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Business Ethics

MGT610

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BUSINESS ETHICS
MGT-610

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LESSON 01
INTRODUCTION

Let's begins with a case study of Merck and Company, discussing how they dealt with the problem of developing a drug that was potentially life-saving but which presented them with little, if any, chance of earning a return on their investment.

The drug was Ivermectin, one of their best-selling animal drugs. The potential market for the drug was those suffering from river blindness an agonizing disease afflicting about 18 million impoverished individuals in Africa and Latin America. The disease is particularly horrendous: worms as long as two feet curl up in nodules under an infected person's skin, slowly sending out offspring that cause intense itching, lesions, blindness, and ultimately death (though many sufferers actually commit suicide before the final stage of the disease).

The need for the drug was clear. However, the victims of river blindness are almost exclusively poor. It seemed unlikely that Merck would ever recoup the estimated $100 million it would cost to develop the human version of the drug. Moreover, if there proved to be adverse human side effects, this might affect sales of the very profitable animal version that were $300 million of Merck's $2 billion annual sales. Finally, Congress was getting ready to pass the Drug Regulation Act, which would intensify competition in the drug industry by allowing competitors to more quickly copy and market drugs originally developed by other companies.

Questions: Was Merck morally obligated to develop this drug?

Their managers felt, ultimately, that they were. They even went so far as to give the drug away for free. This story seems to run counter to the assumption that, given the choice between profits and ethics, companies will always choose the former. The choice, however, may not be as clear-cut as this dichotomy suggests. Some have suggested that, in the long run, Merck will benefit from this act of kindness just as they are currently benefiting from a similar situation in Japan.

Even so, most companies would probably not invest in an R & D project that promises no profit. And some companies often engage in outright unethical behavior. Still, habitually engaging in such behavior is not a good long-term business strategy, and it is the view of this book that, though unethical behavior sometimes pays off, ethical behavior is better in the long run.

A more basic problem is the fact that the ethical choice is not always clear. Merck, as a for-profit corporation, has responsibilities to its shareholders to make a profit. Companies that spend all their funds on unprofitable ventures will find themselves out of business.
This book takes the view that ethical behavior is the best long-term business strategy for a company—a view that has become increasingly accepted during the last few years. This does not mean that occasions never arise when doing what is ethical will prove costly to a company. Such occasions are common in the life of a company, and we will see many examples in this book. Nor does it mean that ethical behavior is always rewarded or that unethical behavior is always punished. On the contrary, unethical behavior sometimes pays off, and the good guy sometimes loses. To say that ethical behavior is the best long-range business strategy means merely that, over the long run and for the most part, ethical behavior can give a company significant competitive advantages over companies that are not ethical. The example of Merck and Company suggests this view, and a bit of reflection over how we, as consumers and employees, respond to companies that behave unethically supports it. Later we see what more

can be said for or against the view that ethical behavior is the best long-term business strategy for a company.

This text aims to clarify the ethical issues that managers of modern business organizations must face. This does not mean that it is designed to give moral advice to people in business nor that it is aimed at persuading people to act in certain moral ways. The main purpose of the text is to provide a deeper knowledge of the nature of ethical principles and concepts and an understanding of how these apply to the ethical problems encountered in business. This type of knowledge and understanding should help managers more clearly see their way through the ethical uncertainties that confront them in their business lives—uncertainties such as those faced by the managers of Merck.

Business Issues

According to the dictionary, the term *ethics* has a variety of different meanings. One of its meanings is: "the principles of conduct governing an individual or a group". We sometimes use the term *personal ethics,* for example, when referring to the rules by which an individual lives his or her personal life. We use the term *accounting ethics* when referring to the code that guides the professional conduct of accountants.

A second—and more important—meaning of *ethics,* according to the dictionary, is: Ethics is "the study of morality." Ethicists use the term *ethics* to refer primarily to the study of morality, just as chemists use the term *chemistry* to refer to a study of the properties of chemical substances. Although ethics deals with morality, it is not quite the same as morality. Ethics is a kind of investigation—and includes both the activity of investigating as well as the results of that investigation—whereas morality is the subject matter that ethics investigates.

Morality

So what, then, is morality? We can define *morality* as the standards that an individual or a group has about what is right and wrong, or good and evil. To clarify what this means, let us consider a concrete case.

Several years ago, B.F. Goodrich, a manufacturer of vehicle parts, won a military contract to design, test, and manufacture aircraft brakes for the A7D, a new airplane the Air Force was designing. Kermit Vandivier was presented with a moral quandary: he knew that Goodrich was producing brakes for the U.S. government that were likely to fail, but was required by his superiors to report that the brake passed the necessary tests. His choice was to write the false report and go against his ethical principles, or be fired and suffer the economic consequences.

He chose the former, even though his moral standards were in conflict with his actions. Such standards include the norms we have about the kinds of actions we believe are right and wrong, such as "always tell the truth." As Vandivier shows, we do not always live up to our standards.

In this B.F Goodrich case, Vandivier's beliefs that it is right to tell the truth and wrong to endanger the lives of others, and his beliefs that integrity is good and dishonesty is bad, are examples of moral standards that he held. Moral standards include the norms we have about the kinds of actions we believe are morally right and wrong as well as the values we place on the kinds of objects we believe are morally good and morally band. Moral norms can usually be expressed as general rules or statements, such as "Always tell the truth," "It is wrong to kill

can usually be expressed as statements describing objects or features of objects that have wroth, such as, “Honesty is good” and “Injustice is bad.”

Where do these standards come from? Typically a person’s moral standards are first absorbed as child from family, friends, and various societal influences such as church, school, television, magazines, music, and associations. Later, as the person grows up, experience, learning, and intellectual development may lead the maturing person to revise these standards. Some are discarded, and new ones may be adopted to replace them. Hopefully, through this maturing process, the person will develop standards that are more intellectually adequate and so more suited for dealing with the moral dilemmas of adult life. As Vandivier’s own statements make clear, however, we do not always live up to the moral standards we hold; that is, we do not always do what we believe is morally right nor do we always pursue what we believe is morally good.

