22. True or false? A criticism of Immanuel Kant's categorical imperative is that its refusal ever to permit exceptions in acting ethically is impossible to observe in life.

23. What are the essential differences between John Stuart Mill's version of utilitarianism and Immanuel Kant's deontology?

24. How does Kantian ethics work in a business setting?

25. John Rawls's theory of justice is based on which of the following?

A. cognitive structures

B. moral duty

C. social contract theory

D. survival of the fittest

26. The "veil of ignorance" ensures which of the following?

A. mass delusion

B. objectivity

C. self-reliance

D. Enlightenment reason

27. True or false? John Rawls's theory of justice is mainly non-Utilitarian.

28. A distinguishing characteristic of justice theory is that it emphasizes method over content.

29. What challenges does Rawlsian justice theory present when it comes to the redistribution of goods and services in society?

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3 Defining and Prioritizing Stakeholders

Figure 3.1 Starbucks, based in Seattle, Washington, is a company with more than 250,000 employees and locations across the globe. It directly affects countless stakeholders beyond its institutional investors and millions of customers, from coffee growers and milk producers, to urban and suburban communities and developers, to local, state, and national governments. (credit: modification of “StarbucksVaughanMills” by “Raysonho”/Wikimedia Commons, CC0)

Chapter Outline

3.1 Adopting a Stakeholder Orientation
3.2 Weighing Stakeholder Claims
3.3 Ethical Decision-Making and Prioritizing Stakeholders
3.4 Corporate Social Responsibility (CSR)

Introduction

In May 2018, in the wake of a global uproar after two black men in a Philadelphia Starbucks were arrested while awaiting a friend, Starbucks closed its approximately eight thousand U.S. stores to conduct racial bias training (Figure 3.1).[1] The company also officially changed its policy to allow people to visit its stores and restrooms without making a purchase, hoping to avoid more incidents like this one (sparked by a white employee calling 9-1-1 when the men did not buy anything). The two men who were arrested eventually settled with Starbucks for an undisclosed sum.

As one of the largest beverage retailers in the world, Starbucks directly affects countless stakeholders: food and drink distributors; coffee and tea growers; milk producers; urban and suburban communities; local, state, and national governments; more than 300,000 employees and 1,600 institutional investors; and millions of customers.[2] The company’s decision to close its U.S. stores for half a day was financially costly, and the training session could never fully solve the problem of conscious or unconscious bias. But the firm believed it was the right thing to do. Why does it matter to its stakeholders what Starbucks does? What role do stakeholders play in a company’s decisions about its ethical behavior, and why?

3.1 Adopting a Stakeholder Orientation

Learning Objectives

By the end of this section, you will be able to:

- Identify key types of business-stakeholder relationships
- Explain why laws do not dictate every ethical responsibility a company may owe key stakeholders
- Discuss why stakeholders’ welfare must be at the heart of ethical business decisions

Have you ever had a stake in a decision someone else was making? Depending on your relationship with that person and your level of interest in the decision, you may have tried to ensure that the choice made was in your best interests. Understanding your somewhat analogous role as a stakeholder in businesses large and small, local and global, will help you realize the value of prioritizing stakeholders in your own professional life and business decisions.

Stakeholder Relationships

Many individuals and groups inside and outside a business have an interest in the way it brings products or services to market to turn a profit. These stakeholders include customers, clients, employees, shareholders, communities, the environment, the government, and the media (traditional and social), among others. All stakeholders should be considered essential to a business, but not all have equal priority. Different groups of stakeholders carry different weights with decision makers in companies and assert varying levels of interest and influence. As we examine their roles, consider how an organization benefits by working with its stakeholders and how it may benefit from encouraging stakeholders to work together to promote their mutual interests.

What are the roles of an organization’s many stakeholders? We begin with the internal stakeholders. The board of directors—in a company large enough to have one—is responsible for defining and evaluating the ongoing mission of a business after its founding. It broadly oversees decisions about the mission and direction of the business, the products or services offered, the markets in which the business will operate, and salary and benefits for the senior officers of the organization. The board also sets goals for income and profitability. Its most important function is to select and hire the chief executive officer (CEO) or president. The CEO is usually the only employee who reports directly to the board of directors, and he or she is charged with implementing the policies the board sets and consulting with them on significant issues pertaining to the company, such as a dramatic shift in products or services offered or discussions to acquire—or be acquired by—another firm.

In turn, the CEO hires executives to lead initiatives and carry out procedures in the various functional areas of the business, such as finance, sales and marketing, public relations, manufacturing, quality control, human resources (sometimes called human capital), accounting, and legal compliance. Employees in these areas are internal stakeholders in the success of both their division and the larger corporation. Some interact with the outside environment in which the business operates and serve as contact points for external stakeholders, such as media and government, as well.

In terms of external stakeholders for a business, customers certainly are an essential group. They need to be able to trust that products and services are backed by the integrity of the company. They also provide reviews, positive or negative, and referrals. Customers’ perceptions of the business matter, too. Those who learn that a business is not treating employees fairly, for instance, may reconsider their loyalty or even boycott the business to try to influence change in the organization. Stakeholder relationships, good and bad, can have compound effects, particularly when social media can spread word of unethical behavior quickly and widely.

Key external stakeholders are usually those outside of the organization who most directly influence a business's bottom line and hold power over the business. Besides customers and clients, suppliers have a great deal of influence and command a great deal of attention from businesses of all sizes. Governments hold power through regulatory bodies, from federal agencies such as the Environmental Protection Agency to the local planning and zoning boards of the communities in which businesses exist. These latter groups often exercise influence over the physical spaces where businesses work and try to grow (Figure 3.2).

Figure 3.2 Maryland's former Lieutenant Governor, Anthony Brown, hosts a 2014 small-business stakeholder roundtable discussion. Governments consider local businesses to be stakeholders in economic decision-making. Small businesses have their own local and regional stakeholders, who are influenced by the products and services they offer and the decisions they make in building their businesses. (credit: modification of "Lt. Governor Host MBE_Small Business Stakeholders Roundtable Discussion" by "Maryland GovPics"/Flickr, CC BY 2.0)

Businesses are responsible to their stakeholders. Every purchase of a product or a service carries with it a sort of promise. Buyers promise that their money or credit is good, and businesses promise a level of quality that will deliver what is advertised. The relationship can quickly get more complex, though. Stakeholders also may demand that the businesses they patronize give back to the local community or protect the global environment while developing their products or providing services. Employees may demand a certain level of remuneration for their work. Governments demand that companies comply with laws, and buyers in business-to-business exchanges (B2B, in business jargon) demand not only high-quality products and services but on-time delivery and responsive maintenance and service should something go wrong. Meeting core obligations to stakeholders is primarily about delivering good products and services, but it is also about communicating and preparing for potential problems, whether from within the company or from external circumstances like a natural disaster.

Ethical Responsibilities Often Extend Beyond Legal Requirements

We have seen that stakeholders include the people and entities invested in and influential in the success of an organization. It is also true that stakeholders can have multiple, and simultaneous, roles. For example, an employee can also be a customer and a stockholder.

Any transaction between a stakeholder and a business organization may appear finite. For instance, after you purchase something from a store you leave and go home. But your relationship with the store probably continues. You might want to repurchase the item or ask a question about a warranty. The store may have collected future marketing data about you and your purchases through its customer loyalty program or your use of a credit card.

Samsung, based in South Korea, is a large, multinational corporation that makes a variety of products, including household appliances such as washers and dryers. When Samsung’s washers developed a problem with the spin cycle in 2017, the company warned customers that the machines could become unbalanced and tip over, and that children should be kept away. The problem persisted, however, and Samsung’s responsibility and legal exposure increased. The eventual fix was to offer all owners of the particular washer model a full refund even if the customer did not have a complaint, and to offer free pick up of the machine as well. The recall covered almost three million washers, which ranged in price from $450 to $1500. By choosing to spend billions to rectify the problem, Samsung limited its legal exposure to potential lawsuits, settlement of which would likely have far exceeded the refunds it paid. This example demonstrates the weight of the implicit social contract between a company and its stakeholders and the potential impact on the bottom line if that contract is broken.

When a product does not live up to its maker’s claims for whatever reason, the manufacturer needs to correct the problem to retain or regain customers’ trust. Without this trust, the interdependence between the company and its stakeholders can fail. By choosing to recognize and repay its customer stakeholders, Samsung acted at an **ethical maximum**, taking the strongest possible action to behave ethically in a given situation. An **ethical minimum**, or the least a company might do that complies with the law, would have been to offer the warning and nothing more. This may have been a defensible position in court, but the warning might not have reached all purchasers of the defective machine and many children could have been hurt.

Each case of a faulty product or poorly delivered service is different. If laws reach above a minimum standard, they can grow cumbersome and impede business growth. If businesses adhere only to laws and ethical minimums, however, they can develop poor reputations and people can be harmed. The ethically minimal course of action is not illegal or *necessarily* unethical, but the company choosing it will have failed to recognize the value of its customers.

CASES FROM THE REAL WORLD

Amazon Sets a Demanding Pace on the Job

In a visit to an Amazon distribution center, a group of business students and their professors met with the general manager.[3] After taking them on an extensive tour of the five-acre facility, the general manager commented on the slowness of the visitors’ walking pace. He described the Amazon Pace, a fast, aggressive walk, and confirmed that the average employee walks eight or nine miles during a shift. These employees are called “pickers,” and their task is to fill an order and deliver it to the processing and packing center as quickly as possible. The design of the center is a trade secret that results in a random distribution of products. Therefore, the picker has to cover a number of directions and distances while filling an order. Those who cannot keep up the pace are usually let go, just as would be those who steal.

Critical Thinking

- Does the requirement to walk an average of eight or nine miles at a fast pace every day strike you as a reasonable expectation for employees at Amazon, or any other workplace? Why or why not? Should a company that wants to impose this requirement tell job applicants beforehand?
- Is it ethical for customers to patronize a company that imposes this kind of requirement on its employees? And if not, what other choices do customers have and what can they do about it?
- The center's general manager may have been exaggerating about the Amazon Pace to impress upon his visitors how quickly and nimbly pickers fill customer orders for the company. If not, however, is such a pace sustainable without the risk of physiological and psychological stress?

The law only partly captures the ethical obligations firms owe their stakeholders. One way many companies go beyond the legally required minimum as employers is to offer lavish **amenities**—that is, resources made available to employees in addition to wages, salary, and other standard benefits. They include such offerings as on-site exercise rooms and other services, company discounts, complimentary or subsidized snacks or meals, and the opportunity to buy stock in the company at a discounted price. Astute business leaders see the increased costs of amenities as an investment in retaining employees as long-term stakeholders. Stakeholder loyalty within and outside the firm is essential in sustaining any business venture, no matter how small or large.

WHAT WOULD YOU DO?

The Social Responsibility of Business

There are two opposing views about how businesses, and large publicly held corporations in particular, should approach ethics and social responsibility. One view holds that businesses should behave ethically within the marketplace but concern themselves *only* with serving shareholders and other investors. This view places economic considerations above all others. The other view is that stakeholders are not the means to the end (profit) but are ends in and of themselves as human beings (see our earlier discussion of deontological ethics in Ethics from Antiquity to the Present). Thus, the **social responsibility of business** view is that being responsible to customers, employees, and a host of other stakeholders should be not only a corporate concern but central to a business's mission. In essence, this view places a premium on the careful consideration of stakeholders. Consider what approach you might take if you were the CEO of a multinational corporation.

Critical Thinking

- Would your business be driven primarily by a particular social mission or simply by economics?
- How do you think stakeholder relationships would influence your approach to business? Why?

LINK TO LEARNING

Read a detailed consideration of the social responsibility of business in the form of polite but fiercely oppositional correspondence between economist Milton Friedman and John Mackey, founder and CEO of Whole Foods (https://openstax.org/l/53WholeFoods) to learn more.

One challenge for any organization's managers is that not all stakeholders agree on where the company should strive to land when it chooses between ethical minimums and maximums. Take stockholders, for example. Logically, most stockholders are interested in maximizing the return on their investment in the firm, which earns profit for them in the form of dividends. Lynn Stout, late Professor of Law at Cornell Law School, described the role of shareholder in this way:

> "Shareholders as a class want companies to be able to treat their stakeholders well, because this encourages employee and customer loyalty . . . Yet individual shareholders can profit from pushing boards to exploit committed stakeholders—say, by threatening to outsource jobs unless employees agree to lower wages, or refusing to support products customers have come to rely on unless they buy expensive new products as well. In the long run, such corporate opportunism makes it difficult for companies to attract employee and customer loyalty in the first place." [4]

Essential to Stout's point is that shareholders do not necessarily behave as a class. Some will want to maximize their investment even at a cost to other stakeholders. Some may want to extend beyond the legal minimum and seek a long-term perspective on profit maximization, demanding better treatment of stakeholders to maximize future potential value and to do more good than harm.

In the long run, stakeholder welfare must be kept at the heart of each company's business operations for these significant, twin reasons: It is the right thing to do and it is good for business. Still, if managers need additional incentive to act on the basis of policies that benefit stakeholders, it is useful to recall that stakeholders who believe their interests have been ignored will readily make their displeasure known, both to company management and to the much wider community of social media.

3.2 Weighing Stakeholder Claims

Learning Objectives

By the end of this section, you will be able to:

- Explain why stakeholders' claims vary in importance
- Categorize stakeholders to better understand their claims

As we saw earlier in this chapter and in Why Ethics Matter, the law only partially captures the ethical obligations firms owe their stakeholders. A particular **stakeholder claim**, that is, any given stakeholder's interest in a business decision, may therefore challenge the ethical stance even of an organization that complies with the law. For example, some community members may oppose the opening of a "big box" chain store that threatens the livelihoods of small-business owners in the area, while shareholders, creditors, employees, and consumers within the nearby neighborhoods support it as an additional opportunity for profit and quality goods at competitive prices. Conflicts like this illustrate how complicated prioritizing stakeholder claims can be, particularly when there are ethical pros and cons on both sides. A big box store may offer a wider selection of goods at lower prices, for example, and create jobs for teens and part-time workers.

A related theme to recall is that even though all stakeholder claims are important for a company to acknowledge, not all claims are of equal importance. Most business leaders appreciate that a company’s key stakeholders are essential to its efficient operation and growth, and that its overall mission, goals, and limited resources will force its managers to make choices by prioritizing stakeholders’ needs. In this section, we look at ethical ways in which business managers can begin to make those decisions.

The Ethical Basis of Stakeholders’ Claims

Stakeholder claims vary in their significance for a firm. According to Donaldson and Preston,[5] there are three theoretical approaches to considering stakeholder claims: a descriptive approach, an instrumental approach, and a normative approach. The **descriptive approach** sees the company as composed of various stakeholder groups, each with its own interests. These interests impinge on the company to a greater or lesser degree; thus, the main point of the descriptive approach is to develop the most accurate model and act on it in ways that weigh and balance these interests as fairly as possible. The **instrumental approach** connects stakeholder management and financial outcomes, proposing that appropriate management of stakeholder interests is important and useful because it contributes to a positive bottom line.

The **normative approach** considers stakeholders as ends in themselves rather than simply as means to achieve better financial results. According to Donaldson and Preston, in the normative approach “the interests of all stakeholders are of intrinsic value. That is, each group of stakeholders merits consideration for its own sake and not merely because of its ability to further the interests of some other group, such as the shareowners.”[6] This approach is the one that most appropriately represents ethical stakeholder theory, according to Donaldson and Preston, and it places an objective consideration of all stakeholders’ interests ahead of fiscal considerations alone.

We can also view these three approaches to stakeholders as occupying levels of increasing comprehensiveness. At the lowest level is the descriptive approach, which merely sets the stage for consideration of stakeholder claims and concerns. The instrumental aspect combines a consideration for profit along with other stakeholder concerns and attempts to balance these interests with particular attention to the way the company and its shareholders might be affected. The normative approach takes the most comprehensive view of the organization and its stakeholders, putting the focus squarely on stakeholders. Although Donaldson and Preston stress that the descriptive and instrumental approaches are integral to stakeholder theory, they contend that the fundamental basis of stakeholder theory is normative.[7]

Of course, these are theoretical approaches, and the extent to which any of them is implemented in a given company will vary. But unfortunately, the decision to disconnect from stakeholders is both real and expensive for a corporation. A 2005 survey of customers of 362 companies is demonstrative: “Only 8% of customers described their experience as ‘superior.’ However, 80% of the companies surveyed believe that the experience they have been providing is indeed superior.”[8] Another study found significant links between levels of customer satisfaction and a firm’s performance, including rates of retention, overall revenue, and stock price.[9] Enlightened companies spend time and resources testing their stakeholders’ concerns and eliciting their feedback while there is time to incorporate it into management decisions.

LINK TO LEARNING

This article discusses a recent video showing United Airlines removing ticketed, seated passengers from a plane to make room for four of its employees who needed to fly to another airport (https://openstax.org/l/53VideoUnited) igniting debate over company policies and how they are implemented. This related article about the United Airlines overbooking situation (https://openstax.org/l/53United) provides some more information.

Upon being asked to deplane and take a later flight, should a customer who has booked the fare for the earlier flight have the right to refuse? Which stakeholder(s) do you think United valued more in this incident? Why?

Airlines overbook to ensure that despite any no-shows or cancellations, any given flight will have as many occupied seats as possible, because an unoccupied seat represents lost revenue. In terms of valuing stakeholders, does this strategy make sense to you? Why or why not?

A classic example of negative consumer reaction is the response that met Ford Motor Company’s 1958 introduction of the Edsel (Figure 3.3). Ford had done extensive research to create a luxury family sedan aimed at an upper-income segment of the market then dominated by Buick, Oldsmobile, and Chrysler. However, the market did not identify Ford products with high status, and the Edsel did not last three years in the marketplace. Ford failed to serve the investors, suppliers, and employees who depended on the company for their livelihoods. Of course, the corporation survived that failure, perhaps because it learned the lessons of stakeholder management the hard way.