Moral standards can be contrasted with standards we hold about things that are not moral. Examples of non-moral standards include the standards of etiquette by which we judge legal right and wrong, the standards we call *the law* by which we judge legal right and wrong, the standards of language by which grammatically right and wrong, and the standards of aesthetics by which we judge good and bad art, and the athletic standards by which we judge how well a game of football or basketball is being played. In fact, whenever we make judgments about the right or wrong way to do things, or judgments about what things are good or bad, our judgments are based on standards of some kind. In Vandivier’s case, we can surmise that he probably believed that reports should be written with good grammar, that getting fired form a well-paid, pleasant, and challenging job, and the laws of government are also standards, but these standards are not moral standards. As the case of Vandivier also demonstrates, we sometimes choose non-moral standards over our moral standards.

There are other types of standards as well, such as standards of etiquette, law, and language. Moral standards can be distinguished from non-moral standards using five characteristics:

1. Moral standards deal with matters that can seriously injure or benefit humans. For example, most people in American society hold moral standards against theft, rape, enslavement, murder, child abuse, assault, slander, fraud, lawbreaking, and so on.
2. Moral standards are not established or changed by authoritative bodies. The validity of moral standards rests on the adequacy of the reasons that are taken to support and justify them; so long as these reasons are adequate, the standards remain valid.
3. Moral standards, we feel, should be preferred to other values, including self-interest. This does not mean, of course, that it is always wrong to act on self-interest; it only means that it is wrong to choose self-interest over morality
4. Moral standards are based on impartial considerations. The fact that you will benefit from a lie and that I will be harmed is irrelevant to whether lying is morally wrong.
5. Moral standards are associated with special emotions and a special vocabulary (guilt, shame, remorse, etc.). The fact that you will benefit from a lie and that I will be harmed is irrelevant to whether lying is morally wrong.

Ethics is the discipline that examines one's moral standards or the moral standards of a society. It asks how these standards apply to our lives and whether these standards are reasonable or unreasonable—that is, whether they are supported by good reasons or poor ones. Therefore, a person starts to do ethics when he or she takes the moral standards absorbed from family,

myself? Do these standards really make sense? What are the reasons for or against these standards? Why should I continue to believe in them? What can be said in their favor and what can be said against them? Are they really reasonable for me to hold? Are their implications in this or that particular situation reasonable?

Ethics is the study of moral standards—the process of examining the moral standards of a person or society to determine whether these standards are reasonable or unreasonable in order to apply them to concrete situations and issues. The ultimate aim of ethics is to develop a body of moral standards that we feel are reasonable to hold—standards that we have thought about carefully and have decided are justified standards for us to accept and apply to the choices that fill our lives.
Ethics is not the only way to study morality. The social sciences—such as anthropology, sociology, and psychology—also study morality, but do so in a way that is quite different from the approach to morality that is characteristic of ethics. Although ethics is *a normative* study of ethics, the social sciences engage in *a descriptive* study of ethics.

LESSON 02
INTRODUCTION (CONTD.)

Although ethics is *a normative* study of ethics, the social sciences engage in *a descriptive* study of ethics other fields, such as the social sciences, also study ethics; but they do so descriptively, not normatively. That is, they explain the world but without reaching conclusions about whether it ought to be the way it is. Ethics itself, on the other hand, being normative, attempts to determine whether or not standards are correct.

A **normative study** is an investigation that attempts to reach normative conclusions—that is, conclusions about what things are good or bad or about what actions are right or wrong. In short, a normative study aims to discover what should be.

A **descriptive study** is one that does not try to reach any conclusions about what things are truly good or bad or right or wrong. Instead, a descriptive study attempts to describe or explain the world without reaching any conclusions about whether the world is as it should be.

Business Ethics

Business ethics is a specialized study of right and wrong. It concentrates on moral standards as they apply to business policies, institutions, and behaviors. A brief description of the nature of business institutions should clarify this.

A society consists of people who have common ends and whose activities are organized by a system of institutions designed to achieve these ends. That men, women, and children have common ends is obvious. There is the common end of establishing, nurturing, and protecting family life; producing and distributing the materials on which human life depends; restraining and regularizing the use of force; organizing the means for making collective decisions; and creating and preserving cultural values such as art, knowledge, technology, and religion. The members of a society achieve these ends by establishing the relatively fixed patterns of activity that we call *institutions:* familial, economic, legal, political, and educational.

The most influential institutions within contemporary societies may be their economic institutions. These are designed to achieve two ends:

(A) Production of the goods and services the members of society want and need.
(B) Distribution of these goods and services to the various members of society.

Thus, economic institutions determine who will carry out the work of production, how that work will be organized, what resources that work will consume, and how its products and benefits will be distributed among society's members.

Business enterprises are the primary economic institutions through which people in modern societies carry on the tasks of producing and distributing goods and services. They provide the fundamental structures within which the members of society combine their scare resources—land, labor, capital, and technology—into usable goods, and they provide the cannels through which these goods are distributed in the form of consumer products, employee salaries, investors' return, and government taxes. Mining, manufacturing, retailing, banking, marketing, transporting, insuring, constructing, and advertising are all different facets of the productive and distributive processes of our modern business institutions.

The most significant kinds of modern business enterprises are corporations: organizations that the law endows with special legal rights and powers. Today large corporate organizations dominate our economies. In 2003, General Motors, the world's largest automobile company, had revenues of $195.6 billion and employed more than 325,000 workers; Wal-Mart, the world's largest retailer, had sales of $258.7 billion and 1,400,000 employees; General Electric, the world's largest maker of electrical equipment, had sales of $134 billion and 305,000 employees; and IBM, the world's largest computer company, had revenues of $89 billion and 319,000 employees.

Modern corporations are organizations that the law treats as immortal fictitious "persons" who have the right to sue and be sued, own and sell property, and enter into contracts, all in their own name. As an organization, the modern corporation consists of (a) stockholders who contribute capital and who own the corporation but whose liability for the acts of the corporation is limited to the money they contributed, (b) directors and officers who administer the corporation's assets and who run the corporation through various levels of "middle managers," and (c) employees who provide labor and who do the basic work related directly to the production of goods and services. To cope with their complex coordination and control problems, the officers and managers of large corporations adopt formal bureaucratic systems of rules that link together the activities of the individual members of the organization so as to achieve certain outcomes or objectives. So long as the individual follows these rules, the outcome can be achieved even if the individual does not know what it is and does not care about it.