Figure 3.3 This Edsel Pacer was manufactured in 1958, the first year of production of the ill-fated Ford model, which ceased production in November 1959. (credit: modification of “Edsel Pacer 2-door Hardtop 1958 front” by “Redsimon”/Wikimedia Commons, CC BY 2.5)

Entertainers too (as well as their clubs, venues, and studios) are sensitive to the views of their stakeholders—that is, fans and the consuming public as a whole. Scarlett Johansson recently signed on to play the role of Dante “Tex” Gill in a biographical film (or “biopic”). Gill had been identified as female at birth but spent much of his professional career self-identifying as male. When the casting was announced in July 2018, it provoked a controversy among transgender rights groups, and within a few days, Johansson announced she had withdrawn from the role.[10] “In light of recent ethical questions raised surrounding my casting as Dante Tex Gill, I have decided to respectfully withdraw my participation in the project. . . . While I would have loved the opportunity to bring Dante’s story and transition to life, I understand why many feel he should be portrayed by a transgender person, and I am thankful that this casting debate, albeit controversial, has sparked a larger conversation about diversity and representation in film,” she said.[11]

Defining Stakeholder Categories

To better understand stakeholder theory and, ultimately, manage stakeholder claims and expectations, it may be helpful to take a closer look at categories of stakeholders. One way to categorize stakeholders is by defining their impact. For example, regulatory stakeholders including stockholders, legislatures, government regulators, and boards of directors are **enabling stakeholders** because they permit the firm to function. **Normative stakeholders** such as competitors and peers influence the norms or informal rules of the industry; **functional stakeholders** are those who influence inputs, such as suppliers, employees, and unions, and those influencing outputs such as customers, distributors, and retailers. Finally, **diffused stakeholders** include other organizations such as nongovernmental organizations (NGOs), voters, and mass media organizations with less direct relationships but potential for meaningful impacts on firms (Figure 3.4).[12]

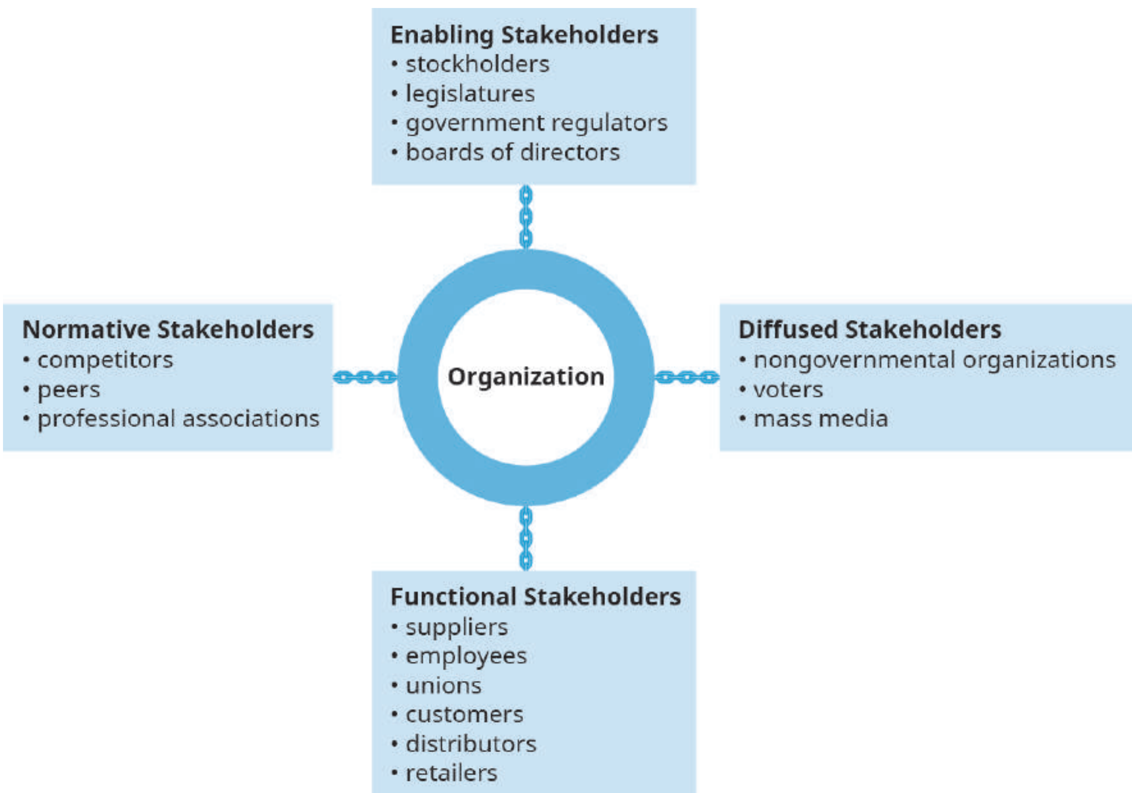

Figure 3.4 Grouping stakeholders into meaningful categories according to relationship types allows an organization to prioritize stakeholders’ claims. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

As the Figure 3.4 shows, enabling and functional stakeholders are those active in design, production, and marketing. They provide input for the products or services the organization distributes in the form of output. Companies should identify *all* the stakeholders shown in the figure and consider how they are linked to the firm. Although the diffused linkage stakeholders will vary according to place and time, the enabling, functional, and normative linkage stakeholders are constant, because they are integral to the operation of the firm. Stakeholders, in turn, can exert some control and authority by serving on the board of directors, by exercising their power as purchasers, by being elected to public office, or by joining employees' unions.

In many cases, if one stakeholder effects a change in the firm, other stakeholders will be affected. For example, if an NGO raises concerns about unequal pay of laborers on a rubber plantation that provides raw materials for gasket makers, the supplier may be forced to equalize pay, incurring additional expense. The supplier has taken the ethical action, but ultimately the cost is likely passed through the supply chain to the end user, the retail purchaser at the local car dealer. The supplier could also have absorbed the additional cost, diminishing the bottom line and reducing returns for stockholders, who may withdraw their investment from the company. Although this model of stakeholder relationships is complex, it is useful in understanding the impact of each individual group on the organization as a whole.

James E. Grunig, now professor emeritus at University of Maryland, and Todd Hunt, who together developed the organizational linkage model in Figure 3.4, looked at these relationships through the lens of four "publics" or cohorts: the nonpublic, the latent, the aware, and the active. These publics are distinguished by their degree of awareness of a problem and ability to do something about it. In the nonpublic cohort, no problem is recognized or exists. For the latent public, a problem is there but the public does not recognize it. The aware public recognizes that a problem exists. The active public is aware of the problem and organizes to respond to it. These categories help the organization design its message about a problem and decide how to communicate. Herein lies the ethical significance. If an organization is aware of a problem and the public is not, the organization has an opportunity to communicate and guide the public in recognizing and dealing with it, as the example of Johnson & Johnson's Tylenol product in the following box illustrates.

CASES FROM THE REAL WORLD

The Chicago Tylenol Murders

In the fall of 1982, Johnson & Johnson faced a public relations nightmare when customers in Cook County, Illinois, began dying—eventually, a total of seven people died—after taking over-the-counter, Tylenol-branded acetaminophen capsules. Analysis showed the presence of potassium cyanide, a fatal poison in no way connected with the production of the pill. Johnson & Johnson voluntarily removed all Tylenol products from the U.S. marketplace and offered to pay full retail price for any pills returned to the company. This represented about thirty million bottles of capsules worth more than $100 million. (Significantly, too, Johnson & Johnson decided on this wide-ranging action despite the fact that it and law enforcement realized the cyanide poisoning was limited to Cook County, Illinois.)

Because Tylenol was a flagship product bringing in significant revenue, this was an extreme action but one based on the company's ethics, rooted in its corporate credo. Investigation showed that someone had tinkered with the bottles and injected cyanide into the product in stores. Although no one was ever apprehended, the entire drug industry responded, following Johnson & Johnson's lead, by introducing tamper-proof containers that warned consumers not to use the product if the packaging appeared in any way compromised.

The strong ethical stance taken by Johnson & Johnson executives resulted in immediate action that reassured the public. When the company eventually returned Tylenol to the market, it introduced it first to clinics, hospitals, and physicians' offices, promoting medicine's professional trust in the product. The strategy was successful. Before the poisonings, Tylenol had 37 percent of the market of over-the-counter analgesics. That plunged to 7 percent in fall 1982 but was resurrected to 30 percent by fall 1983.

Critical Thinking

- In its corporate credo, Johnson & Johnson identifies multiple stakeholders: users of its products (output), employees (input), employees' families (diffused linkage), and the government (enabling linkage). Applying Grunig and Hunt's theory, do you believe Johnson & Johnson acted as an enlightened company that includes and communicates with a variety of publics?
- U.S. business leaders are often accused of acting on a short-term obsession with profitability at the expense of the long-term interests of their corporation. Which aspects of the Tylenol crisis demonstrate a short-term perspective? Which show the value of a longer-term perspective?

LINK TO LEARNING

With the adoption of its credo, Johnson & Johnson became one of the first corporations to create something like a mission statement. Read the Johnson & Johnson credo (https://openstax.org/l/53J&JCredo) to learn more.

On the other hand, a company might try to manage a problem by covering it up or denying it. For example, Volkswagen had data that showed its diesel engine's emissions exceeded U.S. pollution standards. Rather than redesign the engine, Volkswagen engineers installed a unit in each car to interpret the emissions as if they met Environmental Protection Agency standards. When the fraud was discovered, Volkswagen was required to buy back millions of cars. As of September 2017, the company had incurred fines and expenses in excess of $30 billion, and some employees had gone to jail. Such damage is bad enough, but loss of reputation and the trust of consumers and stockholders has hurt the company's value and share price.[13] Volkswagen's management of stakeholder relationships was poor and extremely expensive. Once-loyal stakeholders became part of an aware and active public—a group of people united by a common problem and organized for satisfaction, sometimes demanding compensation.[14]

A challenge for business leaders is to assign appropriate weights to stakeholder claims on their companies in an ethical manner. This task is even more difficult because a claim is not necessarily a formal process. "Essentially, stakeholders 'want something' from an organization. Some want . . . to influence what the organization does . . . and others are, or potentially could be, concerned with the way they are affected by the organization."[15]

If a stakeholder has its own identity or voice, or if members of a stakeholder group are many, the claim can be clear and direct, such as in the case of a union negotiating for better pay and benefits, or a community trying to lure a corporation to open operations there. Think of the enormous effort communities around the world make to try to get the Olympics or World Cup organizers to bring the competition to their locale. In spite of significant investment and debt, these communities see a real advantage to their local economy.

Many stakeholder claims are indirect, or "voiceless," due perhaps to their representing relatively few individuals relative to the size and power of the organization and the time required to evoke a response from a large, bureaucratic company. If you have ever had a problem with a cable television or satellite company, you can immediately understand this stakeholder relationship, because it is so difficult to find someone with enough authority to make a decision on behalf of the company. Some companies count on individuals' growing frustrated and giving up on the claim. An indirect stakeholder claim might also be one that affects future generations, such as concerns about air and water pollution. For example, University of Southern California law professor Christopher D. Stone introduced in 1972 what was then a radical concept for the law in the United States, that the environment itself is entitled to legal standing in the courts. If this were so, then the environment might also be eligible for certain protections under the law. Appearing at the dawn of increasing social awareness of ecologic concerns, Stone's influential law review article "Should Trees Have Standing?" gave many environmentalists a new legal philosophy to harness in defense of the natural world.[16]

LINK TO LEARNING

Try playing a game of stakeholder identification, mapping, and analysis, such as this one from the "Gamestorming" website (https://openstax.org/l/53Gamestorming) to learn more.

3.3 Ethical Decision-Making and Prioritizing Stakeholders

Learning Objectives

By the end of this section, you will be able to:

- Identify the factors that affect stakeholder prioritization
- Explain why priorities will vary based upon the interest and power of the stakeholder
- Describe how to prioritize stakeholder claims, particularly when they conflict

If we carry the idea of stakeholder to the extreme, every person is a stakeholder of every company. The first step in **stakeholder management**, the process of accurately assessing stakeholder claims so an organization can manage them effectively, is therefore to define and prioritize stakeholders significant to the firm. Then, it must consider their claims.

Given that there are numerous types of stakeholders, how do managers balance these claims? Ethically, no group should be treated better than another, and managers should respond to as many stakeholders as possible. However, time and resource limitations require organizations to prioritize claims as stakeholder needs rise and fall.

Stakeholder Prioritization

First, it may help to speak to the expectations that any stakeholders may have of a particular business or institution. It depends on particular stakeholders, of course, but we can safely say that all stakeholders expect a form of satisfaction from an organization. If these stakeholders are shareholders (stockowners), then they generally wish to see a high return on their purchase of company shares. If, on the other hand, they are employees, they typically hope for interesting tasks, a safe work environment, job security, and rewarding pay and benefits. If, yet again, the stakeholders are members of the community surrounding a business, they usually wish that the company not harm the physical environment or degrade the quality of life within it.

So the task confronting an organization’s management begins with understanding these multiple and sometimes conflicting expectations and ethically deciding which stakeholders to focus on and in what sequence, if not all stakeholders cannot be addressed simultaneously, that is, **stakeholder prioritization**. It helps to actively gather information about all key stakeholders and their claims. First, managers must establish that an individual with a concern is a member of a stakeholder group. For example, a brand may attract hundreds or thousands of mentions on Twitter each day. Which ones should be taken seriously as representative of key stakeholders? Brand managers look for patterns of communication and for context when deciding whether to engage with customers in the open expanses of social media platforms.

LINK TO LEARNING

Read this article “Five Questions to Identify Key Stakeholders” (https://openstax.org/l/53FiveQuestions) in the *Harvard Business Review* to learn more about identifying your key stakeholders.

After establishing that a key stakeholder group is being represented, the manager should identify what the company needs from the stakeholder. This simply helps clarify the relationship. If nothing is needed immediately or for the foreseeable future, this does not mean the stakeholder group does not matter, but it can be a good indication that the stakeholder need not be prioritized at the moment.

Note that managers are often considering these questions in real time, usually with limited resources and power, and that circumstances can change in a matter of moments. In one sense, all representatives of a company are constantly practicing stakeholder prioritization. It need not be a formal process. At times, it is a question of which supplier should be praised or prodded or which customer has a larger order to fill or a special request that might be met. What matters is establishing that someone is a stakeholder, that the concern is currently important, and that the relationship matters for the growth of the business.

If the firm cannot survive without this particular stakeholder or replace him or her relatively easily, then such a person should have priority over other stakeholders who do not meet this criterion. Key suppliers, lucrative or steady customers, and influential regulators must all be attended to but not necessarily capitulated to. For example, a local state legislator representing the district where a business is located may be urging the legislature to raise business taxes to generate more revenue for the state. By him- or herself, the legislator may not have sufficient political clout to persuade the legislature to raise taxes. Yet wise business leaders will not ignore such a representative and will engage in dialogue with him or her. The legislator may eventually be able to win others over to the cause, so it behooves perceptive management to establish a working relationship with him or her.

Not every stakeholder can command constant attention, and no firm has unlimited time or resources, so in one sense, this prioritizing is simply the business of management. Combine the inherent priority of the stakeholder relationship with the level of **exigency**, that is, the level of urgency of a stakeholder claim, to arrive at a decision about where to begin focusing resources and efforts.

Stakeholder prioritization will also vary based on time and circumstance. For example, a large retailer facing aggressive new competitors must prioritize customer service and value. With Amazon acquiring Whole Foods and drastically cutting prices, the grocery chain’s customer base may very well grow because prices could become more attractive while the perception of high quality may persist. Potential customers may no longer need to economize by shopping elsewhere.[17] Whole Foods' competitors, on the other hand, must now prioritize customer service, whereas before they could compete on price alone. Whole Foods can become a serious competitor to discount grocery stores like ALDI and Walmart.

Another way to prioritize stakeholder relationships is with a matrix of their power and interest. As Figure 3.5 shows, a stakeholder group can be weighted on the basis of its influence (or power) over and interest in its relationship to the firm. A stakeholder with a high level of both power and interest is a key stakeholder. If this type of stakeholder group encounters a problem, its priority rises.

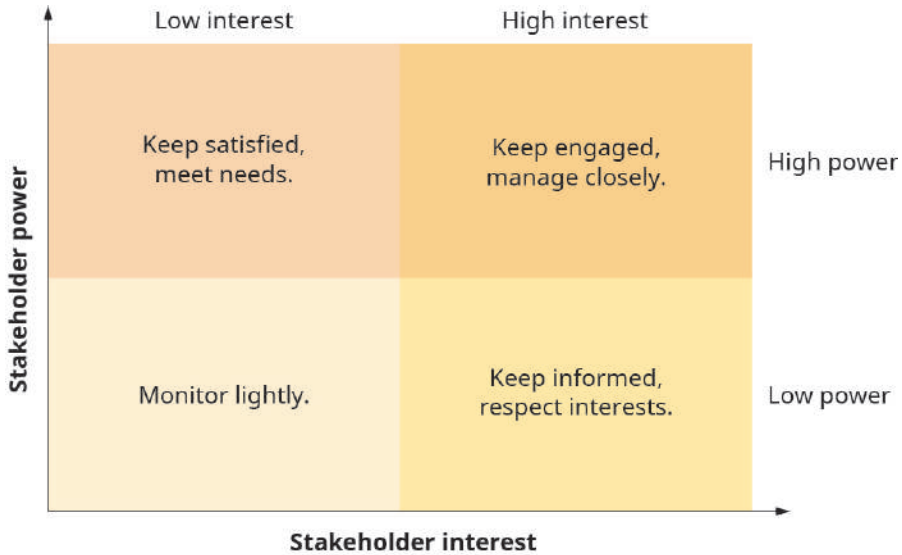

Figure 3.5 Stakeholder priority can be expressed as a relationship between the stakeholder group's influence or power and the interest the stakeholder takes in the relationship. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

On the supplier side, a small farmer or seasonal supplier could fall in the low-power, low-interest category, particularly if that farmer were selling various retailers produce from his or her fields. However, if that same farmer could connect to a huge purveyor like Kroger, he or she could sell this giant customer its entire crop. This relationship places the farmer in the low-power, high-interest category, meaning he or she will most likely have to make price adjustments to make the sale.

The model's focus on power reveals a need for any company to carefully cultivate relationships with stakeholders. Not all stakeholders have equal influence with a firm. Still, no organization can blithely ignore any stakeholder without potentially debilitating economic consequences. For example, now that Amazon has acquired Whole Foods and increased the size of the customer stakeholder group, it must also find ways to personalize its communications with this group, because personal service has traditionally been more a hallmark of Whole Foods than of Amazon.

Successful business practice today hinges on the ethical acknowledgement of stakeholder claims. It is the right thing to do. Not only that, it also engenders satisfied stakeholders, whether they be customers, stockowners, employees, or the community in which a firm is located. Naturally, satisfied stakeholders lead to the financial well-being of a company.

Managing Stakeholder Expectations

Stakeholder management does not work if the firm’s prioritizing decisions are based on flawed, inaccurate, or incomplete information. Some tools are available to help. MITRE is a nonprofit research and development consulting firm that helps governments and other large organizations with many stakeholders conduct stakeholder assessment. The MITRE *Guide to Stakeholder Assessment and Management* lays out a five-step system for stakeholder management.[18]

Overall, MITRE stresses that an organization must sustain trust with its stakeholders through communication efforts. To accomplish this, however, stakeholders must first be clearly identified and then periodically reidentified, because stakeholder cohorts change in size and significance over time. The concerns or claims of stakeholders are identified through data gathering and analysis. Sometimes a firm will conduct surveys or focus groups with customers, suppliers, or other stakeholders. Other times, product usage data will be available as a function of sales figures and marketing data. For software in web and mobile applications, for example, user data may be readily available to show how stakeholders are using the company’s digital services or why they appear to be purchasing its products. Another source of stakeholder data is social media, where firms can monitor topics stakeholders of all types are talking about. What matters is gathering relevant and accurate data and ensuring that key stakeholders are providing it. In the next step, managers present the results of their research to the company’s decision makers or make decisions themselves.[19] Finally, stakeholders should be informed that their concerns were taken into consideration and that the company will continue to heed them. In other words, the firm should convey to them that they are important.

LINK TO LEARNING

One methodology for prioritizing stakeholder claims is the Stakeholder Circle, developed by Dr. Linda Bourne. Visit the Stakeholder Management website detailing the five key actions an organization can take using this model (https://openstax.org/l/53StakeCircle) to learn more.

WHAT WOULD YOU DO?

Malaysia Airlines

Malaysia Airlines is owned by individual investors and the Malaysian government, which took over the company in 2014 after two mysterious jet crashes. The airline has lost money and struggled since that time, going through three CEOs. The current CEO, Peter Bellew, is experienced in tourism and travel and has been asked to cut costs and increase revenues. His strategy is to maximize the number of Malaysian Muslims (who make up more than 60 percent of the population) flying to Mecca for hajj, the annual holy pilgrimage and an obligation for all Muslims who are well enough to travel and can afford the trip. Bellew plans to provide charter flights to make the pilgrimage easier on travelers.[20]

Critical Thinking

- Describe the passenger stakeholder claims on Malaysia Airlines.
- Describe the government stakeholder claims on Malaysia Airlines.

- What would you advise Bellew to identify as a priority—the demand from pilgrims for easy travel at a reduced price or the demand from the government for profitable operations? Explain your answer.

Because every firm, no matter its mission, ultimately depends on the marketplace, its clients or customers are often high-priority stakeholders. Ethically, the company owes allegiance to customer stakeholders, but it also has an opportunity and perhaps a responsibility to shape their expectations in ways that encourage its growth and allow it to continue to provide for employees, suppliers, distributors, and shareholders.

We should note, too, that nonprofit organizations are beholden, for the most part, to the same rules that apply to for-profits for their sustainability. Nonprofits typically provide a service that is just as dependent on cash flow as is the service or product of a for-profit. A significant difference, of course, is that the client or customer for a nonprofit’s service often is unable to pay for it. Therefore, the necessary cash must come from other sources, often in the form of donations or endowments. Hence, those who give to philanthropies constitute essential stakeholders for these nonprofits and must be acknowledged as such.

Wesley E. Lindahl, who studies and advises nonprofits, notes that philanthropies have an ethical obligation to safeguard the donations that come their way. He likens this to a stewardship, because the monies given to charities are gifts intended for others very much in need of them. So those who manage nonprofits have a special obligation to ensure that these donations are well spent and distributed appropriately.[21]

There are three major components to bringing about change in customer or donor expectations: (1) customer receptivity to a product or service offered by the company, (2) acknowledgement of the gap between customer receptivity and corporate action to reduce it, and (3) a system to bring about and maintain change in customer desires to bring it in line with precisely what the corporation can deliver. One example of firms altering customers’ habits is the evolution of beverage containers. Most soft drinks and other beverages such as beer were once delivered in reusable glass bottles. Customers were motivated to return the bottles by the refund of a minimal cash deposit originally paid at the time of purchase. The bottles had to be thick and sturdy for reuse, which resulted in substantial transportation costs, due to their weight.

To reduce these costs of manufacturing and transportation, manufacturers first redesigned production to be local, and then, when technology allowed, introduced aluminum cans and pull tabs. Eventually, the cardboard carton that held bottles together was replaced by a plastic set of rings to hold aluminum cans together. Now, however, customers and other stakeholders object to the hazard these rings present to wildlife. Some firms have responded by redesigning their packaging yet again. This ongoing process of developing new packaging, listening to feedback, and redesigning the product over time ultimately changed stakeholder behavior and modernized the beverage industry. Stakeholders are essential parts of a cycle of mutual interest and involvement.

ETHICS ACROSS TIME AND CULTURES

Going King Sized in the United States and Crashing on the Couch in China

IKEA is a multinational corporation with a proven track record of listening to stakeholders in ways that improve relationships and the bottom line. The Swedish company has had success in the United States and, more recently, in China by adapting to local cultural norms. For example, in the United States, IKEA solicited the concerns of many of its approximately fifty thousand in-store customers and even visited some at home. The company learned, among other things, that U.S. customers assumed IKEA featured only European-size beds. In fact, IKEA has offered king-size beds for years; they simply were not on display. IKEA then began to focus on displaying furniture U.S. consumers were more familiar with and so grew its bedroom furniture sales in 2012 and 2013.[22]

As IKEA expands into China, it has welcomed a different trend—people taking naps on the furniture on display. "While snoozing is prohibited at IKEA stores elsewhere, the Swedish retailer has long permitted Chinese customers to doze off, rather than alienate shoppers accustomed to sleeping in public."[23] Adapting to local culture, as these examples demonstrate, is one way a company can respond to stakeholder wishes. The firm abandons some of its usual protocols in exchange for increasing consumer identification with its products.

IKEA appears to have learned what many companies with a global presence have concluded: Stakeholders, and particularly consumer-stakeholders, have different expectations in different geographic settings. Because a firm's ethical obligations include listening and responding to the needs of stakeholders, it behooves all international companies to appreciate the varying perspectives that geography and culture may produce among them.

Critical Thinking

- Does IKEA have a system to influence stakeholder behavior? If so, describe the system and explain who changes more under the system, IKEA or its consumers.
- Does IKEA's strategy reflect a normative approach to managing stakeholder claims? If so, how?

The ethical responsibility of a stakeholder is to make known his or her preferences to the companies he or she purchases from or relies on. Such communication can lead to an increased commitment on the part of corporations to improve. To the extent they do so, companies act more ethically in responding to the wishes and needs of their stakeholders.

3.4 Corporate Social Responsibility (CSR)

Learning Objectives

By the end of this section, you will be able to:

- Define corporate social responsibility and the triple bottom line approach
- Compare the sincere application of CSR and its use as merely a public relations tool
- Explain why CSR ultimately benefits both companies and their stakeholders

Thus far, we have discussed stakeholders mostly as individuals and groups outside the organization. This section focuses on the business firm as a stakeholder in its environment and examines the concept of a corporation as a socially responsible entity conscious of the influences it has on society. That is, we look at the role companies, and large corporations in particular, play as active stakeholders in communities. Corporations, by their sheer size, affect their local, regional, national, and global communities. Creating a positive impact in these communities may mean providing jobs, strengthening economies, or driving innovation. Negative impacts may include doing damage to the environment, forcing the exit of smaller competitors, and offering poor customer service, to name a few. This section examines the concept of a corporation as a socially responsible entity conscious of the influences it has on society.

Corporate Social Responsibility Defined

In recent years, many organizations have embraced corporate social responsibility (CSR), a philosophy (introduced in Why Ethics Matter,) in which the company's expected actions include not only producing a reliable product, charging a fair price with fair profit margins, and paying a fair wage to employees, but also caring for the environment and acting on other social concerns. Many corporations work on prosocial endeavors and share that information with their customers and the communities where they do business. CSR, when conducted in good faith, is beneficial to corporations and their stakeholders. This is especially true for stakeholders that have typically been given low priority and little voice, such as the natural environment and community members who live near corporate sites and manufacturing facilities.

CSR in its ideal form focuses managers on demonstrating the social good of their new products and endeavors. It can be framed as a response to the backlash corporations face for a long track record of harming environments and communities in their efforts to be more efficient and profitable. Pushback is not new. Charles Dickens wrote about the effects of the coal economy on nineteenth-century England and shaped the way we think about the early industrial revolution. The twentieth-century writer Chinua Achebe, among many others, wrote about colonization and its transformative and often painful effect on African cultures. Rachel Carson first brought public attention to corporation's chemical poisoning of U.S. waterways in her 1962 book *Silent Spring*.

Betty Friedan's *The Feminine Mystique* (1963) critiqued the way twentieth-century industrialization boxed women into traditional roles and limited their agency. Kate Chopin's novel *The Awakening* (1899) and the nineteenth-century novels of Jane Austen had already outlined how limited options were for women despite massive social and economic shifts in the industrializing West. Stakeholder communities left out of or directly harmed by the economic revolution have demanded that they be able to influence corporate and governmental economic practices to benefit more directly from corporate growth as well as entrepreneurship opportunities. The trend to adopt CSR may represent an opportunity for greater engagement and involvement by groups mostly ignored until now by the wave of corporate economic growth reshaping the industrialized world.

CSR and the Environment

Corporations have responded to stakeholder concerns about the environment and sustainability. In 1999, Dow Jones began publishing an annual list of companies for which sustainability was important. Sustainability is the practice of preserving resources and operating in a way that is ecologically responsible in the long term.[24] The Dow Jones Sustainability Indices "serve as benchmarks for investors who integrate sustainability considerations into their portfolios."[25] There is a growing awareness that human actions can, and do, harm the environment. Destruction of the environment can ultimately lead to reduction of resources, declining business opportunities, and lowered quality of life. Enlightened business stakeholders realize that profit is only one positive effect of business operations. In addition to safeguarding the environment, other ethical contributions that stakeholders could lobby corporate management to make include establishing schools and health clinics in impoverished neighborhoods and endowing worthwhile philanthropies in the communities where companies have a presence.

Other stakeholders, such as state governments, NGOs, citizen groups, and political action committees in the

United States apply social and legal pressure on businesses to improve their environmental practices. For example, the state of California in 2015 enacted a set of laws, referred to as the California Transparency in Supply Chains Act, which requires firms to report on the working conditions of the employees of their suppliers. The law requires only disclosures, but the added transparency is a step toward holding U.S. and other multinational corporations responsible for what goes on before their products appear in shiny packages in stores. The legislators who wrote California's Supply Chains Act recognize that consumer stakeholders are likely to bring pressure to bear on companies found to use slave labor in their supply chains, so forcing disclosure can bring about change because corporations would rather adjust their relationships with supply-chain stakeholders than risk alienating massive numbers of customers.[26]

As instances of this type of pressure on corporations increase around the world, stakeholder groups become simultaneously less isolated and more powerful. Firms need customers. Customers need employment, and the state needs taxes just as firms need resources. All stakeholders exist in an interdependent network of relationships, and what is most needed is a sustainable system that enables all types of key stakeholders to establish and apply influence.

People, Planet, Profit: The Triple Bottom Line

How can corporations and their stakeholders measure some of the effects of CSR programs? The **triple bottom line (TBL)** offers a way. TBL is a measure described in 1994 by John Elkington, a British business consultant (Figure 3.6), and it forces us to reconsider the very concept of the "bottom line." Most businesses, and most consumers for that matter, think of the bottom line as a shorthand expression of their financial well-being. Are they making a profit, staying solvent, or falling into debt? That is the customary bottom line, but Elkington suggests that businesses need to consider not just one but rather three measures of their *true* bottom line: the economic and also the social and environmental results of their actions. The social and environmental impacts of doing business, called people and planet in the TBL, are the *externalities* of their operations that companies must take into account.

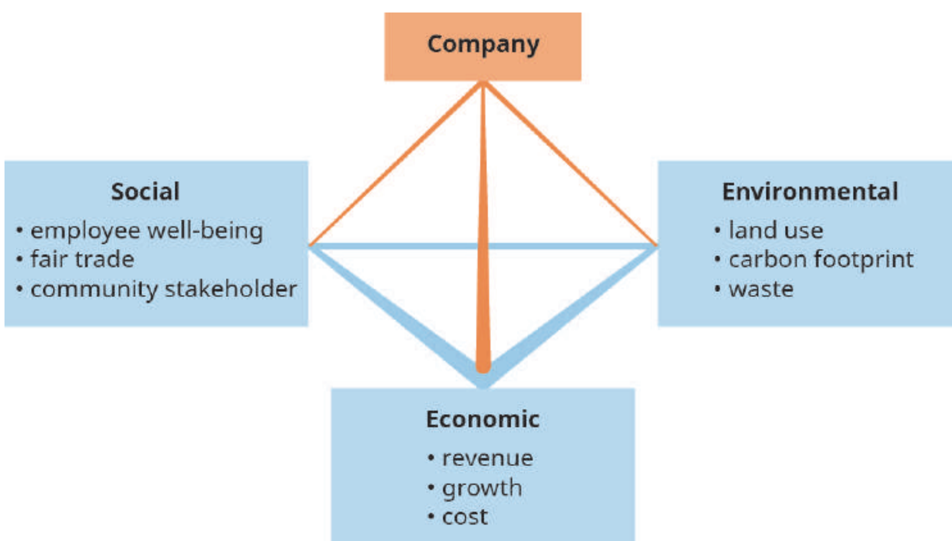

Figure 3.6 The three components of the triple bottom line are interrelated. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

The TBL concept recognizes that external stakeholders consider it a corporation's responsibility to go beyond making money. If increasing wealth damages the environment or makes people sick, society demands that the corporation revise its methods or leave the community. Society, businesses, and governments have realized that all stakeholders have to work for the common good. When they are successful at acting in a socially responsible way, corporations will and should claim credit. In acting according to the TBL model and promoting such acts, many corporations have reinvested their efforts and their profits in ways that can ultimately lead to the development of a sustainable economic system.

CSR as Public Relations Tool

On the other hand, for some, CSR is nothing more than an opportunity for publicity as a firm tries to look good through various environmentally or socially friendly initiatives without making systemic changes that will have long-term positive effects. Carrying out superficial CSR efforts that merely cover up systemic ethics problems in this inauthentic way (especially as it applies to the environment), and acting simply for the sake of public relations is called **greenwashing**. To truly understand a company's approach toward the environment, we need to do more than blindly accept the words on its website or its advertising.

CASES FROM THE REAL WORLD

When an Image of Social Responsibility May Be Greenwashing

Ben and Jerry's Ice Cream started as a small ice cream stand in Vermont and based its products on pure, locally supplied dairy and agricultural products. The company grew quickly and is now a global brand owned by Unilever, an international consumer goods company co-headquartered in Rotterdam, The Netherlands, and London, United Kingdom.

According to its statement of values, Ben and Jerry's mission is threefold: "Our Product Mission drives us to make fantastic ice cream—for its own sake. Our Economic Mission asks us to manage our Company for sustainable financial growth. Our Social Mission compels us to use our Company in innovative ways to make the world a better place."

With its expansion, however, Ben and Jerry's had to get its milk—the main raw ingredient of ice cream—from larger suppliers, most of which use confined-animal feeding operations (CAFOs). CAFOs have been condemned by animal-rights activists as harmful to the well-being of the animals. Consumer activists also claim that CAFOs contribute significantly to pollution because they release heavy concentrations of animal waste into the ground, water sources, and air.

Critical Thinking

- Does the use of CAFOs compromise Ben and Jerry's mission? Why or why not?
- Has the growth of Ben and Jerry's contributed to any form of greenwashing by the parent company, Unilever? If so, how?

LINK TO LEARNING

Read Ben and Jerry’s Statement of Mission (https://openstax.org/l/53BenJerry) for more on the company’s values and mission.

Coca-Cola provides another example of practices some would identify as greenwashing. The company states the following on its website:

> “Engaging our diverse stakeholders in long-term dialogue provides important input that informs our decision making, and helps us continuously improve and make progress toward our 2020 sustainability goals . . . We are committed to ongoing stakeholder engagement as a core component of our business and sustainability strategies, our annual reporting process, and our activities around the world. As active members of the communities where we live and work, we want to strengthen the fabric of our communities so that we can prosper together.” [27]

Let us take a close look at this statement. “Engaging stakeholders in long-term dialogue” appears to describe an ongoing and reciprocal relationship that helps improvement be continuous. Commitment to “stakeholder engagement as a core component of business and sustainability strategies” appears to focus the company on the requirement to conduct clear, honest, transparent reporting.

Currently 20 percent of the people on Earth consume a Coca-Cola product each day, meaning a very large portion of the global population belongs to the company’s consumer stakeholder group. Depending on the process and location, it is estimated that it takes more than three liters of water to produce a liter of Coke. Each day, therefore, millions of liters of water are removed from the Earth to make Coke products, so the company’s water footprint can endanger the water supplies of both employee and neighbor stakeholders. For example, in Chiapas, Mexico, the Coca-Cola bottling plant consumes more than one billion liters of water daily, but only about half the population has running water.[28] Mexico leads the world in per capita consumption of Coke products.