Business Ethics is a study of moral standards and how these apply to the systems and organizations through which modern societies produce and distribute goods and services, and to the people who work within these organizations. Business ethics, in other words, is a form of applied ethics. It includes not only the analysis of moral norms and moral values, but also attempts to apply the conclusions of this analysis to that assortment of institutions, technologies, transactions, activities, and pursuits that we call *Business.*

As this description of business ethics suggests, the issues that business ethics covers encompass a wide variety of topics. To introduce some order into this variety, it helps if we distinguish three different kinds of issues that business ethics investigates.

Though business ethics cover a variety of topics, there are three basic types of issues:

1. ***Systemic issues*** ─ Questions rose about the economic, political, legal, or other social systems within which businesses operate. These include questions about the morality of capitalism or of the laws, regulations, industrial structures, and social practices within which American businesses operate.
2. ***Corporate issues*** ─ Questions rose about a particular company. These include questions about the morality of the activities, policies, practices, or organizational structure of an individual company taken as a whole.
3. ***Individual issues*** ─ Questions about a particular individual within an organization and their behaviors and decisions. These include questions about the morality of the decisions, actions, or character of an individual.

LESSON 03
THEORY OF ETHICAL RELATIVISM

Some theorists maintain that moral notions apply only to individuals, not to corporations themselves. They say that it makes no sense to hold businesses "responsible" since businesses are more like machines than people. Others counter that corporations do act like individuals, having objectives and actions, which can be moral or immoral just as an individual's action might be.

In 2002, for example, the Justice Department charged the accounting firm of Arthur Andersen for obstruction of justice. Arthur Andersen was caught shredding documents showing how they helped Enron hide its debt through the use of several accounting tricks. Critics afterward claimed that the Justice Department should have charged the individual employees of Arthur Andersen, not the company, because "Companies don't commit crimes, people do."

Perhaps neither extreme view is correct. Corporate actions do depend on human individuals who should be held accountable for their actions. However, they also have policies and culture that direct individuals, and should therefore be held accountable for the effects of these corporate artifacts.

Nonetheless, it makes perfectly good sense to say that a corporate organization has moral duties and that it is morally responsible for its acts. However, organizations have moral duties and are morally responsible in a secondary sense; a corporation has a moral duty to do something only if some of its members have a moral duty to make sure it is done, and a corporation is morally responsible for something only if some of its members are morally responsible for what happened.

Virtually all of the 500 largest U.S. industrial corporations today are multinationals. Operating in more than one country at once produces a new set of ethical dilemmas. Multinationals can escape environmental regulations and labor laws by shifting to another country, for example. They can shift raw materials, goods, and capital so that they escape taxes. In addition, because they have new technologies and products that less developed countries do not, multinationals must decide when a particular country is ready to assimilate these new things. They are also faced with the different moral codes and laws of different countries. Even if a particular norm is not unethical, they must still decide between competing standards in their many operations.

Ethical relativism is the theory that, because different societies have different ethical beliefs, there is no rational way of determining whether an action is morally right or wrong other than by asking whether the people of this or that society believe it to be right or wrong by asking whether people of a particular society believe that it is. In fact, the multiplicity of moral codes demonstrates that there is no one "right" answer to ethical questions. The best a company can do is follow the old adage, "When in Rome, do as the Romans do." In other words, there are no absolute moral standards.

Cultural relativism asserts that morality varies from one culture to another, since similar practices are regarded as right in some cultures and wrong in others. However, regarding practices as right or wrong does not necessarily make them so, nor does it exclude the possibility of demonstrating that moral beliefs are mistaken. For this reason, cultural relativism does not prohibit the possibility of justification. *Ethical relativism*, on the other hand, makes the philosophical assertion that there is no standard of right or wrong apart from the morality of a culture. Whatever practices a culture holds to be right is actually right for that culture. There

is no possibility for justification because there exists no standard outside that culture. Ethical relativism results in an uncritical acceptance of all moral beliefs as equally valid.

Critics of ethical relativism point out that it is illogical to assume that because there is more than one answer to an ethical question that both answers are equally correct ─ or even that either answer is correct. They also maintain that there are more similarities than differences even among what seem to be very divergent societies.
The late Philosopher James Rachels put the matter quite succinctly:

The fact that different societies have different moral codes proves nothing. There is also disagreement from society to society about scientific matters: in some cultures it is believed that the earth is flat, and evil spirits cause disease. We do not on that account conclude that there is no truth in geography or in medicine. Instead, we conclude that in some cultures people are better informed than in others. Similarly, disagreement in ethics might signal nothing more than that some people are less enlightened than others. At the very least, the fact of disagreement does not, by itself, entail that truth does not exist.

Why should we assume that, if ethical truth exists, everyone must know it?'

However, the most telling criticisms of the theory point out that it has incoherent consequences. For example, it becomes impossible to criticize a practice of another society as long as members of that society conform to their own standards. How could we maintain that Nazi Germany or pre-Civil War Virginia were wrong if we were consistent relativists? There must be criteria other than the society's own moral standards by which we can judge actions in any particular society. Though we should not dismiss the moral beliefs of other cultures, we likewise should not conclude that all systems of morality are equally acceptable.

Finally, new technologies developed in the closing decades of the 20th century and the opening years of the 21st century are again transforming society and business and creating the potential for new ethical problems. They bring with them questions of risks, which may be unpredictable and/or irreversible. Who should decide whether the benefits of a particular technology are worth the risks? How will victims of bad technology be compensated for their loss? How will risk be distributed? How will privacy be maintained? How will property rights be protected?

LESSON 04
MORAL DEVELOPMENTS AND MORAL REASONING

Moral Developments and Moral Reasoning

This section investigates how we examine our own moral standards and apply them to concrete situations and issues. It first looks at the process of moral development itself.

We sometimes assume that a person's values are formed during childhood and do not change. In fact, a great deal of psychological research, as well as one's own personal experience, demonstrates that as people mature, they change their values in very deep and profound ways. Just as people's physical, emotional, and cognitive abilities develop as they age, so also their ability to deal with moral issues develops as they move through their lives.