If consumers are aware only of Coca-Cola’s advertising campaigns and corporate public relations writings online, they will miss the very real concerns about water security associated with it and other corporations producing beverages in similar fashion. Thus it requires interest on the part of stakeholders to continue to drive real CSR practices and to differentiate true CSR efforts from greenwashing.

The Ultimate Stakeholder Benefit

CSR used in good faith has the potential to reshape the orientation of multinational corporations to their stakeholders. By positioning themselves as stakeholders in a broader global community, conscientious corporations can be exemplary organizations. They can demonstrate interest and influence on a global scale and improve the way the manufacture of goods and delivery of services serve the local and global environment. They can return to communities as much as they extract and foster automatic financial reinvestment so that people willing and able to work for them can afford not only the necessities but a chance to pursue happiness.

In return, global corporations will have sustainable business models that look beyond short-term growth forecasts. They will have a method of operating and a framework for thinking about sustained growth with stakeholders and *as* stakeholders. Ethical stakeholder relationships systematically grow wealth and opportunity in dynamic fashion. Without them, the global consumer economy may fail. On an alternate and ethical path of prosperity, today’s supplier is a consumer in the next generation and Earth is still inhabitable after many generations of dynamic change and continued global growth.

Key Terms

amenities resources made available to employees in addition to wages, salary, and other standard benefits

descriptive approach a theory that views the company as composed of various stakeholders, each with its own interests

diffused stakeholder a stakeholder with an interest in a company's decisions and whose impacts on a firm can be large even if the relationship is generally weaker than other types

enabling stakeholder a stakeholder who permits an organization to function within the economic and legal system

ethical maximum the strongest action a company can choose to behave ethically in a given situation

ethical minimum the least a company might do to claim it holds an ethically positive position

exigency the level of urgency of a stakeholder claim

functional stakeholder a stakeholder whose relationships influence or govern an organization's inputs and outputs

greenwashing carrying out superficial CSR efforts that merely cover up systemic ethics problems for the sake of public relations

instrumental approach a theory proposing that good management of stakeholders is important because it can help the bottom line

normative approach a theory that considers stakeholders as ends unto themselves rather than means to achieve a better bottom line

normative stakeholder a stakeholder in the organization's industry who influences its norms or informal rules

social responsibility of business the view that stakeholders are not the means to the end (profit) but are ends in and of themselves as human beings

stakeholder claim a particular stakeholder's interest in a business decision

stakeholder management the process of accurately assessing stakeholder claims so an organization can manage them effectively

stakeholder prioritization the process of deciding which stakeholders to focus on and in what sequence

triple bottom line (TBL) a measure that accounts for an organization's results in terms of its effects on people, planet, and profits

Summary

3.1 Adopting a Stakeholder Orientation

An organization has duties and responsibilities with regard to each stakeholder; however, the implicit social contract between business and society means that meeting legal requirements might support only minimal ethical standards. Society on the whole and in the long run requires that business consider a broader range of duties in its relationships with key stakeholders.

3.2 Weighing Stakeholder Claims

There are three approaches to stakeholder theory: the descriptive approach, the instrumental approach, and the normative approach. The normative approach takes the most comprehensive view of the organization and its stakeholders and is the fundamental basis of stakeholder theory. Organizations can analyze stakeholder claims by classifying them on the basis of their intensity and impact on the firm, as well as on the basis of their relationship to the firm. Such classifications may include enabling stakeholders, normative stakeholders, functional stakeholders, and diffused stakeholders. Using the lens of the four “publics” (the nonpublic, the latent, the aware, and the active), we can also understand a stakeholder claim on the basis of the public’s degree of awareness of a problem and ability to do something about it.

3.3 Ethical Decision-Making and Prioritizing Stakeholders

Business leaders prioritize those stakeholders who have immediate needs or high urgency or great significance to the organization, and the identity of these groups may shift over time. Stakeholders can also be prioritized on the basis of their relationship to the organization using a matrix of their power and interest. Steps in the MITRE stakeholder management process are to establish trust, identify stakeholders, gather and analyze appropriate data, present information to management, and let stakeholders know they matter. Because customers are often considered high-priority stakeholders, it can be essential for corporations and nonprofit organizations to manage any expectations that customers (or donors) may have.

3.4 Corporate Social Responsibility (CSR)

Most organizations must practice genuine corporate social responsibility to be successful in the modern marketplace. The triple bottom line places people and the planet on equal standing with profit in the mission of an organization. The genuine practice of CSR, unlike greenwashing, requires a commitment to an additional stakeholder, the planet, whose continued healthy existence is essential for any organization to operate.

Assessment Questions

1. Maintaining trust between stakeholders and organizations is _______.

A. the stakeholder’s responsibility
B. an ethical minimum
C. an ethical maximum
D. a social contract

2. True or false? Companies are required to provide amenities to their employees to fulfill the social contract between management and employees as stakeholders.

3. Choose your favorite brand. List at least five of its key stakeholder groups.

4. A shareholder is a stakeholder who _______.

A. holds stock for investment
B. has a general interest in the fate of all publicly traded companies
C. focuses on the means by which firms get their products to market
D. always purchases the product or service of a particular company

5. A stakeholder claim _______.

A. is usually a complaint
B. is always financial
C. is any matter of concern for the corporation or company
D. is the same as a lawsuit

6. Explain how the normative approach to stakeholder theory informs the instrumental aspect and the descriptive approach.

7. What is the most important quadrant in the influence/interest matrix, and why?

8. In correct order, the stakeholder management steps adapted from the approach of the MITRE consulting firm are to _______.

A. build trust, identify stakeholders, prioritize claims, visualize changes, and perform triage
B. build trust, identify stakeholders, gather and analyze data, present results, make changes, and prepare a communication strategy
C. build trust, identify stakeholders, gather and analyze data, present findings to management, and communicate key messages to stakeholders conveying the company's appreciation of them
D. identify stakeholders, gather and analyze data, make changes, and present results

9. True or false? Stakeholder management practice ultimately is about valuing stakeholder contributions to a firm, no matter how significant, inspired, or influential that contribution might not be.

10. Name the three components of the triple bottom line.

11. What does the California Transparency in Supply Chains Act require of businesses that operate in California?

12. True or false? Corporate social responsibility is a voluntary action for companies.

13. The Dow Jones Sustainability Indices provides information for _______.

A. investors who seek quick profit
B. investors who seek long-term returns
C. investors who value CSR in companies
D. marketing promotions of each of its members

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4 Three Special Stakeholders: Society, the Environment, and Government

Figure 4.1 The Japanese concept of *nemawashi* broadly means "laying the groundwork" or "building strong roots." In a business ethics context, *nemawashi* means building a strong foundation for an action or project by reaching out to all stakeholders and seeking their input, demonstrating how much the organization values their opinion as it builds support from the ground up. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

Chapter Outline

4.1 Corporate Law and Corporate Responsibility

4.2 Sustainability: Business and the Environment

4.3 Government and the Private Sector

Introduction

Good business leaders know that a commitment to sustainability and corporate social responsibility (CSR) requires a strong foundation, one upon which a company can build and expand its commitment to every aspect of the organization.[1] Companies that truly intend to incorporate CSR into their long-term strategy start by soliciting input from a large and diverse group of stakeholders, followed by a transparent process of implementation, commitment, and enforcement. Corporate social responsibility is more than just another policy; it's a philosophy, capturing the essence of *nemawashi*, or "building strong roots" (Figure 4.1). CSR also demonstrates that a company is willing to commit the financial and human resources necessary to make it a reality, rather than just a talking point.

This chapter looks at sustainability and CSR from the perspective of a diverse constituency, including managers, employees, investors, government regulators, competitors, customers and clients, the community, and the environment. If you were a CEO, would you be willing to commit the time and money to incorporate CSR the right way in your company? Why might some businesses hesitate to use a *nemawashi*-style approach?

4.1 Corporate Law and Corporate Responsibility

Learning Objectives

By the end of this section, you will be able to:

- Explain how investors and owners benefit from doing business as a corporate entity
- Define the concept of shareholder primacy
- Discuss the conflict between shareholder primacy and corporate social responsibility

Corporate law, which enables businesses to take advantage of a legal structure that separates liability from ownership and control, was introduced in most states in the nineteenth century. The separation of ownership and liability means that, unlike sole proprietors and members of partnerships, owners of modern business corporations enjoy the advantage of limited liability for the corporation's debts and other financial obligations, a concept at the heart of a U.S. economic system built on capitalism.

The Advantages of Corporate Status

The concept of **limited liability** means that the owners (shareholders or stockholders) of corporations, as well as directors and managers, are protected by laws stating that in most circumstances, their losses in case of business failure cannot exceed the amount they paid for their shares of ownership (Figure 4.2). The same protection applies to owners of some other business entities such as limited liability companies (LLCs). An LLC is similar to a corporation in that owners have limited liability; however, it is organized and managed more like a partnership. For purposes of granting owners the protection of limited liability, several types of entities are possible within each state, including a corporation, an LLC, a limited liability partnership, and a limited partnership.

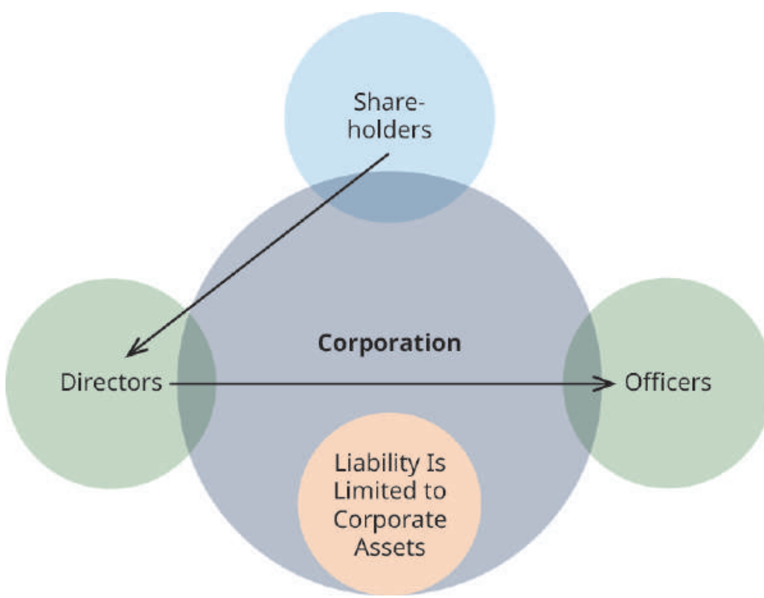

Figure 4.2 Corporate shareholders elect directors who appoint the company's officers—all of whom benefit from limited liability. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

Without state incorporation laws, business owners would be subject to personal liability for business losses, which could create several disadvantages. Ownership would be riskier, so owners could have more difficulty selling their ownership interests. They could also be subject to a pro rata share of income taxes. These types of personal financial liability could limit the ability of businesses to raise capital by selling stock. Limited liability, by reducing the amount a shareholder can lose from investing in a corporation by buying its stock, increases the investment's attractiveness to potential new shareholders. Ultimately, corporate status increases both the potential number of willing investors and the amount of capital they are likely to invest. After all, would you be willing to invest your money in a business if you knew not only that you could lose the capital you invested, but also that you could be sued personally for any and all debts of the business?

Corporate status is conferred upon a business by state law (statute) when a state issues the business a charter of incorporation. The protective shield of corporate status enables businesses to socialize their losses in a way that traditional proprietorships and partnerships are not able to do. *Socializing* a loss is a means to amortize it or spread it out over society in general, so the owners do not absorb it individually. Amortization is similar to the idea behind insurance, in which many people bear a small share in a loss, rather than one or a few people bearing all of it. Therefore, it is accurate to say that society enables corporations to exist, both by passing laws that create them and by limiting the financial risk exposure of their owners. Since our society grants for-profit businesses the right to incorporate and make unlimited profits with limited liability, a reasonable person could conclude that corporations owe a debt to society in return. Corporations' **quid pro quo**—a Latin term meaning *this for that*—is acceptance of corporate social responsibility, to benefit the many stakeholders to whom corporations may owe a duty, including customers, the community, the environment, employees, media, and the government (Figure 4.3).

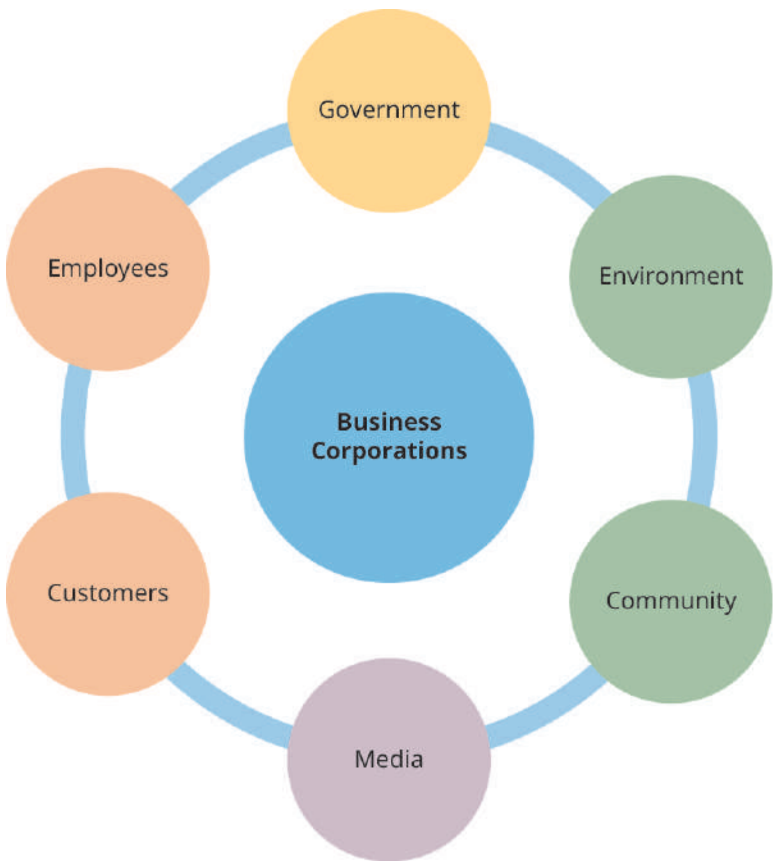

Figure 4.3 A corporation's typical stakeholders include (but are not limited to) its customers or clients, the community in which it operates, the natural environment, its employees, the media, and the government. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

Balancing the Many Responsibilities of a Corporation

A longstanding ethical debate about corporate social responsibility asks whether, in fact, a corporation owes a duty to society or only to its shareholders. The line of important court cases shaping this issue spans almost a century and includes a series of landmark cases involving the Ford Motor Company, the Wrigley Company, and Hobby Lobby.

In *Dodge v. Ford Motor Company* (1919), the Michigan Supreme Court ruled in favor of **shareholder primacy**, saying that founder Henry Ford must operate the Ford Motor Company primarily in the profit-maximizing interests of its shareholders.[2] In the traditional corporate model, a corporation earns revenue and, after deducting expenses, distributes the profits to shareholders in the form of dividends. Ford had announced that his company would stop paying big dividends to shareholders and instead would use its profits to achieve several other goals, including improving product quality, expanding company facilities, and perhaps most surprisingly, lowering prices. Shareholders then sued Ford, asking the court to order Ford Motor Company to continue allocating the lion’s share of profits to high dividend payments. (It is ironic that the named shareholders who sued Ford were the Dodge brothers, former Ford suppliers who had recently started their own car company.)

At the trial, Ford (Figure 4.4) testified that he believed his company was sufficiently profitable to consider its broader obligation and engage in activities to benefit the public, including its workers and customers. This was a unique position for the founder and primary owner of a large corporation to take in the early twentieth century. During the rise of capitalism in the United States, most owners sought only to maximize profits, because that was the primary basis of their ability to attract capital and to reinvest in the company. Most investors were interested in a healthy return on their investment, rather than any type of social good. Shareholders contended that the concern Ford expressed for his workers and customers was both improper and illegal. The court agreed, and Ford was forced to abandon his managerial goal of balancing profits and realizing broader social goals.[3]

(a) (b)

Figure 4.4 In 1913, workers are shown laboring on a Ford assembly line (a) in Highland Park, Michigan. In *Dodge v. Ford Motor Company* (1919), the Michigan Supreme Court ruled that Henry Ford (b) must operate the Ford Motor Company primarily in the profit-maximizing interests of its shareholders rather than in the broader interests of his workers and customers. (credit a: modification of "Ford assembly line - 1913" by unknown/ Wikimedia Commons, Public Domain; credit b: modification of "Portrait of Henry Ford" by Hartsook/Wikimedia Commons, Public Domain)

Ironically, in the same case, the court upheld the validity of a doctrine known as the **business judgment rule**, a common-law principle stating that officers, directors, and managers of a corporation are not liable for losses incurred when the evidence demonstrates that decisions were reasonable and made in good faith, which gives corporate management latitude in deciding how to run the company.[4] Essentially, the business judgment rule holds that a court will not second-guess the decisions of a company's managers or directors.

The legality and appropriateness of social responsibility as a business policy have followed a long and winding road since 1919. In the 1950s and 1960s, for example, some state courts rejected the shareholder primacy doctrine, instead ruling that a broad interpretation of the business judgment rule allowed managers discretion when it came to allocating company assets, including using them for programs demonstrating social awareness.

In 1968, in a highly publicized case, the court ruled that the board of directors of the Wrigley Company, of baseball and chewing gum fame, had a significant amount of discretion in determining how to balance the interests of stakeholders.[5] The case of *Shlensky v. Wrigley* (1968) revolved around William Wrigley Jr.'s ownership of the Chicago Cubs. The baseball team had steadfastly refused to install the lights necessary for playing night games at Wrigley Field, even though every other stadium in major league baseball had lights. Instead, the Cubs had respected the local community's belief that night baseball games and their associated lights would negatively affect the surrounding neighborhood, creating more opportunities for crime. In the view of some investors, however, the Cubs' decision was depressing profits for shareholders. The shareholders brought a challenge against the Wrigley Company, but the Cubs' owners won the case.

The Wrigley case represented a shift from the idea that corporations should pursue only the maximization of shareholder value, as had been held in the Ford Motor Company case.[6] As a follow-up to this case, lights were finally installed at Wrigley Field in 1988, but only after the owner, William Wrigley III, had sold the team (in 1981) to the Tribune Company, a large media conglomerate that fought for six years to install lights. However, the case stands as precedent for the ability of management to balance various interests and profits when making decisions.

Dodge v. Ford (1919) and *Shlensky v. Wrigley* (1968) established the dynamic nature of the debate over the shareholder primacy doctrine and indicated a shift in both legal thought and precedent toward allowing management greater latitude in deciding how to best manage a corporation. A more recent decision, *Burwell v. Hobby Lobby* (2014), demonstrated what some may consider the double-edged sword of this latitude.[7] In a 5–4 decision in favor of Hobby Lobby, the Supreme Court ruled that some corporations (those that are closely held by a few shareholders) can object on ethical, moral, or religious grounds to the Affordable Care Act's rule that health insurance policies must cover various forms of contraception; such companies can elect not to offer such coverage.

The majority opinion in the case was written by Justice Samuel Alito, joined by Chief Justice John Roberts and Justices Antonin Scalia, Clarence Thomas, and Anthony Kennedy. In essence, the Court ruled that business owners could place their personal values first and follow their own agenda. The case received a great deal of publicity, some of it quite negative. Essentially, the Court held in this case that "corporate law does not require for-profit corporations to pursue profit at the expense of everything else,"[8] similar to the ruling in the Chicago Cubs/Wrigley Field case.

The decision was a victory for the family that owns Hobby Lobby and has been praised by some and criticized by others for expanding the rights of corporate owners. Some analysts believe it represents more than just an expansion of management prerogative and enlarges the right of corporations to be treated as a "person." The Hobby Lobby case can be interpreted to mean the people who control corporations (owners and/or management) may act on their own values in a way that might well be inconsistent with the interests of employees and other minority shareholders. In the majority decision, Alito wrote, "A corporation is simply a form of organization used by human beings to achieve desired ends. When rights, whether constitutional or statutory, are extended to corporations, the purpose is to protect the rights of these people."[9] Hobby Lobby is primarily owned by one family, and Alito's comments seem to suggest that another interpretation would limit the applicability of the case to only closely held corporations, in which the majority of the stock is owned by a small number of shareholders.

Some might think Henry Ford's attempt to forego profits in order to pay workers higher wages was a good choice but not find Hobby Lobby's preference for limiting female employees' health insurance benefits on religious grounds to be so. However, the law must be interpreted logically: If you give management the prerogative to put one social issue ahead of profits, should management not also be able to pursue any social issue of its choosing? An extension of the logic used in the Hobby Lobby case could lead to an expansion of the corporate rights of the personhood doctrine, for example, by allowing the individual right to privacy to become a shield against regulatory scrutiny by government agencies (although a corporation is not a natural person).

Another potential problem with giving management greater rights to pursue social agendas is protecting the interests of minority shareholders who disagree with the majority. Since corporation law is state law, the protections for minority shareholders vary widely, but owners of a small number of shares have little or no power to influence the choices the corporation makes. Some states allow cumulative voting for seats on the board of directors, which increases minority shareholder power. Others permit buyouts or dissolution statutes that apply to closely held corporations. However, in a traditional large corporation, none of these protections for minority interests are likely to apply. Of course, another option is for disgruntled shareholders to sell their shares.

The Two Sides of the Corporate Responsibility Debate

The issue of corporate social responsibility is the subject of high-level global discussion and debate among leaders in the public and private sectors, such as the World Economic Forum Annual Meeting in Davos, Switzerland. Numerous respected academic centers also hold forums on CSR, such as the Center on Democracy, Development, and the Rule of Law at Stanford University and the Harvard Law School Forum on Corporate Governance and Financial Regulation.

As we have seen, slow but steady acceptance of CSR as a legitimate business concept has led to the legal and ethical position that corporate directors and managers may exercise business judgment and discretion in running a corporation. This development has come about for multiple reasons: a) the fact that society allows LLCs to exist, b) the sheer magnitude of the economic power corporations possess, and c) the desire of corporations to act responsibly in order to avoid more extensive government regulation. Managers are usually accorded significant latitude as long as they can point to a rational interpretation of their actions as benefiting the corporation as a whole in the long term. The combination of economic and political power in the world's largest corporations necessitates that executives consider the interests of a broader set of stakeholders, rather than only stockholders. Indeed, social, environmental, and charitable programs often create shareholder value rather than take away from it. And honoring obligations to all stakeholders in a corporation—including those who own no stock shares—is the **moral minimum** a firm must undertake to satisfy the base threshold for acting ethically.

A recent study by researchers at Princeton and the University of Texas indicates that corporations benefit from following CSR policies in multiple ways.[10] These benefits are collectively called a "halo effect" and can add value to the business. As an example, consumers frequently take CSR spending as an indirect indicator that a company's products are of high quality, and often they are also more willing to buy these products as an indirect way of donating to a good cause.

However, some economists, such as Milton Friedman, Henry Hazlitt, Adam Smith, and others, have argued that CSR initiatives based on environmental or social justice instead *limit* shareholder wealth.[11] The Nobel Prize-winning economist Milton Friedman (1912–2006) believed shareholders should be able decide for themselves what social initiatives to donate to or to take part in, rather than having a business executive decide for them. He argued that both government regulation and corporate social initiatives allow an outside third party to make these choices for shareholders.

In Friedman's opinion, too much power assumed by corporate management in pursuing a social agenda might ultimately lead to a form of corporate autocracy. Supporters of the profit maximization principle believe it is a waste of corporate resources to reduce air pollution below the level required by law, to require vendors to participate in a sustainable supply chain initiative, or to pay lower-level employees a salary above the legally mandated minimum wage. Friedman asserted that "doing good deeds" is not the job of corporations; it is the right of those people who want to do them but should not be imposed on those who do not. His philosophy asserts that socially oriented initiatives are analogous to a form of outside regulation, resulting in higher costs to those corporations that follow socially responsible policies.

When Friedman was laying out this position in the 1970s, it reflected the prevailing opinion of a majority of U.S. shareholders and commentators on corporate law at that time. In the years since then, however, Friedman's perspective has fallen into disfavor. This does not invalidate his point of view, but it does demonstrate that public opinion about corporations is subject to change over time. The subjectivity or relativity with which we view companies along with their perceived rights and responsibilities is a major theme this text addresses.

Do corporate directors owe a specific fiduciary duty to shareholders? A **fiduciary duty** is a very high level of legal responsibility owed by those who manage someone else's money, which includes the duties of care and loyalty. Some examples of relationships that include a fiduciary duty are those between a trustee of an estate and its beneficiary, and between a fund manager and a client. According to the American Bar Association, the business judgment rule states "that as fiduciaries, corporate directors owe the corporation and its shareholders fiduciary duties of diligence and fidelity in performing their corporate duties. These fiduciary obligations include the duty of care and the duty of loyalty . . . the duty of care consists of an obligation to act on an informed basis; the duty of loyalty requires the board and its directors to maintain, in good faith, the corporation's and its shareholders' best interests over anyone else's interests."[12] So it would seem that the answer is yes, corporate directors do have a specific fiduciary duty to promote the best interests of the corporation. But what exactly does that duty entail? Does that specifically mean returning profits to shareholders in the form of dividends? As we have seen, these questions have frequently spilled over into the courts, in the form of shareholder lawsuits challenging the actions of directors and/or management.

LINK TO LEARNING

Fiduciary duty also includes a duty of communication, as you can read in the oft-cited Meinhard v. Salmon case (https://openstaxcollege.org/l/53MeinVSal) from 1928, where the New York Court of Appeals held that business partners may have a fiduciary duty to one another regarding business opportunities that arise during the course of the partnership.

UCLA law professor Steven Bainbridge wrote in the *New York Times*: "If directors were allowed to deviate from shareholder wealth maximization, they would inevitably turn to indeterminate balancing standards, which provide no accountability."[13] As support for his position, Bainbridge pointed to a 2010 case, *eBay Domestic Holdings Inc. v. Newmark*, in which a Delaware court ruled that corporate directors are bound by fiduciary duties and standards that include "acting to promote the value of the corporation for the benefit of its stockholders."[14]

However, Lynn Stout, a professor at Cornell University Law School, wrote a contrasting piece in the *New York Times* in which she said, "There is a common belief that corporate directors have a legal duty to maximize corporate profits and shareholder value—even if this means skirting ethical rules, damaging the environment or harming employees. But this belief is utterly false. Modern corporate law does not require for-profit corporations to pursue profit at the expense of everything else, and many do not."[15] Her opinion is based in part on the Hobby Lobby decision referenced above.

Thus, while ethicists may agree that corporations do indeed owe social responsibilities to society, legal experts still differ over this point. The fact that we have seen inconsistent decisions from the courts over the last century confirms the lack of legal consensus. Of course, both legal and ethical opinion are always in flux, so where the debate stands today in no way indicates where it will be in ten years. On this issue, public opinion, as well as that of politicians and even the courts, is like a pendulum swinging back and forth, usually between points of view that are center-right or center-left, rather than at the extremes. However, the pendulum is reset every so often, and the arc within which it swings may differ from era to era.

CASES FROM THE REAL WORLD

Unilever “Enhancing Livelihoods” through Project Shakti

According to management guru Peter Drucker, whose ideas significantly contributed to the foundations of thought about the workings of the modern business corporation, workers “need to know the organization’s mission and to believe in it.” How do organizations ensure this commitment? By satisfying workers’ values.[16] A program undertaken by Unilever, the Dutch-British multinational company co-headquartered in Rotterdam and London, illustrates the kind of values-oriented corporate endeavor Drucker describes. Project Shakti is a Unilever CSR initiative in India that links corporate social responsibility and financial opportunities for local women.[17] It is considered a leading example of micro-entrepreneurship, and it expands the concept of sustainability to include not only environmental issues but also economic opportunity and financial networking in underdeveloped areas.

The goal, according to Unilever, is to give rural Shakti women the ability to earn money for themselves and their families as micro-entrepreneurs. Unilever’s subsidiary in India, Hindustan Lever, has started training programs for thousands of women in small towns and villages across India to help them understand how to run their own small sole proprietorships as distributors of the company’s products. With support from a team of rural sales managers, women who had been unable to support themselves are now becoming empowered by learning how a supply chain works, what products Hindustan Lever produces, and how to distribute them. The sales managers also act in a consulting capacity to help with business basics, money management, negotiations, and related skills that help the women run their businesses effectively.

The program was so successful that Unilever expanded it to include Shakti men, typically the sons, brothers, or husbands of the women already running businesses. The men, who are essentially like delivery drivers, sell Unilever products using bicycles for transportation, enabling them to cover a larger area than women cover on foot. The women spend most of their time running the business.

Project Shakti has enlisted more than 100,000 rural participants, which includes about 75,000 women. The project has changed their lives in ways that are profound, and not only because of the income earned. The women now have increased self-esteem based on a sense of empowerment, and they finally feel they have a place in Indian society. According to the Unilever Sustainable Living Plan, Project Shakti is one of the best and most sustainable ways the company can address women’s social concerns. It allows Unilever to conduct business in a socially responsible manner, helping women to help themselves while extending the reach of its products.

Critical Thinking

- Do you believe Unilever sponsors the Shakti program to help women, to boost its own profits, or both? Explain your answer.
- If Unilever has mixed motives, does this discredit the company in your eyes? Should it?
- How is this program an example of both corporate and personal sustainability?
- Could this model program be duplicated elsewhere, in another area and with different products? Why or why not?

It is clear that many different stakeholders value corporate social responsibility, including some investors, shareholders, employees, customers, and suppliers. Indeed, some businesses look at CSR as providing a perfect long-term strategic opportunity to strengthen company fundamentals while contributing to society at the same time. Effective corporate leaders will get try to get investors on board with the idea of CSR, avoiding or minimizing the potential for any litigation related to maximization of profits. And innovative companies are finding ways to create value for both the business and society simultaneously.[18]

Data analysis indicates that following a policy of corporate social responsibility does not have to mean losing money; on the contrary, many corporations that use an ethical approach to doing business are actually quite profitable. Mutual funds, recognizing that investors care about sustainable investing, now offer socially responsible funds, and third-party ratings companies, such as Morningstar, rate the funds so potential investors can evaluate how well the companies in them are meeting environment, social, and governance challenges. An example of such a fund is the Calvert Fund, which describes itself as a “leader in responsible investing with a mission to deliver superior long-term performance to our clients and to enable them to achieve positive impact.”[19]

LINK TO LEARNING

This website for Ellevest (https://openstaxcollege.org/l/53Ellevest) takes you to a digital investment platform run by women for women clients. The idea was launched in 2016 by Sallie Krawcheck, who had worked for large Wall Street firms and experienced first-hand the challenges of using an ethical approach to investing in traditional firms, especially for women.

The chart below analyzes mutual funds and their rate of return over several different time periods; included are examples of both general index funds and “socially responsible” or social index funds (Figure 4.5). If we compare the two general index funds at the top to the three funds at the bottom that invest in socially responsible companies, we see a competitive return on investment in the social funds. Social responsibility does not mean lower profitability.

Relative Profitability of Socially Responsible and Other Index Mutual Funds				
Index or Fund	Holdings (Number of Different Stocks Held in Fund)	Year-to-Date Return	2-Year Return	5-Year Return
S&P 500 Index	500	8.2%	7.4%	81.4%
NASDAQ Index	3,176	6.5%	12.5%	108%
Vanguard FTSE Social Index	407	7.7%	5.7%	96.7%
TIAA-CREF Social	793	12.1%	0.1%	66.8%
iShares Social	403	8.1%	6.5%	78.8%

General index fund Social index fund

Source: Zacks, Abhijit Ghosh. "Top Ranked Socially Responsible Mutual Funds." Yahoo! Finance. April 30, 2014.

Figure 4.5 This chart demonstrates that social responsibility can be profitable. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

LINK TO LEARNING

Being socially responsible does not necessarily mean being unprofitable. This video interview with George Pohle (https://openstaxcollege.org/l/53IBMGlobal) reveals how ensuring that CSR is at the core of a business's strategy can yield financial benefits. Pohle is the vice president and global leader of the Business Strategy Consulting Division at IBM Global Business Services.

4.2 Sustainability: Business and the Environment

Learning Objectives

By the end of this section, you will be able to:

- Explain the concept of earth jurisprudence
- Evaluate the claim that sustainability benefits both business and the environment
- Identify and describe initiatives that attempt to regulate pollution or encourage businesses to adopt clean energy sources

Public concern for the natural environment is a relatively new phenomenon, dating from the 1960s and Rachel Carson's seminal book *Silent Spring*, published in 1962. In 1992, Cormac Cullinan's *Wild Law* proposed "earth justice" or "earth jurisprudence," a concept underlying the law's ability to protect the environment and effectively regulate businesses that pollute. The preoccupation with business success through investment in corporations, in contrast, is a much older concept, dating back at least to the creation of the British East India Company in 1600, and the widespread emergence of the corporation in Europe in the 1700s. If you were a business owner, would you be willing to spend company resources on environmental issues, even if not required to do so by law? If so, would you be able to justify your actions to shareholders and investment analysts as smart business decisions?

Environmental Justice

If a business activity harms the environment, what rights does the environment have to fight back? Corporations, although a form of business entity, are actually considered persons in the eyes of the law. Formally, **corporate personhood**, a concept we touched on in the preceding section, is the legal doctrine holding that a corporation, separate and apart from the people who are its owners and managers, has some of the same legal rights and responsibilities enjoyed by natural persons (physical humans), based on an interpretation of the word "person" in the Fourteenth Amendment.[20]

The generally accepted constitutional basis for allowing corporations to assert that they have rights similar to those of a natural person is that they are organizations of people who should not be deprived of their rights simply because they act collectively. Thus, treating corporations as persons who have legal rights allows them to enter into contracts with other parties and to sue and be sued in a court of law, along with numerous other legal rights. Before and after the Supreme Court's ruling in *Citizens United v. Federal Election Commission* (2010), which upheld the First Amendment free-speech rights of corporations, there have been numerous challenges to the concept of corporate personhood; however, none have been successful. Thus, U.S. law considers corporations to be persons with rights protected under key constitutional amendments, regulations, and case law, as well as responsibilities under the law, just as human persons have.

A question that logically springs from judicial interpretations of corporate personhood is whether the environment should enjoy similar legal status. Should the environment be considered the legal equivalent of a person, able to sue a business that pollutes it? Should environmental advocates have been able to file a lawsuit against BP (formerly British Petroleum) on behalf of the entire Gulf of Mexico for harm created by the 2010 Deepwater Horizon oil spill (discussed in more detail in the government regulation section of this chapter), which, at five million barrels, was ten times larger than the famous Exxon Valdez spill and remains the largest and most widespread ocean oil spill in the history of the global petroleum industry? Furthermore, the Deepwater Horizon spill affected not only thousands of businesses and people, but also the entirety of the Gulf of Mexico, which will suffer harm for years to come. Should the Gulf of Mexico have legal standing to sue, just like a person?

While U.S. jurisprudence has not yet officially recognized the concept that Earth has legal rights, there are examples of progress. Ecuador is now the first country to officially recognize the concept.[21] The country rewrote its Constitution in 2008, and it includes a section entitled "Rights for Nature." It recognizes nature's right to exist, and people have the legal authority to enforce these rights on behalf of the ecosystem, which can itself be named as a litigant in a lawsuit.

Earth jurisprudence is an interpretation of law and governance based on the belief that society will be sustainable only if we recognize the legal rights of Earth as if it were a person. Advocates of earth jurisprudence assert that there is legal precedent for this position. As pointed out earlier in this chapter, it is not only natural persons who have legal rights, but also corporations, which are artificial entities. Our legal system also recognizes the rights of animals and has for several decades. According to earth jurisprudence advocates, officially recognizing the legal status of the environment is necessary to preserving a healthy planet for future generations, in particular because of the problem of “invisible pollution.”