Moral Reasoning & Kohlbergs' Resaech

Lawrence Kohlberg identified six stages of moral development:

Level One: Pre-conventional Stages

1. Punishment and Obedience Orientation - At this stage, the physical consequences of an act wholly determine the goodness or badness of that act. The child's reasons for doing the right thing are to avoid punishment or defer to the superior physical power of authorities. There is little awareness that others have needs similar to one's own.
2. Instrument and Relativity Orientation- At this stage, right actions become those that can serve as instruments for satisfying the child's own needs or the needs of those for whom the child cares.

At these first two stages, the child is able to respond to rules and social expectations and can apply the labels good, bad, right, and wrong. These rules, however, are seen as something externally imposed on the self. Right and wrong are interpreted in terms of the pleasant or painful consequences of actions or in terms of the physical power of those who set the rules.

Level Two: Conventional Stages

Maintaining the expectations of one's own family, peer group, or nation is now seen as valuable in its own right, regardless of the consequences.

1. Interpersonal Concordance Orientation - Good behavior at this early conventional stage is living to the expectations of those for whom one feels loyalty, affection, and trust, such as family and friends. Right action is conformity to what is generally expected in one's role as a good son, daughter, brother, friend, and so on.
2. Law and Order Orientation - Right and wrong at this more mature conventional stage now come to be determined by loyalty to one's own larger nation or surrounding society. Laws are to be upheld except where they conflict with other fixed social duties.

Level Three: Post-conventional, Autonomous, or Principled Stages

1. Social Contract Orientation - At this first post-conventional stage, the person becomes aware that people hold a variety of conflicting personal views and opinions and emphasizes fair ways of reaching consensus by agreement, contract, and due process.
2. Universal Ethical Principles Orientation - At this final stage, right action comes to be defined in terms of moral principles chosen because of their logical comprehensiveness, universality, and consistency.

At these stages, the person no longer simply accepts the values and norms of the groups to which he or she belongs. Instead, the person now tries to see situations from a point of view that impartially takes everyone's interests into account. The person questions the laws and values that society has adopted and redefines them in terms of self-chosen moral principles that can be justified in rational terms.

Kohlberg's own research found that many people remain stuck at an early stage of moral development. His structure implies that later stages are better than the earlier ones. Kohlberg has been criticized for this implication, and for not offering any argument to back it up.

Carol Gilligan (born November 28, 1936) is an American feminist, ethicist, and psychologist best known for her work with and against Lawrence Kohlberg on ethical community and ethical relationships, and certain subject-object problems in ethics. Gilligan would go on to criticize Kohlberg's work. This was based on two things. First, he only studied privileged, white men and boys. She felt that this caused a biased opinion against women. Secondly, in his stage theory of moral development, the male view of individual rights and rules was considered a higher stage than women's point of view of development in terms of its caring effect on human relationships.

Women were taught to care for other people and expect others to care for them. She helped to form a new psychology for women by listening to them and rethinking the meaning of self and selfishness. She asked four questions about women's voices: who is speaking, in what body, telling what story, and in what cultural framework is the story presented?

She outlines three stages of moral development progressing from selfish, to social or conventional morality, and finally to post conventional or principled morality. Women must learn to tend to their own interests and to the interests of others. She thinks that women hesitate to judge because they see the complexities of relationships.

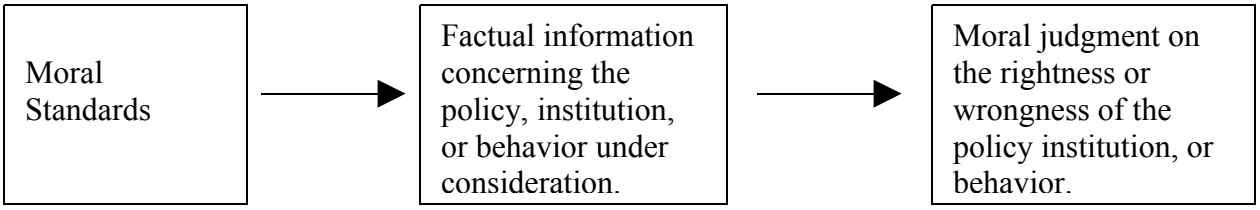
Gilligan proposes a stage theory of moral development for women. If you know anything about developmental psychology, you know stage theories are important. But in fact there are alternatives to stage theories that we will not cover in this class. Much of the research in current developmental psychology is not focused on stages, and does not assume their primacy in explaining developmental progress. Instead, many developmental psychologists look carefully at how some particular skill (e.g. drawing, abstract thinking, thinking about other people, making excuses, helping others) develops over time. Much of this research suggests that the stage theories are too simplistic in their picture of changes in skills, attributes, and competencies over time.

Both Gilligan and Kohlberg agree that there are stages of growth in moral development, moving from a focus on the self through conventional stages and onto a mature stage where we critically and reflectively examine the adequacy of our moral standards. Therefore, one of the central aims of ethics is the stimulation of this moral development by discussing, analyzing, and criticizing the moral reasoning that we and others do, finding one set of principles "better" when it has been examined and found to have better and stronger reasons supporting it.

LESSON 05
MORAL REASONING

Moral reasoning itself has two essential components: an understanding of what reasonable moral standards require, and evidence or information concerning whether a particular policy, person, institution, or behavior has the features of these moral standards. People often fail to make their moral standards explicit when they make a moral judgment, mainly because they assume them to be obvious. This assumption is not always true, however; often we must retrace a person's moral reasoning to deduce what their moral standards are. Of course, it is not always easy to separate factual information from moral standards.

Moral reasoning refers to the reasoning process by which human behaviors, institutions, or policies are judged to be in accordance with or in violation of moral standards. Moral reasoning always involves two essential components: (a) an understanding of what reasonable moral standards require, prohibit, value, or condemn; and (b) evidence or information that shows that a particular person, policy, institution, or behavior has the kinds of features that these moral standards require, prohibit, value, or condemn. Here is an illustration of moral reasoning whose author is offering us his reasons for claiming that American social institutions are unjust.



Example: "A society is Unjust if it does not treat Minorities equal to whites."

Example: "In American society, 41% of Negroes fall Below the poverty line as Compared with 12% whites.

Example: "American society is unjust."