Businesses that pollute the environment often hide what they are doing in order to avoid getting caught and facing economic, legal, or social consequences. The only witness may be Earth itself, which experiences the harmful impact of their invisible actions. For example, as revealed in a recent report,[22] companies all over the world have for years been secretly burning toxic materials, such as carbon dioxide, at night. A company that needs to dump a toxic substance usually has three choices: dispose of it properly at a safe facility, recycle and reuse it, or secretly dump it. There is no doubt that dumping is the easiest and cheapest option for most businesses.

As another example, approximately twenty-five million people board cruise ships every year, and as a result, cruise ships dump one billion gallons (3.8 billion liters) of sewage into the oceans annually, usually at night so no one sees or smells it. Friends of the Earth, a nongovernmental organization (NGO) concerned with environmental issues, used data from the U.S. Environmental Protection Agency (EPA) to calculate this figure.[23] The sewage dumped into the sea is full of toxins, including heavy metals, pathogens, bacteria, viruses, and pharmaceutical drugs (Figure 4.6). When invisibly released near coasts, this untreated sewage can kill marine animals, contaminate seafood, and sicken swimmers, and no one registers the damage except the ocean itself. Many believe the environment should have the right not to be secretly polluted in the dead of night, and Earth should have rights at least equal to those of corporations.

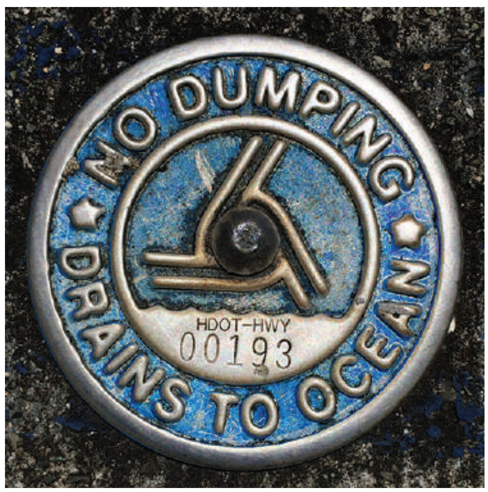

Figure 4.6 A warning in Honolulu regarding the damage done by ocean dumping. (credit: “No Dumping - Drains to Ocean” by Daniel Ramirez/Wikimedia Commons, CC BY 2.0)

Cormac Cullinan, an environmental attorney, author, and leading proponent of earth jurisprudence, often collaborates with other environmental advocates such as Thomas Berry, an eco-theologian, scholar, and author. Cullinan, Berry, and others have written extensively about the important legal tenets of earth jurisprudence; however, it is not a legal doctrine officially adopted by the United States or any of its states to date. The concept of earth justice is tied indirectly to the economic theory of the “tragedy of the commons,” a phrase derived from British economist William Forster Lloyd, who, in the mid-nineteenth century, used a hypothetical example of unregulated grazing on common land to explain the human tendency to act independently, putting self-interest first, without regard for the common good of all users. The theory was later popularized by ecologist and philosopher Garrett Hardin, who tied it directly to environmental issues. In other words, when it comes to natural resources, the **tragedy of the commons** holds that people generally use as much of a free resource as they want, without regard for the needs of others or for the long-term environmental effects. As a way of combating the tragedy of the commons, Cullinan and others have written about the concept of earth justice,[24] which includes the following tenets:

> "The Earth and all living things that constitute it have fundamental rights, including the right to exist, to have a habitat or a place to be.
>
> Humans must adapt their legal, political, economic, and social systems to be consistent with the fundamental laws or principles that govern how the universe functions.
>
> Human acts, including acts by businesses that infringe on the fundamental rights of other living things violate fundamental principles and are therefore illegitimate and unlawful."[25]

LINK TO LEARNING

The concept of earth justice relies heavily on Garrett Hardin's discussion of the tragedy of the commons (https://www.openstax.org/l/53TragOfCom) in *Science* in 1968.[26] This classic analysis of the environmental dilemma describes how, from colonial times, Americans regarded the natural environment as something to be used for their own farming and business ends. Overuse, however, results in the inevitable depletion of resources that negatively affects the environment, so that it eventually loses all value.

Today, supporters of the environment assert that government has both a right and an obligation to ensure that businesses do not overuse any resource, and to mandate adequate environmental protection when doing so. In addition, some form of fee may be collected for using up a natural resource, such as severance taxes imposed on the removal of nonrenewable resources like oil and gas, or deposits required for possible cleanup costs after projects have been abandoned. As part of the growing acceptance of the concept of earth justice, several nonprofit educational organizations and NGOs have become active in both lobbying and environmental litigation. One such organization is the Center for Earth Jurisprudence (housed at the Barry School of Law in Orlando), a nonprofit group that conducts research in this area.

LINK TO LEARNING

The following video describing the Center for Earth Jurisprudence (https://www.openstax.org/l/53EarthJuris) discusses support for laws that legally protect the sustainability of life and health on Earth, focusing upon the springs and other waters of Florida.

Why Sustainability Is Good for Business

The notion that the environment should be treated as a person is relatively new. But given the prominence of the environmental movement worldwide, no well-managed business today should be conducted without an awareness of the tenuous balance between the health of the environment and corporate profits. It is quite simply good business practice for executives to be aware that their enterprise's long-term sustainability, and indeed its profitability, depend greatly on their safeguarding the natural environment. Ignoring this interrelationship between business and the environment not only elicits public condemnation and the attention of lawmakers who listen to their constituents, but it also risks destroying the viability of the companies themselves. Virtually all businesses depend on natural resources in one way or another.

Progressive corporate managers recognize the multifaceted nature of **sustainability**—a long-term approach to business activity, environmental responsibility, and societal impact. Sustainability affects not only the environment but also other stakeholders, including employees, the community, politics, law, science, and philosophy. A successful sustainability program thus requires the commitment of every part of the company. For example, engineers are designing manufacturing and production processes to meet the demands of companies dedicated to sustainability, and the idea of company-wide sustainability is now mainstream. Many of the largest companies in the world see sustainability as an important part of their future survivability.

The Global 100 and Sustainability's Strategic Worth

Corporate Knights is a Canadian research and publishing company that compiles an annual list called the Global 100, identifying the world's most sustainable companies.[27] The 2018 edition of the list, presented at the World Economic Forum in Davos, Switzerland, shows that an increasing number of major multinational companies take sustainability seriously, including many U.S. businesses. The highest-ranking U.S. company is technology giant Cisco, which ranks seventh on the Global 100 list.[28] Other U.S. companies in the top twenty-five include Autodesk, Merck, and McCormick & Co. The countries with the best representation on the list are primarily from North America and Western Europe: the United States (18), France (15), the United Kingdom (10), Germany (7), Brazil (5), Finland (5), and Sweden (5).

You may expect that companies dedicated to sustainability would be less profitable in the long run as they face additional costs. In fact, data from the Global 100's return on investment shows this is not the case. Let's examine the evidence. If an investor had put $250 in Global 100 companies in 2005, it would have been worth $580 in 2015, compared to $520 for the same amount invested in a typical index fund. The Global 100's cumulative return on high-sustainability firms is about 25 percent higher than a traditional investment.[29]

Cisco Systems, number seven on the global list, is a good example of how green procurement and sustainable sourcing have become a regular part of the supply chain. At Cisco, according to a top-level supply chain executive, "we take seriously the responsibility of delivering products in an ethical and environmentally responsible manner."[30] Cisco relies on its Supplier Code of Conduct to set standards for suppliers so they follow fair labor practices, ensure safe working conditions, and reduce their **carbon footprint**, the amount of carbon dioxide and other carbon compounds released by the consumption of fossil fuels, which can be measured quantitatively (see the link below). Cisco is in the process of embedding sustainability into supply chain management at all levels.

LINK TO LEARNING

Do you know what your carbon footprint is? This personal footprint calculator (https://www.openstax.org/l/53CarbonFoot) allows you to find out where you stand.

Another company dedicated to sustainability is Siemens, which was ranked number nine on the 2018 list. Siemens is a multinational industrial conglomerate headquartered in Germany, whose businesses range from power plants to electrical systems and equipment in the medical field and high-tech electronics. Siemens was rated the most energy-efficient firm in its sector, because it produced more dollars in revenue per kilowatt used than any other industrial corporation. This is a standard technique to judge efficiency and demonstrates that Siemens has a low carbon footprint for a company in the industries in which it operates. The commitment of Siemens to sustainability is further demonstrated by its decision to manufacture and sell more environmentally friendly infrastructure products such as green heating and air conditioning systems.

Cisco and Siemens show that businesses across the globe are starting to understand that for a supply chain to be sustainable, companies and their vendors must be partners in a clean and safe environment. Do businesses simply pay lip service to environmental issues while using all available natural resources to make as much money as they can in the present, or are they really committed to sustainability? There is abundant evidence that sustainability has become a policy adopted by businesses for financial reasons, not simply public relations.

McKinsey & Company is one of the world's largest management consulting firms and a leader in the use of data analytics, both qualitative and quantitative, to evaluate management decisions. McKinsey conducts periodic surveys of companies around the world on matters of importance to corporate leaders. In the 2010 survey, 76 percent of executives agreed that sustainability provides shareholders long-term value, and in the 2014 survey, entitled "Sustainability's Strategic Worth," the data indicated that many companies consider cost savings to be the number-one reason for adopting such policies. Cost cutting, improved operations, and efficiency were indicated as the primary reasons for adopting sustainability policies by over one-third of all companies (36%).[31]

Other major studies have demonstrated similar results. Grant Thornton is a leading global accounting and consulting firm. Its 2014 report on CSR showed that the top reason companies cite for moving towards more environmentally responsible business practices is financial savings. Grant Thornton conducted more than 2,500 interviews with clients and business executives in approximately thirty-five countries to discover why companies are making a commitment to sustainable practices. The study found that cost management was the key reason for sustainability (67%).[32]

A specific example is Dell Computers, headquartered outside Austin, Texas, and with operations all over the world. The "Dell Legacy of Good Plan" has set a goal to reduce greenhouse gas emissions from all facilities and operations by 50 percent by the year 2020, along with several other environmental goals. As part of this overall plan, Dell created the Connected Workplace, a flex-work program allowing alternative arrangements such as variable work hours to avoid rush hour, full- or part-time work at home flexibility, and job sharing. This sustainability initiative helps the company avoid about seven thousand metric tons of greenhouse gas emissions, and, directly related to the financial benefit of sustainability, it saves the company approximately $12 million per year.[33]

However, adopting sustainability policies may require a long-term outlook. A recent article in the *Harvard Business Review* discussed the issue of sustainability and how it can create real cost savings (Figure 4.7). "It's hard for companies to recognize that sustainable production can be less expensive. That's in part because they have to fundamentally change the way they think about lowering costs, taking a leap of faith . . . that initial investments made in more-costly materials and methods will lead to greater savings down the road. It may also require a willingness to buck conventional financial wisdom by focusing not on reducing the cost of each part but on increasing the efficiency of the system as a whole."[34]

Figure 4.7 Sustainability can create long-term cost savings for companies. (credit: work by Nattanan Kanchanaprat/Pixabay, CC0)

Sustainability Standards

The International Organization for Standardization, or ISO, is an independent NGO and the world's largest developer of voluntary international business standards. More than twenty thousand ISO standards now cover matters such as sustainability, manufactured products, technology, food, agriculture, and even healthcare. The adoption and use of these standards by companies is voluntary, but they are widely accepted, and following ISO certification guidelines results in the creation of products and services that are clean, safe, reliable, and made by workers who enjoy some degree of protection from workplace hazards.

In the environmental area, the ISO 14000 series of standards promotes effective environmental management systems in business organizations by providing cost-effective tools that make use of best practices for environmental management. These standards were developed in the 1990s and updated in 2015; they cover everything from the eco-design (ISO 14006) of factories and buildings to environmental labels (ISO 14020) to limits on the release of greenhouse gasses (ISO 14064). While their adoption is still voluntary, a growing number of countries allow only ISO 14000-certified companies to bid on public government contracts, and the same is true of some private-sector companies (Figure 4.8).

Figure 4.8 According to recent reports, close to fifteen thousand companies worldwide have chosen to be ISO 14000 certified, including Nissan, Ford, and IBM. (attribution: Copyright Rice University, OpenStax, under CC BY 4.0 license)

Another type of sustainability standard with which businesses may elect to comply is LEED certification. LEED stands for Leadership in Energy and Environmental Design, and it is a rating system devised by the U.S. Green Building Council to evaluate a structure's environmental performance. The most famous example is the Empire State Building in New York City, which was awarded LEED Gold status (for existing buildings). The LEED certification was the result of a multimillion-dollar rebuilding program to bring the building up to date, and the building is the tallest in the United States to receive it. There are dozens of other examples of large commercial buildings, such as the Wells Fargo Tower in Los Angeles, as well as thousands of smaller buildings and residential homes. LEED certification is the driver behind the ongoing market transformation towards sustainable design in all types of structures, including buildings, houses, and factories.

The High Cost of Inaction

According to estimates from the EPA, by the year 2050, Earth's population will be about ten billion people. Dramatic population growth has had a very significant and often negative human impact on the planet. Not only are there more people to feed, house, and care for, but new technologies allow businesses to harness natural resources in unprecedented amounts. NGOs and government agencies alike have taken notice. For years, the Department of State and the Department of Defense have considered climate change to be a potential threat to the long-term security of the United States. If unmanaged, climate change could pose a risk to both U.S. security and Department of Defense facilities and operations.[35] Other respected organizations are also alerting the public to the risks of ignoring climate change.

The Union of Concerned Scientists (UCS) has released a detailed report identifying approximately twenty serious risks that will be faced if the problem is not addressed in a substantial way. These risks include rising seas and increased coastal flooding, more intense and frequent heat waves, more destructive hurricanes, wildfires that last longer and produce more damage, and heavier precipitation in some areas and more severe droughts in other areas. In addition to extreme weather events, there would likely be widespread forest death in the Rocky Mountains and other mountain ranges, the destruction of coral reefs, and shifts in the ranges of plants and animals. Both military bases and national landmarks would be at risk, as would the electrical grid and food supply. The UCS, with a membership consisting of the world's most respected scientists, bases its projections on scientific research studies that have produced empirical evidence of climate change. Its official position is that "global warming is already having significant and very costly effects on communities, public health, and our environment."[36]

Environmental protection and climate change issues receive varying degrees of support at the national level, depending on the commitment different presidents make to them. During periods in which the administration in Washington demonstrates a lower priority for climate change issues, such as the Trump administration's announced intention to withdraw from the Paris Climate Accord, private companies may take the lead on actions to reduce global warming emissions.

For example, Microsoft founder Bill Gates recently announced the creation of a private initiative to invest $20 billion on climate-related research and development over the next five years. This is an example of government-funded early experimental research that a business may be able to turn into a commercially viable solution. If government steps back, private-sector companies concerned about long-term sustainability may have to take a leadership role.[37] Ultimately, it requires the cooperation of public and private efforts to address climate change; otherwise, the impacts will continue to intensify, growing more costly and more damaging."[38]

LINK TO LEARNING

This video produced by the National Oceanic and Atmospheric Administration (https://www.openstax.org/l/53NOAAvid) in conjunction with the State Department and an Oregon state agency shows the magnitude of ocean pollution. As of 2017, only two states (California and Hawaii) have banned plastic bags, according to the National Conference of State Legislatures.[39]

Sustainability often requires the public and private sectors to cooperate. Inaction contributes to disasters like the 2017 devastation of Houston by Hurricane Harvey and of Puerto Rico by Hurricane Maria. There is often tension between developers who want to build and cities that try to legislate for more green space. Green space not only offers a place for recreation and enjoyment of nature, but also provides essential natural drainage for rain and flood waters, reducing the likelihood that developed areas will end up underwater in a storm.

WHAT WOULD YOU DO?

Flooding in Houston: Is the Status Quo Sustainable?

A symbiotic relationship exists between development and flooding in urban areas such as Houston, Texas. Imagine you are a member of the urban planning commission for the city council of Houston, which recently suffered traumatic flood damage from several major storms, including Hurricanes Harvey and Ike, and Tropical Storm Allison, all of which occurred since 2001 and caused a total of approximately

$75 billion in damages.[40] The floods also caused dozens of deaths and changed the lives of millions who lived through them. Future storms may increase in severity, because climate change is warming ocean waters.

The mayor and the city council have asked the planning commission to propose specific solutions to the flooding problem. This solution must not rely exclusively on taxpayer funds and government programs, but rather must include actions by the private sector as well.

One of the most direct solutions is a seemingly simple tradeoff: The greater Houston area must reduce the percentage of land covered by concrete while increasing the percentage of land dedicated to green space, which acts like a sponge to absorb flood waters before they can do severe damage. The planning commission thinks the best way to accomplish this is to issue a municipal ordinance requiring corporate developers and builders to set aside as green space an amount of land at least equal to what will be covered by concrete, (neighborhoods, office buildings, parking lots, shopping centers). However, this will increase the cost of development, because it means more land will be required for each type of project, and as a result, developers will have higher land costs.

Critical Thinking

- As a member of the urban planning commission, you will have to convince the stakeholders that a proposal to require more green space is a workable solution. You must get everyone, including developers, investors, neighborhood homeowner associations, politicians, media, and local citizens, on board with the idea that the benefit of sustainable development is worth the price. What will you do?
- Is this a matter that should be regulated by the local, state, or federal government? Why?
- Who pays for flood damage after a hurricane? Are your answers to this question and the preceding one consistent?

U.S. government agencies, such as the National Aeronautics and Space Administration (NASA) and National Oceanic and Atmospheric Administration, have identified many challenges in which sustainability can make a positive contribution. These include climate change, decreasing supplies of clean water, loss of ecological systems, degradation of the oceans, air pollution, an increase in the use and disposal of toxic substances, and the plight of endangered species.[41] Progress toward solving these challenges depends in part on deciding who should help pay for the protection of global environmental resources; this is an issue of both environmental and distributive justice.

One way to address the issue of shared responsibility between corporations and society is the implementation of a “cap and trade” system. According to the Environmental Defense Fund, **cap and trade** is a viable approach to addressing climate change by curbing emissions that pollute the air: The “cap” is a limit on greenhouse gas emissions—if companies exceed their cap, they must pay penalties—whereas the “trade” allows companies to use the free market to buy and sell pollution allowances that permit them to emit a certain amount of pollution.