To evaluate the adequacy of moral reasoning, ethicists employ three main criteria:

1. Moral reasoning *must be logical*. The analysis of moral reasoning requires that the logic of the arguments used to establish a moral judgment be rigorously examined, all the unspoken moral and factual assumption be made explicit, and both assumptions and premises be displayed and subjected to criticism.

2. Factual evidence *must be accurate, relevant, and complete*. For example, the illustration of moral reasoning quoted cites several statistics ("Whereas Negroes make up 11 percent of nation's work force, they have but 6 percent of the nation's technical and professional jobs") and relationship ("The non white contribute cheap labor which enables others to live disproportionately well") that apparently exist in America. If the moral reasoning is to be adequate these statistics and relationships must be *accurate.* In addition, evidence must be *relevant:* it must show that the behavior, policy, or institution being judged has precisely those characteristics that are proscribed by the moral standards involved. Evidence must be *complete:* it must take into account all relevant information and must not selectively advert only to the evidence that tends to support a single point of view.

3. Moral standards *must be consistent*. They must be consistent with each other and with the other standards and beliefs the person holds. Inconsistency between a person's

moral standards can be uncovered by examining situations in which these moral standards require incompatible things.

Consistency refers not only to the fact that one's standards must be able to coexist with each other, but also to the requirement that one must be willing to accept the consequences of applying one's moral standards consistently to others in similar circumstances. The consistency requirement is, in fact, the basis of an important critical method in ethics: the use of counterexamples and hypothetical examples.

This consistency requirement can be phrased as follows:

If I judge that a certain person is morally justified (or unjustified) in doing A in circumstance C, then I must accept that it is morally justified (or unjustified) for any other person:

(a)To perform any act relevantly similar to A

(b)In any circumstances relevantly similar to C.

Arguments For and Against Business Ethics

Some people object to the entire notion that ethical standards should be brought into business organizations. They make three general objections.

First, they argue that the pursuit of profit in perfectly competitive free markets will, by itself, ensure that the members of a society are served in the most socially beneficial ways. Of course, the assumption that industrial markets are perfectly competitive is highly suspect. Even more, there are several ways of increasing profits that will actually harm society. Producing what the buying public wants may not be the same as producing what the entirety of society needs. The argument is essentially making a normative judgment on the basis of some assumed but unproved moral standards ("people should do whatever will benefit those who participate in markets"). Thus, although the argument tries to show that ethics does not matter, it can do this only by assuming an unproved moral standard that at least appears mistaken.

Second, they claim that employees, as "loyal agents," are obligated to serve their employers single-mindedly, in whatever ways will advance the employer's self-interest.

As a loyal agent of his or her employer, the manager has a duty to serve his or her employer as the employer would want to be served (if the employer had the agent's expertise). An employer would want to be served in whatever ways will advance his or her self-interests.

Therefore, as a loyal agent of his or her employer, the manager has a duty to serve his or her employer in whatever ways will advance the employer's self-interests.

But this argument itself rests on an unproven moral standard that the employee has a duty to serve his or her employer and there is no reason to assume that this standard is acceptable. An agent's duties are defined by what is called the law of agency, (i.e., the law that specifies the duties of persons [agents] who agree to act on behalf of another party and who are authorized by the agreement so to act). Also, agreements to serve another do not automatically justify doing wrong on another's behalf.

Third, they say that obeying the law is sufficient for businesses and that business ethics is, essentially, nothing more than obeying the law. However, the law and morality do not always coincide (again, slavery and Nazi Germany are relevant examples). Some laws have nothing to do with morality because they do not involve serious matters. These include parking laws, dress codes, and other laws covering similar matters. Other laws may even violate our moral standards so that they are actually contrary to morality.

Thus, none of the arguments for keeping ethics out of business seems forceful. In contrast, there are fairly strong arguments for bringing ethics into business.

One argument points out that since ethics should govern all human activity, there is no reason to exempt business activity from ethical scrutiny. Business is a cooperative activity whose very existence requires ethical behavior. Another more developed argument points out that no activity, business included, could be carried out in an ethical vacuum.

One interesting argument actually claims that ethical considerations are consistent with business activities such as the pursuit of profit. Indeed, the argument claims that ethical companies are more profitable than other companies. The data is mixed on this question, but even though it cannot demonstrate that ethical behavior is always more profitable, it does clearly show that it is *not* a drag on profits.

LESSON 06
MORAL RESPONSIBILITY AND BLAME

Moral Responsibility and Blame

Moral responsibility is directed not only at judgments concerning right or wrong. Sometimes, they are directed at determining whether a person or organization is morally responsible for having done something wrong. People are not always responsible for their wrongful or injurious acts: moral responsibility is incurred only when a person knowingly and freely acts in an immoral way or fails to act in a moral way.

A judgment about a person's moral responsibility for a wrongful injury is a judgment about the extent to which the person deserves blame or punishment, or should pay restitution for the injury. For example, if an employer deliberately injures the heath of her employees, we would judge the employer morally responsible for those injuries. We are then saying the employer is to blame for those injuries and perhaps deserves punishment and should compensate the victims.

It is important not to confuse this meaning of *moral responsibility*

Ignorance and inability to do otherwise are two conditions, called *excusing conditions,* that completely eliminate a person's moral responsibility for causing wrongful injury. Ignorance and inability do not always excuse a person, however. When one deliberately keeps oneself ignorant to escape responsibility, that ignorance does not excuse the wrongful injury. A person is morally responsible for an injury or a wrong if:

1. The person caused or helped cause it, or failed to prevent it when he could and should have;
2. The person did so knowing what he or she was doing;
3. The person did so of his own free will.

Ignorance may concern the relevant facts or the relevant moral standards. Generally, ignorance of the facts eliminates moral responsibility. This is because moral responsibility requires freedom, which is impossible in the case of ignorance of the relevant facts. Inability eliminates responsibility because a person cannot have a moral obligation to do something over which he or she has no control. A person is NOT morally responsible for an injury or a wrong if:

1. The person did not cause and could not prevent the injury or wrong;
2. The person did not know he was inflicting the injury or the wrong;
3. The person did not inflict the injury or the wrong of his own free will;

In addition to the excusing conditions, there are also three mitigating factors that diminish moral responsibility. They are:

1. Circumstances that leave a person uncertain (but not unsure) about what he or she is doing;
2. Circumstances that make it difficult (but not impossible) for the person to avoid doing it;
3. Circumstances that minimize (but do not remove) a person's involvement in an act.

The extents to which these mitigating circumstances can diminish an agent's responsibility depend on the seriousness of the injury. Generally, the more serious the injury, the less the mitigating circumstances will diminish responsibility.

We begin with a discussion of apartheid-era South Africa and Caltex, an American oil company operating in South Africa during that time. A large number of Caltex stockholders opposed the company's operations in South Africa, and introduced a series of shareholder resolutions requiring Caltex to leave South Africa, which they saw as racist and immoral. Caltex's management did not agree. Rather than focusing on the financial assistance they were giving the South African government, they pointed to the positive effects their operations had on black workers.

South African leaders, such as Archbishop Desmond Tutu, were not convinced by Caltex's arguments. He supported the shareholder resolutions, saying that comfort under an immoral regime was not preferable to freedom, even at the cost of economic hardship.

The point of this example is to show how a real moral debate in business works. The arguments on both sides appealed to moral considerations and four basic types of moral standards: utilitarianism, rights, justice, and caring. The shareholders' argument referred to the unjust policies of the apartheid government and the fact that these policies violated the civil rights of black citizens. On the other side, Caltex's management made utilitarian arguments and arguments about caring: it was in blacks' best interests to have Caltex jobs, and Caltex had a duty to take care of these workers as best it could. In addition, both sides refer to the moral character of the groups involved, basing these distinctions on what is called the ethic of virtue.

The following sections of this chapter explain each of these approaches, identifying their strengths and weaknesses and showing how they can be used to clarify the moral issues we confront in business.

Utilitarianism: Weighing Social Costs and Benefits

Utilitarianism (or consequentialism) characterizes the moral approach taken by Caltex's management. Another example, Ford and its infamous Pinto, demonstrates just how closely the weighing of costs and benefits can be done.

Ford knew that the Pinto would explode when rear-ended at only 20 mph, but they also knew that it would cost $137 million to fix the problem. Since they would only have to pay $49 million in damages to injured victims and the families of those who died, they calculated that it was not right to spend the money to fix the cars when society set such a low price on the lives and health of the victims. The kind of analysis that Ford managers used in their cost-benefit study is a version of what has been traditionally called *utilitarianism.* **Utilitarianism** is a general term for any view that holds that actions and policies should be evaluated on the basis of the benefits and costs they will impose on society. In any situation, the "right" action or policy is the one that will produce the greatest net benefits or the lowest net costs (when all alternatives have only net costs).

Many businesses rely on such utilitarian cost-benefit analyses, and maintain that the socially responsible course to take is the utilitarian one with the lowest net costs.

Jeremy Bentham founded traditional utilitarianism. His version of the theory assumes that we can measure and add the quantities of benefits produced by an action and subtract the measured quantities of harm it will cause, allowing us to determine which action has the most benefits or lowest total costs and is therefore moral. The utility Bentham had in mind was not the greatest

Bentham:

> "An action is right from an ethical point of view if and only if the sum total of utilities produced by that act is greater than the sum total of utilities produced by any other act the agent could have performed in its place."

Also, it is important to note that only one action can have the lowest net costs and greatest net benefits.

To determine what the moral thing to do on any particular occasion might be, there are three considerations to follow:

1. You must determine what alternative actions are available.
2. You must estimate the direct and indirect costs and benefits the action would produce for all involved in the foreseeable future.
3. You must choose the alternative that produces the greatest sum total of utility.

Utilitarianism is attractive to many because it matches the views we tend to hold when discussing governmental policies and public goods. Most people agree, for example, that when the government is trying to determine on which public projects it should spend tax monies, the proper course of action would be for it to adopt those projects that objective studies show will provide the greatest benefits for the members of society at the least cost. It also fits in with the intuitive criteria that many employ when discussing moral conduct. Utilitarianism can explain why we hold certain types of activities, such as lying, to be immoral: it is so because of the costly effects it has in the long run. However, traditional utilitarian's would deny that an action of a certain kind is always either right or wrong. Instead, each action would have to be weighed given its particular circumstances. Utilitarian views have also been highly influential in economics. A long line of economists, beginning in the 19th century, argued that economic behavior could be explained by assuming that human beings always attempt to maximize their utility and that the utilities of commodities can be measured by the prices people are willing to pay for them.

Utilitarianism is also the basis of the techniques of economic **cost–benefit analysis.** This type of analysis is used to determine the desirability of investing in a project (such as a dam, factory, or public park) by figuring whether its present and future economic benefits outweigh its present and future economic costs. To calculate these costs and benefits, discounted monetary prices are estimated for all the effects the project will have on the present and future environment and on present and future populations. Finally, we can note that utilitarianism fits nicely with a value that many people prize: efficiency. **Efficiency** can mean different things to different people, but for many it means operating in such a way that one produces the most one can with the resources at hand.

LESSON 07
UTILITARIANISM

Utilitarianism: Weighing Social Costs and Benefits

Utilitarianism is a powerful and widely accepted ethical theory that has special relevance to problems in business. It provides a fairly straightforward decision-making process to assist in determining the best course of action in many situations. Its application involves developing a list of available alternatives, following the consequences of each as far into the future as possible, and selecting the alternative with the greatest balance of benefits over harms for everyone. Chapter 2 also introduces the distinction between teleological and deontological theories and explores the strengths and weakness of both kinds of theories for the purposes of business ethics.