At present, there are more questions than answers, including how much of the responsibility lies with governments, how this responsibility can be allocated between developed and developing nations, how much of the cost should the private sector bear, and how should these divisions of cost and responsibility be enforced. Private companies must bear part of the cost, and the business sector recognizes they have some responsibility, but many disagree on whether that should be in the form of after-the-fact fines, or before-the-fact fees and deposits paid to the government. Regulations may very well have to be international in scope, or companies from one country may abuse the environment in another.

ETHICS ACROSS TIME AND CULTURES

Is It Ethical to Dump Toxic Waste in Countries That Allow It?

Should a multinational company take advantage of another country's lack of regulation or enforcement if it saves money to do so?

A *New York Times* news correspondent reporting from Nigeria found a collection of steel drums stacked behind a village's family living compound. In this mid-1990s case, ten thousand barrels of toxic waste had been dumped where children live, eat, and drink.[42] As safety and environmental hazard regulations in the United States and Europe have driven toxic waste disposal costs up to $3,000 per ton, toxic waste brokers are looking for the poorest nations with the weakest laws, often in West Africa, where the costs might be closer to $3 per ton. The companies in this incident were looking for cheap waste-dumping sites, and Nigeria agreed to take the toxic chemical waste without notifying local residents. Local people wearing shorts, t-shirts, and sandals unloaded barrels of polychlorinated biphenyls, placing them next to a residential area. Nigeria has often been near the top of the United Nations' list of most corrupt nations, with government leaders cutting deals to line their own pockets while exposing their citizens to environmental hazards.

A more recent example occurred in Côte d'Ivoire (Ivory Coast) in 2006, when residents discovered that hundreds of tons of "slops" (chemicals) from a foreign-owned ship had been dumped near Abidjan, the country's commercial capital. The ship was owned by a multinational energy company named Trafigura. According to a report from Amnesty International, more than 100,000 residents were sickened, leading to fifteen deaths. Trafigura had illegally dumped the toxic waste in Côte d'Ivoire after searching for a disposal site in several other countries.[43]

Critical Thinking

- Should a U.S. or European company take advantage of a country's weak approach to business and political ethics?
- Would your answer change if your decision saved your company $1 million?

Inaction on issues of sustainability can lead to long-term environmental consequences that may not be reversible (the death of ocean coral, the melting of polar ice caps, deforestation). Another hurdle is that it is sometimes difficult to convince companies and their investors that quarterly or annual profits are short-term and transitory, whereas environmental sustainability is long-term and permanent.

Environmental Economics and Policy

Some politicians and business leaders in the United States believe that the U.S. system of capitalism and free enterprise is the main reason for the nation's prosperity over the past two hundred years and the key to its future success. Free enterprise was very effective in facilitating the economic development of the United States, and many people benefited from it. But it is equally true that this could not have happened without the country's wealth of natural resources like oil, gas, timber, water, and many others. When we consider the environment and the role of sustainability, the question is not whether our system works well with an abundance of natural resources. Rather, we should ask how well it would work in a nation, indeed in a world, in which such resources were severely limited.

Does business, as the prime user of these resources, owe a debt to society? The *Harvard Business Review* recently conducted a debate on this topic on its opinion/editorial pages. Business owes the world everything and nothing, according to Andrew Winston, author and consultant on environmental and social challenges. "It's an important question," he wrote, "but one that implies business should do the socially responsible thing out of a sense of duty. This idea is a distraction. Sustainability in business is not about philanthropy, but about profitability, innovation, and growth. It's just plain good business."[44] On the other hand, Bart Victor, professor at Vanderbilt University's Owen Graduate School of Management, wrote, "Business is far more powerful and deeply influential than any competing ideological force, political force or environmental force . . . business now has to see itself and its responsibilities and obligations in a new way."[45]

Using deontological or duty-based reasoning, we might conclude that business does owe a debt to the environment. A basic moral imperative in a normative system of ethics is that someone who uses something must pay for it. In contrast, a more utilitarian philosophy might hold that corporations create jobs, make money for shareholders, pay taxes, and produce things that people want; thus, they have done their part and do not owe any other debt to the environment or society at large. However, utilitarianism is often regarded as a "here and now" philosophy, whereas deontology offers a longer-term approach, taking future generations into account and thus aligning more with sustainability.

Should businesses have to pay more in fees or taxes than ordinary citizens for public resources or infrastructure they use to make a profit? Consider the example of fracking: West Texas has seen a recent boom in oil and gas drilling due to this relatively new process. Fracking is short for hydraulic fracturing, which creates cracks in rocks beneath Earth's surface to loosen oil and gas trapped there, thus allowing it to flow more easily to the surface. Fracking has led to a greatly expanded effort to drill horizontally for oil and gas in the United States, especially in formations previously thought to be unprofitable, because there was no feasible way to get the fossil fuels to the surface. However, it comes with a significant downside.

Fracking requires very heavy equipment and an enormous amount of sand, chemicals, and water, most of which must be trucked in. Traffic around Texas's small towns has increased to ten times the normal amount, buckling the roads under the pressure of a never-ending stream of oil company trucks. The towns do not have the budget to repair them, and residents end up driving on dangerous roads full of potholes. The oil company trucks are using a public resource, the local road system, often built with a combination of state and local taxpayer funds. They are obviously responsible for more of the damage than local residents driving four-door sedans to work. Shouldn't the businesses have to pay a special levy to repair the roads? Many think it is unfair for small towns to have to burden their taxpayers, most of whom are not receiving any of the profits from oil and gas development, with the cost of road repair. An alternative might be to impose a Pigovian tax, which is a fee assessed against private businesses for engaging in a specific activity (proposed by British economist A. C. Pigou). If set at the proper level, the tax is intended as a deterrent to activities that impose a net cost—what economists call "negative externalities"—on third parties such as local residents.

This issue highlights one of many environmental debates sparked by the fracking process. Fracking also causes the overuse and pollution of fresh water, spills toxic chemicals into the ground water, and increases the potential for earthquakes due to the injection wells drilled for chemical disposal. Ultimately, as is often the case with issues stemming from natural resource extraction, local residents may receive a few short-term benefits from business activity related to drilling, but they end up suffering a disproportionate share of the long-term harm.

One method of dealing with the long-term harm caused by pollution is a **carbon tax**, that is, a “pay-to-pollute” system that charges a fee or tax to those who discharge carbon into the air. A carbon tax serves to motivate users of fossil fuels, which release harmful carbon dioxide into the atmosphere at no cost, to switch to cleaner energy sources or, failing that, to at least pay for the climate damage they cause, based on the amount of greenhouse gas emissions generated from burning fossil fuels. A proposal to implement a carbon tax system in the United States has been recommended by many organizations, including the conservative Climate Leadership Council (CLC).[46] Exxon Mobil, Shell, British Petroleum, and Total, along with other oil companies and a number of large corporations in other industries, recently announced their support for the plan to tax carbon emissions put forth by the CLC.[47]

LINK TO LEARNING

Visit the Carbon Tax Center (https://www.openstax.org/l/53CarbonTax) to learn about the carbon tax as a monetary disincentive.

Would this “pay-to-pollute” method actually work? Will companies agree to repay the debt they owe to the environment? Michael Gerrard, the director of the Sabin Center for Climate Change Law at Columbia University Law School, said, “If a sufficiently high carbon tax were imposed, it could accomplish a lot more for fighting climate change than liability lawsuits.”[48] Initial estimates are that if the program were implemented, companies would pay more than $200 billion a year, or $2 trillion in the first decade, an amount deemed sufficient to motivate the expanded use of renewable sources of energy and reduce the use of nonrenewable fossil fuels.

Some environmental organizations, including the Nature Conservancy and the World Resources Institute, are also endorsing the plan, as are some legislators in Washington, DC. “The basic idea is simple,” Senator Sheldon Whitehouse (D-RI) said. “You levy a price on a thing you don’t want—carbon pollution—and you use the revenue to help with things you do want.”[49] According to the senator, a U.S. carbon tax or a fee of $45 per metric ton would reduce U.S. carbon emissions by more than 40 percent in the first decade. This is an idea with global support, and it has already been tried. The World Bank has data indicating that forty countries, along with some major cities, have already enacted such programs, including all countries of the EU, as well as New Zealand and Japan.

CASES FROM THE REAL WORLD

Corporate and Personal Choices Regarding the Environment of the Future

The car manufacturer Tesla is developing new technologies to allow people to reduce their carbon footprint. In addition to a line of electric cars, the company makes other renewable energy products, such as roofing tiles that act as solar energy panels, and promotes longer-term projects such as the Hyperloop, a high-speed train project jointly designed by Tesla and SpaceX.

Of course, if businesses are to succeed in selling environmentally friendly products, they must have consumers willing to buy them. A homeowner has to be ready to spend 20 percent more than the cost of a traditional roof to install solar roofing tiles that reduce the consumption of electricity generated by fossil fuels (Figure 4.9).

Figure 4.9 Although solar panels can reduce your carbon footprint, the tiles are much more expensive than standard roofing tiles. (credit: “Typical Solar Installation” by Tim Fuller/Flickr, CC BY 2.0)

Another personal decision is whether to buy a $35,000 Tesla Model 3 electric car. While it reduces the driver’s carbon footprint, it requires charging every 250 miles, making long-distance travel a challenge until a national system of charging stations is in place.

Tesla’s founder, Elon Musk, is also the founder of SpaceX, an aerospace manufacturer that produces and launches the only space-capable rockets currently in existence in the United States. Thus, when NASA wants to launch a rocket, it must do so in partnership with SpaceX, a private company. It is often the case that private companies develop important advances in technology, with incentives from government such as tax credits, low-interest loans, or subsidies. This is the reality of capital-intensive, high-tech projects in a free-market economy, in which government spending may be limited for budgetary and political reasons. Not only is SpaceX making the rockets, but it is making them reusable, with long-term sustainability in mind.

Critical Thinking

- Should corporations and individual consumers bear joint responsibility for sustaining the environment? Why or why not?
- What obligation does each of us have to be aware of our own carbon footprint?
- If individual consumers have some obligation to support environmentally friendly technologies, should all consumers bear this responsibility equally? Or just those with the economic means to do so? How should society decide?

LINK TO LEARNING

Elon Musk, founder of the electric car manufacturer Tesla and other companies, recently spoke at a global conference held at the Panthéon-Sorbonne University in Paris. In this video, Musk explains the effect of carbon dioxide emissions on climate change (https://www.openstax.org/l/53ElonTalk) in clear and simple terms.

4.3 Government and the Private Sector

Learning Objectives

By the end of this section, you will be able to:

- Identify three public health issues that might warrant government regulation
- Explain what is meant by "revolving door" in a political context
- Compare constitutional arguments for and against government regulation of industry

Ideally, all levels of government—local, state, and federal—should work with each other and with private-sector businesses to accomplish a fair and rational balance between their respective roles in maintaining a just society. Rarely does one actor alone solve a problem; more often, it takes either a state-federal or a government-business partnership to make a significant impact on a social or economic challenge. Such partnerships are often quite effective, according to Deloitte, a global consulting and accounting firm.[50]

For example, the federal Clean Air Act of 1970 gives the EPA nationwide authority, but controlling air pollution, which does not recognize borders, also necessitates that state governments play a very significant role in enforcing environmental standards. In turn, about half the states also allow major cities to have their own air quality regulatory programs. "Think globally, act locally" seems to capture the essence of government regulation in air quality. For decades, California has had an air-quality program that not only attempts to comply with mandates in the federal program but also goes a step further to create state-specific rules, such as stricter auto emissions guidelines.

In another example, in May 2017, the Environment and Natural Resources Division of the U.S. Department of Justice, together with the EPA and the Texas Commission on Environmental Quality, announced a settlement with Vopak, a Houston energy company, related to air-quality violations by the company.[51] Both federal and state government agencies had filed actions against Vopak, stating that the company failed to comply with Clean Air Act requirements to properly manage equipment at its on-site wastewater treatment facility, resulting in excess emissions of a variety of hazardous air pollutants, as well as volatile organic compounds, in an area classified as not meeting ground-level ozone standards. Per the settlement terms, the company, at considerable cost, "will install state-of-the art pollution controls at the wastewater treatment system and use infrared cameras" to detect otherwise undetectable air pollution from its chemical storage tanks. Additionally, Vopak will pay a $2.5 million civil penalty.[52]

Sustainability and the Public Interest

For two centuries, businesses have profited from using and selling the nation's natural resources. The tradeoff in a free but regulated economic system such as that in the United States is to allow the continued extraction of natural resources but to require a commitment to protection of the environment in return. This bargain promotes long-term sustainability by balancing the interests of the environment, state and local governments, and users of natural resources. However, this public-private collaboration is not without controversy.

WHAT WOULD YOU DO?

The Keystone XL Pipeline

The case of the Keystone XL pipeline is an example of the emotional aspect of many environmental disputes, as our nation tries to come to grips with sustainability issues. Local and national opponents of the Keystone XL pipeline, which would carry crude oil from Canada to the Texas Gulf Coast, have protested for years to stop its construction (Figure 4.10). These efforts accelerated after President Trump approved the pipeline in March 2017, reversing President Obama's decision to reject it on environmental grounds. It appears that the pipeline is likely to be completed, pending legal action still unresolved in Nebraska.

Figure 4.10 Groups across the political spectrum have come together to protest the proposed Keystone pipeline route. (credit: modification of "Protest against the proposed KeystoneXL tar sands pipeline" by Fibonacci Blue/Flickr, CC BY 2.0)

To fight the pipeline, some opponents have used legal strategies such as court challenges in Nebraska, where regulators have not yet approved its route through the state. Other methods include tactics learned in the fight against the Dakota Access pipeline, in which protestors blocked equipment, occupied construction sites, and fought company employees and law enforcement officers. Protestors have vowed to use the same tactics against the Keystone XL. As Tom Goldtooth, executive director of the Indigenous Environmental Network, told reporters, "Our dedication to stop this pipeline isn't just for the future determination of our lives as human beings but also for the future of all generations of life, and that we stay true to the understandings of protecting mother earth to the fullest degree and do it in a prayerful way."[53]

Opponents of projects such as Keystone XL are not always divided along political party lines, geography, age, or other demographics. Bret Clanton is a rancher and a registered Republican who doesn't fit the standard profile of an environmentalist. The TransCanada Oil Company told him it planned to dig up three miles of his land to lay a section of the Keystone XL pipeline and bulldoze another two and half miles for an access road. "I've lived here all my life and this ground is pretty much as God, or whoever, made it, and I just want it to stay that way," Clanton said. He fought the pipeline from the beginning and lobbied the state government for several years, but he and the others may lose their legal challenges.[54]

Environmentalists now face a conundrum. Should they accept the pipeline and its potential for harm? Or should they advance to more aggressive tactics such as destroying property to forestall it and hope that a candidate friendlier to environmentalists is elected in 2020? Is nonlethal violence justified in the pursuit of environmental justice?

Critical Thinking

- How should society and governments react to aggressive environmental protest?
- How would you balance a protestor's First Amendment right of free speech, expression, and assembly with concern for public safety and protection of property?

When discussing the topic of sustainability as a function of responsible and sustainable business conduct, we consider not only environmental health but also public health. Polluting the environment is bad for public health, but so too are a wide variety of inherently dangerous products from alcohol to tobacco to guns to drugs. The World Health Organization estimates that alcohol is the cause of close to 7 percent of all deaths each year globally, or about 3.5 million people, and total global sales of alcohol are well over $1 trillion per year.[55] The question is whether society should allow businesses to market, sell, and profit from a product that causes so many deaths and creates a significant public health problem. The same question can be asked about tobacco, on which businesses make over half a trillion dollars annually and which the United States has struggled to regulate for years. Some businesses are acting on their own to rein in the sale or use of harmful products. In 2014, CVS, a drugstore and health care giant, chose to stop selling tobacco products, because such sales do not support its corporate mission.[56]

Few issues are the source of as much public debate as guns, but it is clear that gun violence in the United States is a major public health challenge. There are about 35,000 deaths per year in the United States due to firearms, and another 75,000 nonfatal firearm injuries. However, thousands of businesses profit from gun sales. Annual revenue in the gun and ammunition manufacturing industry is close to $14 billion, producing a profit of $1.5 billion, whereas the annual revenue of gun and ammunition stores is an additional $3 billion, resulting in a profit of $500 million.[57] Based on these facts, should the sale of guns remain relatively unregulated, or, in the interest of public health, should the government increase regulatory efforts in this area? On the corporate front, after the most recent fatal mass shooting at a high school in Parkland, Florida, several companies took action without waiting for the law to change. Dick's Sporting Goods announced it will no longer sell semi-automatic assault rifles, such as the AR-15, as has Kroger, which owns Fred Meyer stores. Walmart has announced it will no longer sell guns to anyone under twenty-one years of age.

Another pressing social issue is opioid abuse. In 2016, there were approximately sixty thousand deaths due to drug overdoses, almost double the number of gun deaths. Profits from the sale of these drugs are in the tens of billions of dollars, and the pharmaceutical industry spends $100 million lobbying Congress not to regulate it more stringently. Some local government entities are suing opioid drug manufacturers,[58] and, in the private sector, CVS recently announced it would now fill opioid prescriptions with supplies for only seven days. While opioids are legal and often legitimately prescribed for pain management, a large part of the problem is that they are also overprescribed.[59] Given these facts, should pharmaceutical corporations be allowed to profit from this product? What ethical or legal responsibilities do those in the medical community have for the problem?

Although sustainability discussions justifiably focus on the protection of human life and public health issues, a related ethical issue close to the hearts of many citizens is animal rights. Businesses have begun to take notice of public demands in this area, as evidenced by a 2017 *Fortune* article about the Yoox Net-a-Porter Group.[60]

Net-a-Porter is a large, online retailer (with $2 billion/year in sales) that markets top-line brands such as Prada, Gucci, and Michael Kors. After a survey of its customers showed that a significant majority want the company to forgo fur products, it decided to forbid the use of fur in its entire line. Other big-name brands such as Armani, Hugo Boss, North Face, Nautica, and Timberland have followed Net-a-Porter's lead and recently announced fur-free policies.