Classical Utilitarianism

Different parts of the utilitarian doctrine were advanced by ancient Greek philosophers, but it wasn't until the early nineteenth century that two English reformers fashioned the various utilitarian pieces into a coherent whole. These two philosophers were Jeremy Bentham (1748-1832) and John Stuart Mill (1806-1873). Bentham's utilitarianism approves of actions that augment and disapproves of actions that diminish the happiness of the party in question. He measured this amount of pleasure or pain by a hedonistic calculus that considers such factors as intensity, duration, likelihood of occurrence, and proximity in time. According to Bentham, if this process is repeated for all individuals, the resulting sums will show the good or bad tendency of an action for an entire community. However, critics charge that his conception of pleasure is too crude to constitute the sole good for human beings. Mill modified Bentham's utilitarianism by proposing that actions are right inasmuch as they promote happiness and wrong inasmuch as they promote the opposite of happiness, where happiness is pleasure and the absence of pain. In addition, he stipulated that pleasures differ in their quality, so that humans enjoy higher pleasures than animals. One can argue that Mill saves hedonism from the charge of crudeness because the higher pleasures enjoyed by a few with elevated tastes are unlikely to outweigh the total sum of the base pleasures enjoyed by most. Mill gives us no guidance for comparing the quality with the quantity of pleasure. However, in other writings Mill seems to claim that the development of our critical faculties and the capacity for autonomous action are ends in themselves. For Bentham:

> "An action is right from an ethical point of view if and only if the sum total of utilities produced by that act is greater than the sum total of utilities produced by any other act the agent could have performed in its place."

Cost-Benefit Analysis

Bentham's idea of a precise quantitative method for decision making is most fully realized in a cost-benefit analysis. In cost-benefit analysis, monetary units are used to express the benefits and drawbacks of various alternatives in a decision -making process. The chief advantage of cost-benefit analysis is that the prices of many goods are set by the market, which eliminates the need to have knowledge of people's pleasures or preference rankings. Because of its narrow focus on economic efficiency in the allocation of resources, cost-benefit analysis is not commonly used as a basis for personal morality. In addition, it cannot determine such moral questions as the rights of consumers in matters of product safety or environmental protection

protection. A distinction can be made between *cost-benefit analysis*, which is used to select both the means to an end and the end itself, and *cost-effectiveness analysis*, which assumes that we already have some agreed-upon end, and the only question regards the most efficient means of achieving it.

The problems of assigning monetary values

Not all costs and benefits have an easily determined monetary value; examples include the enjoyment of family and friends, peace and quiet, police protection, and freedom from the risk of injury and death. Moreover, the market price of a good does not always correspond to its *opportunity cost*. For example, the fact that a yacht costs more than a college education does not mean that consumers value yachts more highly than education. One can attempt to overcome these problems through *shadow pricing*. This approach enables a value to be placed on goods that reflects people's market and non-market behavior. For example, by comparing the prices of houses near airports with the prices of similar houses elsewhere, it is possible to infer the value that people place on peace and quiet. But there are limitations. Someone who buys a house near an airport may be unable to afford comparable housing elsewhere or simply may not mind the noise.

Should all things be assigned a monetary value?

Some argue that placing a dollar value on certain goods actually lessens their perceived value, since they are valued precisely because they *cannot* be bought or sold. Friendship, love, and life itself are examples of such goods. Such arguments are beside the point, because cost-benefit analysis requires that a value be placed on goods only for the purposes of calculation.

Other values in cost-benefit analysis

Though cost-benefit analysis purports to be value-free, critics claim that it is heavily value-laden because analysts cannot entirely disengage their own values from the analysis. Before such an investigation begins, the analyst must make several value-laden decisions, including:

1. The range of alternatives to be considered in the analysis.
2. What constitutes a cost and a benefit as well as whose values determine this.
3. What counts as a consequence of a particular act.
4. The number of "spillover effects" or externalities that are included.
5. The distance into the future that the consequences are calculated.

In the end, we must remember that cost-benefit analysis is only as good as the analyst who performs it and that this method is not intended to be the sole means for arriving at important decisions we make as a society.

Also, it is important to note that only one action can have the lowest net costs and greatest net benefits.

To determine what the moral thing to do on any particular occasion might be, there are three considerations to follow:

1. You must determine what alternative actions are available.
2. You must estimate the direct and indirect costs and benefits the action would produce for all involved in the foreseeable future.

Utilitarianism is attractive to many because it matches the views we tend to hold when discussing governmental policies and public goods. Most people agree, for example, that when the government is trying to determine on which public projects it should spend tax monies, the proper course of action would be for it to adopt those projects that objective studies show will provide the greatest benefits for the members of society at the least cost. It also fits in with the intuitive criteria that many employ when discussing moral conduct. Utilitarianism can explain why we hold certain types of activities, such as lying, to be immoral: it is so because of the costly effects it has in the long run. However, traditional utilitarians would deny that an action of a certain kind is always either right or wrong. Instead, each action would have to be weighed given its particular circumstances. Utilitarian views have also been highly influential in economics. A long line of economists, beginning in the 19th century, argued that economic behavior could be explained by assuming that human beings always attempt to maximize their utility and that the utilities of commodities can be measured by the prices people are willing to pay for them.

Utilitarianism is also the basis of the techniques of economic **cost–benefit analysis.** This type of analysis is used to determine the desirability of investing in a project (such as a dam, factory, or public park) by figuring whether its present and future economic benefits outweigh its present and future economic costs. To calculate these costs and benefits, discounted monetary prices are estimated for all the effects the project will have on the present and future environment and on present and future populations. Finally, we can note that utilitarianism fits nicely with a value that many people prize: efficiency. **Efficiency** can mean different things to different people, but for many it means operating in such a way that one produces the most one can with the resources at hand.

Though utilitarianism offers a superficially clear-cut method of calculating the morality of actions, it relies upon accurate measurement, and this can be problematic. There are five major problems with the utilitarian reliance on measurement:

1. Comparative measures of the values things have for different people cannot be made-we cannot get into each others' skins to measure the pleasure or pain caused.
2. Some benefits and costs are impossible to measure. How much is a human life worth, for example?
3. The potential benefits and costs of an action cannot always be reliably predicted, so they are also not adequately measurable.

LESSON 08

UTILITARIANISM (CONTD.)

4. Comparative measures of the values things have for different people cannot be made-we cannot get into each others' skins to measure the pleasure or pain caused.
5. Some benefits and costs are impossible to measure. How much is a human life worth, for example?
6. The potential benefits and costs of an action cannot always be reliably predicted, so they are also not adequately measurable.
7. It is unclear exactly what counts as a benefit or a cost. People see these things in different ways.
8. Utilitarian measurement implies that all goods can be traded for equivalents of each other. However, not everything has a monetary equivalent.

The critics of utilitarianism contend that these measurement problems undercut whatever claims utilitarian theory makes towards providing an objective basis for determining normative issues. These problems have become especially obvious in debates over the feasibility of corporate social audits.