Related developments are taking place in the cosmetics and food industries. Many cosmetics companies have announced cruelty-free product testing policies for products ranging from makeup to hairspray. In the food industry, the U.S. Department of Agriculture recently reported that cage-free eggs account for approximately one-quarter of the wholesale shell egg market.[61] Why? Sales and profits are the answer, along with sustainability. According to research conducted by Walmart, over 75 percent of the retail giant's customers said they would be more likely to shop at a store that improves its policies related to animal welfare. Thus, not only Walmart but also supermarket chains such as Kroger have announced the gradual implementation of cage-free egg-buying policies, as have fast food giants such as McDonald's and Burger King.[62] Such changes are often prompted, if not driven, by the influence of informed consumer stakeholders who are demanding the products they want to buy.

The Revolving Door between Government Regulation and the Private Sector

While private companies may take the initiative in response to public demand, and intergovernmental cooperation can accomplish many good things, sometimes the solution is for a private-sector company or industry to work directly with the government, as we saw with the example of Space X. Given the pressure on federal, state, and local agencies to reduce their budgets, many have increasingly turned to public-private partnerships, or P3s, as a means to solve problems.

Sometimes, however, the relationship between business and government can become too close, as when executives from the private sector leave their jobs to work for government agencies, becoming the regulators rather than the regulated, and then return to industry in a kind of "revolving door" effect. For example, Goldman Sachs, one of the world's largest financial services firms, has seen many of its executives take senior leadership positions in the presidential administrations of both Democrats and Republicans, including the present secretary of the treasury, Steven Mnuchin. The same trend is occurring on a global level; Mario Draghi, the president of the European Central Bank, was previously a vice chair and managing director of Goldman Sachs International, and Mark Carney, the governor of the Bank of England, worked for Goldman Sachs as well. The large number of executives from one of the biggest investment banks in the world moving in and out of government service causes some critics to warn of the "fox guarding the hen house" approach to regulation. Is the relationship between government and the private sector sometimes too cozy? Does this revolving door in fact result in bad policy?

Of course, it would be incorrect to assume, because multiple executives of a firm landed in government positions, that the firm is automatically guilty of wrongdoing. Goldman Sachs has created several programs with ethical goals. The company encourages clients to consider environmental and sustainability issues, and it backs green bonds, which are used to fund projects that have positive environmental and/or climate benefits. In truth, our government would find it difficult to function without the expertise from the private sector supplementing that of the public sector in public service positions.

Research by the Federal Reserve Bank of Kansas City demonstrates how regulation and legislation in this area must strike a balance between encouraging and discouraging executives from the private sector to serve in high-level government positions. Our system of government service does not want to run the risk of undermining “the ability of regulatory agencies to seek and retain top level talent, but at the same time we do not want to impair the independence of government policy-makers.”[63]

A quick look at some figures indicates the scope of the problem. A 2008 General Accounting Office survey of fifty large defense contractors revealed that almost ninety thousand people who had left the Department of Defense in the preceding eight years were afterwards employed by private-sector companies doing business with the government as contractors.[64] While legal restrictions exist to limit the revolving door effect, most relate only to direct government contracting. Private-sector companies seeking to acquire talent by hiring former employees of the federal government must be aware of the statutory and regulatory restrictions and their associated penalties.

One rule says former senior government employees may not make any communication with or appearance before their former agency, with the intent to influence the agency, for one year after leaving service. The ban is extended to two years for certain “very senior” officials.[65] Penalties for violations can include fines of up to $50,000 per violation and/or twice the amount of compensation received. On a company level, the penalty can be up to $500,000 per violation and/or twice the amount of the contract. Moreover, individuals who intentionally violate the law may be subject to criminal penalties, which can include up to five years in jail.

In 2009, shortly after he took office, President Obama issued an executive order requiring all executive agency appointees to take an ethics pledge as a prerequisite for accepting appointment. The pledge included a lobbying ban and restrictions on appointees and lobbyists entering and leaving the government. For instance, appointees entering the government had to agree not to participate in any matter both “directly and substantially” related to their former employer or clients for two years.[66] However, because these ethical restrictions were implemented by way of executive order, not federal statute, they may vary from president to president. Ethical questions have been raised about traditional conflict of interest concepts in the present administration, because people currently serving in it have retained ownership of private companies rather than selling them or placing them in blind trusts.

Of course, the relationship between government and business is an important one, and expertise in a field can be extremely valuable to both sides in a business-government partnership. However, this collaboration should be transparent and subject to public scrutiny, as noted by the Brookings Institution, one of the oldest nonprofit public policy think tanks. In a report entitled “Amateur Government: When Political Appointees Manage the Federal Bureaucracy,” the Institution warns against the potential for conflicts of interest stemming from allowing too many industry executives to move into government service, set overtly pro-industry policies, and then go back to their higher-paying, private-sector jobs. The key is to seek a balance.[67]

Government Regulation and the Constitution

Over the past decade, many politicians have run for office on a platform of reducing government regulation. There are at least two closely related positions on reducing federal government regulation. The first is essentially a **states’ rights** position that seeks to limit the powers of the federal government to those very specifically enumerated in the Constitution. It is based on principles embodied in the Tenth Amendment and on a narrow interpretation of the Commerce Clause. The Tenth Amendment reserves to the states any right not specifically delegated to the federal government. The **Commerce Clause** is the part of the Constitution that gives the federal government the right to regulate commerce between states.

The second, related view of government regulation holds that “less is better” at all levels, whether state or federal. Its followers simply seek to reduce the size of government and regulation at every level. Some might attribute this position to a libertarian or “small government” philosophy.

These two philosophies might be characterized as less government regulation vs. no government regulation, other than military defense. The preference for state regulation is often based on a belief in the business community that many states are softer on regulation that the federal government, or that states are closer to the problems businesses face and are more efficient at addressing them. However, there is little clear evidence that one branch of government is more efficient than another. The real challenge is weighing the benefits of regulation against the costs, and finding the right balance between over- and under-regulation. Weak regulation can allow a business to cut corners. For instance, auto emission regulations intended to go into effect by certain dates have been delayed multiple times during the 1980s and the early 2000s. The Obama administration announced plans to enforce tougher rules, but the current administration has said it plans to delay implementation. Auto emission regulations have become politically charged, constantly changing depending on the party in power, and some states have responded with their own legislation instead of waiting for the federal stalemate to end. Regulation that is consistently enforced in the effort to achieve the long-term goal, such as cleaner air, is preferable to a moving target.

A third position is that government is not necessarily a bad thing. Such a "federalist" philosophy might assert that centralized government provides an array of benefits for citizens. For example, in the *Federalist Papers*, Alexander Hamilton emphasized that a well-intentioned central government was not the enemy of liberty but rather the best means of securing the rights achieved through the passage of the Constitution. He and others also pointed out an advantage of federal over state government—a large republic such as the United States would actually benefit from a larger electorate and a larger pool of qualified leaders, and competing state and regional interests would be more balanced under federal regulation.

Acceptance of one or the other of these philosophies may lean an administration towards more or less regulation, as well as calibrating its response to aggressive lobbying by industries seeking to reduce regulation they view as burdensome. The results for the environment and/or public health can sometimes be disastrous.

CASES FROM THE REAL WORLD

BP Deepwater Horizon Oil Spill and Government Regulation

The company that owned and operated the Deepwater Horizon drilling rig, Transocean Ltd., contracted in 2010 with BP to drill a very deep water offshore oil well in the Gulf of Mexico, in a field called the Macondo. The drilling operation failed and ultimately led to an infamous environmental and human disaster called the Deepwater Horizon spill that has since been the subject of intense scrutiny and litigation.[68] Eleven workers were killed and seventeen were injured, and at least five million barrels of oil poured into the ocean in the largest such spill in history. The environmental harm was epic in scale (Figure 4.11). Five years later, tar balls still dotted the beach. Oil buried beneath the sand offshore still gets pushed toward the beach whenever the surf is rough. Offshore islands have disappeared because the mangrove roots were coated in oil, killing the trees. Once the mangrove root framework that holds the land together was destroyed, the islands were washed away within a few years. Louisiana was already losing land at a concerning pace, and more has been lost since the spill. Scientists confirm that the disaster has accelerated the pace of the loss.[69]

Figure 4.11 The 2010 Deepwater Horizon oil rig fire and resulting river of oil in the Gulf of Mexico. (credit left: modification of “Deepwater Horizon offshore drilling unit on fire” by the US Coast Guard/ Wikimedia Commons, Public Domain; credit right: modification of “Defense.gov photo essay 100506-N-6436W-023” by Michael B. Watkins/Wikimedia Commons, Public Domain)

Many question whether more regulation and a better relationship between regulators and the oil industry might have prevented the Deepwater Horizon disaster. Transocean, the rig owner/operator, did not install a relatively inexpensive safety device, an acoustically triggered shutoff valve, which most experts agree could have stopped the flow of oil from the well into the Gulf. Congress had not mandated such a device, largely as a result of oil industry lobbying, and since it wasn’t required, BP and Transocean were free to act as they pleased.

Other nations with offshore drilling activities, such as Norway and Brazil, mandate that all oil rigs be equipped with backup acoustically triggered shutoff valves as a safety measure. Norway has a stellar reputation for safety related to its North Sea offshore drilling. Two-thirds of Statoil, its largest oil company, is owned by the government, and, as a result, the company does not lobby the government for weakened regulation. The same is true of Petrobras, the Brazilian oil company.[70] Partial government ownership makes public/private-sector cooperation more likely and is therefore likely to improve safety as well.

Critical Thinking

- Should the U.S. government pass a law requiring the use of the automatic shutoff valves on oil rigs in its waters?
- Should privately owned oil companies be allowed to lobby against safety regulations?
- Research whether public attitudes in the United States support stronger offshore drilling safety regulations. What do you think accounts for your findings?

Questions of regulation and political influence have become even more sensitive in recent years, following the decision in *Citizens United v. Federal Election Commission* (2010).[71] In ***Citizens United***, the U.S. Supreme Court ruled 5–4 that laws preventing corporations from using general treasury funds for political advertising violated the First Amendment’s guarantee of freedom of speech. In other words, the government may not prevent corporations from spending money to support or oppose candidates in elections. With this decision, the Court invalidated numerous campaign finance reform laws. Many commentators think the decision opened the floodgates for special-interest groups to spend without limit in U.S. elections.

LINK TO LEARNING

Visit the U.S. Supreme Court case website (https://openstaxcollege.org/l/53OyezCase) named Oyez. Read the *Citizens United* case, both the majority decision and the minority dissents. Judicial language can be a bit difficult to understand, so you may have to read it twice, but it's worth it, because of the importance of the case.

What does *Citizens United* mean for businesses? Business entities may now seek to persuade the voting public by spending an unlimited amount of money on political ads, whether through social media or traditional print and broadcast media. Businesses opposed to government regulation can spend without limit to help elect candidates whose position on reduced regulation is the same as theirs, thereby increasing the pressure on Congress to deregulate. Many think the profusion of money in U.S. politics is one cause of the partisan divide that often paralyzes the legislative branch and unduly influences the executive branch.

One of the sponsors of the corporate governance law known as the Sarbanes-Oxley Act (SOX), Senator Paul Sarbanes (D-MD), is among those who would like to see financial limits on business lobbying groups and political action committees, several of which are attempting to repeal current regulations such as SOX, which is tough on business fraud. **Sarbanes-Oxley**, passed in 2002 in response to several highly publicized corporate fraud cases that took down companies such as Enron and WorldCom, mandates reporting transparency in areas ranging from finance to accounting to supply chain activities. Essentially, it ensures that we now consider it both unethical *and* illegal to deceive shareholders, creditors, and the public at large.

Sarbanes-Oxley applies to publicly traded companies and is enforced by the Securities and Exchange Commission. It covers multiple topics such as the independence of corporate boards and outside certified public accounting firms that audit corporations. The law also makes the CEO and CFO personally responsible for errors in annual audits—thus making it harder to “cook the books.” Finally, it prohibits company loans to executives and grants protection to whistleblowers.

Some critics thought compliance with SOX might be too costly. However, after more than a decade of enforcement, it is now clear to most that Sarbanes-Oxley was, and is, a necessary regulatory step. It has allowed for significant progress to be made in slowing down the kind of unethical conduct that led to the Enron fraud. Although SOX technically applies only to publicly traded companies, many private companies also adopt SOX-style internal controls and transparency, as do not-for-profits such as universities and hospitals.

Key Terms

business judgment rule the principle that officers, directors, and managers of a corporation are not liable for losses incurred when the evidence demonstrates that decisions were reasonable and made in good faith

cap and trade a system that limits greenhouse gas emissions by companies while allowing them to buy and sell pollution allowances

carbon footprint the amount of carbon dioxide and other carbon compounds released by the consumption of fossil fuels

carbon tax a pay-to-pollute system in which those who discharge carbon into the air pay a fee or tax

Citizens United a 2010 Supreme Court ruling in favor of unlimited spending by individuals and corporations on political campaigns

Commerce Clause an enumerated power listed in the Constitution giving the federal government the right to regulate commerce between states

corporate personhood the legal doctrine holding that a corporation, separate and apart from the people who are its owners and managers, has some of the same legal rights and responsibilities enjoyed by natural persons

fiduciary duty a very high level of legal responsibility owed by those who manage someone else’s money, which includes the duties of care and loyalty

limited liability a business owner’s protection against loss of personal assets, granted with corporate status

moral minimum the minimal actions or practices a business must undertake to satisfy the base threshold for acting ethically

quid pro quo the tradeoff someone makes in return for getting something of value; from the Latin meaning *this for that*

Sarbanes-Oxley legislation passed in 2002 that mandates reporting transparency by businesses in areas ranging from finance to accounting to supply chain activities

shareholder primacy a company’s duty to maximize profits for stockholders

states’ rights a view that states should have more governing authority than the federal government, based on the Tenth Amendment, which reserves to the states any right not specifically delegated to the federal government

sustainability a long-term approach to the interaction between business activity and societal impact on the environment and other stakeholders

tragedy of the commons an economy theory highlighting the human tendency to use as much of a free natural resource as wanted without regard for others’ needs or for long-term environmental effects or issues

Summary

4.1 Corporate Law and Corporate Responsibility

While some argue that corporations have a primary duty to maximize profits for the benefit of shareholders, others assert that businesses have a duty to the society in which they operate, a duty that serves as the basis of the CSR philosophy. Many court cases have addressed the issue, but it has not been conclusively resolved.

Despite the ongoing ethical debate, being a good corporate citizen is a goal toward which most contemporary corporations strive. An effective CSR policy usually means that companies have to commit to both an internal and external approach to ethics. Corporate social responsibility and good corporate governance are in reality just two sides of the very same coin. Social responsibility does not mean lower profitability.

4.2 Sustainability: Business and the Environment

Adopting sustainability as a strategy means protecting the environment. Society has an interest in the long-term survival, indeed the flourishing, of ecological habitats and natural resources, and we ask and expect companies to respect this societal goal in their business activities.

When analyzing what a business owes society in return for the freedom to extract our natural resources, we must balance development and preservation. It may be easy to say from afar that a business should cut back on how much it pollutes the air, but what happens when that means cutting back on fossil fuel use and transitioning to electric vehicles, a choice that affects everyone on a personal level?

4.3 Government and the Private Sector

One challenge in a free enterprise system is balancing the need for government regulation and private-sector corporate managers' need for independence in running their businesses. The Sarbanes-Oxley Act tries to strike this balance by mandating transparency in corporate governance. This debate also includes the question whether businesses operating in the private sector ought to do public good on their own, regardless of whether the government mandates it. For example, many companies make a commitment to keep the environment clean, and to do so by going above and beyond what the law requires.

Assessment Questions

1. True or false? Corporations that embrace CSR policies consistently produce a lower rate of return on investment for shareholders.

2. True or false? Milton Friedman's economic philosophy advocates increased government regulation to ensure that corporations are socially responsible.

3. Which of the following is *not* true?

A. Shareholder primacy is the clear legal precedent in the United States.
B. Maximizing shareholder profits is a legitimate goal of management.
C. Dividends are paid out of corporate profits.
D. Companies that pursue CSR policies can also be profitable.

4. Industries like to be in control of their own destiny and as a result prefer self-regulation to laws imposed by governments. Self-regulation is often ________.

A. based on external codes of conduct
B. enforced by the courts
C. in conflict with common law
D. less costly for firms than government regulation

5. Identify two benefits for a company following a policy of corporate social responsibility (CSR).

6. What is earth jurisprudence?

7. Which of the following best describes the tragedy of the commons?

A. People are always willing to sacrifice for the good of society.
B. People are likely to use all the natural resources they want without regard to others.
C. The common good of the people is a popular corporate goal.
D. Tragedies occur when there is too much government regulation.

8. ISOs are sustainability standards for businesses ________.

A. promulgated by the state government
B. promulgated by the federal government
C. promulgated by the World Trade Organization
D. none of the above

9. True or false? If environmental harm is discovered, the business entity causing it is frequently held liable by both the government and the victims of the harm in separate proceedings.

10. Which of the following is a potentially effective way to reduce global warming?

A. build more coal-burning power plants
B. build more diesel-burning cars
C. implement a carbon tax
D. implement tax-free gasoline

11. True or false? The law prohibits all executives from serving in senior government posts and then leaving to go back to work for the same company in the private sector.

12. True or false? Air pollution is regulated by three levels of government: local, state, and federal.

13. Which of the following is true?

A. Very few business executives have ever left private jobs to go into government service.
B. Most government regulatory agencies are funded by donations.
C. Numerous executives have left Goldman Sachs to go to work for the government.
D. Few people leave government service to go into the private sector.

14. Which of the following constitutional provisions gives regulatory power to the federal government?

A. First Amendment
B. Tenth Amendment
C. Commerce Clause
D. Supremacy Clause

15. The *Citizens United* case ________.

A. upheld existing law limiting spending on behalf of political candidates
B. overturned existing law
C. sent the case back to the lower court to be re-tried
D. created more restrictive limits on political spending

16. What Amendment was at the center of the *Citizens United* case? Explain.

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