Utilitarian defend their approach against the objections raised by these problems by saying that though ideally they would like accurate measurements of everything, they know that this is largely impossible. Therefore, when measurements are difficult or impossible to obtain, shared or common-sense judgments of comparative value are sufficient.

There are two widely used common-sense criteria. One relies on the distinction between **intrinsic goods** and **instrumental goods**. Intrinsic goods are things that are desired for their own sake, such as health and life. These goods always take precedence over instrumental goods, which are things that are good because they help to bring about an intrinsic good. The other common-sense criterion depends on the distinction between needs and wants. Goods that bring about needs are more important than those that bring about wants. However, these methods are intended to be used only when quantitative methods fail.

The most flexible method is to measure actions and goods in terms of their monetary equivalents. If someone is willing to pay twice as much for one good than for another, we can assume that the former is twice as valuable for that person. Many people are made uncomfortable by the notion that health and life must be assigned a monetary value. Utilitarian point out that we do so every day, however, by paying for some safety measures but not for those measures that are considered more expensive.

The major difficulty with utilitarianism, according to some critics, is that it is unable to deal with two kinds of moral issues: those relating to rights and those relating to justice. If people have rights to life, health, and other basic needs, and if there is such a thing as justice that does not depend on mere utility, then utilitarianism does not provide a complete picture of morality. Utilitarianism can also go wrong, according to the critics, when it is applied to situations that involve social justice. Utilitarianism looks only at how much utility is produced in a society and fails to take into account how that utility is distributed among the members of society.

Largely in response to these concerns, utilitarians have devised an alternative version, called **rule utilitarianism**. In this version, instead of looking at individual acts to see whether they

particular type. If actions of a kind tend to produce more pleasure or have lower costs, then they are the moral types of actions. Just because an action produces more utility on one occasion does not show it is right ethically.

Rule utilitarianism may not completely answer all of the objections raised by critics of utilitarianism. A rule may generally produce more utility and still be unjust: consider rules that would allow a large majority to take unfair advantage of a smaller minority.

The theory of the rule utilitarian, then, has two parts, which we can summarize in the following two principles:

1. An action is right from an ethical point of view if and only if the action would be required by those moral rules that are correct.
2. A moral rule is correct if and only if the sum total of utilities produced if everyone were to follow that rule is greater than the sum total utilities produced if everyone were to follow some alternative rule.

Thus, according to the rule-utilitarian, the fact that a certain action would maximize utility on one particular occasion does not show that it is right from an ethical point of view.

Thus, the two major limits to utilitarianism difficulties of measurement and the inability to deal with rights and justice remain, though the extent to which they limit utilitarian morality is not clear.

Rights

A person has a *right* when that person is entitled to act in a certain way or is entitled to have others act in a certain way toward him or her. The "right to work", many argue, is a right that all human beings possess. Such rights, which are called *moral rights* or *human rights*, are based on moral norms and principles that specify that all human beings are permitted or empowered to do something or are entitled to have something done for them. Moral rights, unlike legal rights, are usually thought of as being universal insofar as they are rights that all human beings of every nationality possess to an equal extent simply by virtue of being human beings.

The most important moral rights are rights that *impose prohibitions or requirements* on others and which thereby enable individuals to choose freely whether to pursue certain interests or activities. Moral rights are tightly correlated with duties. My moral right to worship as I choose, for example, can be defined in terms of the moral duties other people have to not interfere in my chosen form of worship. *Duties, then, are generally the other side of moral rights*. Moral rights impose correlative duties on others, either duties of non-interference or duties of positive performance.

Moral rights provide individuals with autonomy and equality in the free pursuit of their interests. The gains of others do not generally justify interference with a person's pursuit of an interest or an activity when that pursuit is protected by a moral right. Moral rights provide a basis for justifying one’s actions and for invoking the protection or aid of others.

Negative and Positive Rights

Negative rights are distinguished by the fact that its members can be defined only in terms of the duties others have to not interfere in certain activities of the person who holds a given right.

Positive rights are all rights that go beyond non-interference to also impose a positive duty of providing people with something when they are unable to provide it for themselves.

Positive rights, as we know them today, were not emphasized until the 20th-century. Positive rights became important in the 20th century when society increasingly took it on itself to provide its members with the necessities of life that they were unable to provide for themselves. Much of the debate over moral rights has concentrated on whether negative or positive rights should be given priority. "Conservative" writers, have claimed that government efforts should be limited to enforcing negative rights and not expended on providing positive rights. "Liberal" authors hold that positive rights have as strong a claim to being honored as negative rights and that, consequently, government has a duty to provide both.

Privacy is an example of a negative right; the rights to food, life, and health care are positive. In general, more liberal theorists hold that society should guarantee positive as well as negative rights; conservatives wish to limit government to enforcing negative rights. Positive rights were not emphasized until the 20th century. Negative rights were often employed in the 17th and 18th centuries by writers of manifestos (such as the Declaration of Independence and the Bill of Rights), who were anxious to protect individuals against the encroachments of monarchical governments. Positive rights became important in the 20th century when society increasingly took it on itself to provide its members with the necessities of life that they were unable to provide for themselves.

Rights and Duties

The discussion of rights and duties begins with a discussion of Walt Disney and its dealings with Chinese companies. On March 3, 2004, executives of Walt Disney, the world's second largest media conglomerate, were confronted with a group of stockholders concerned about the company's human rights record in China. Walt Disney markets merchandise based on its characters and films, including toys, apparel, watches, consumer electronics and accessories. Much of this merchandise is manufactured in China in factories that contract with Disney to produce the merchandise according to Disney's specifications. The Congressional-Executive Commission on China, a group established by the U.S. Congress in 2001, reported in 2003, however, "China's poor record of protecting the internationally recognized rights of its workers has not changed significantly in the past year. Chinese workers cannot form or join independent trade unions, and workers who seek redress for wrongs committed by their employers often face harassment and criminal charges. Moreover, child labor continues to be a problem in some sectors of the economy, and forced labor by prisoners is common." In its March 2003 *Country Reports on Human Rights Practices,* the U.S. State Department said China's economy also made massive use of prison or forced labor.

In general, a right is a person's entitlement to something; one has a right to something when one is entitled to act a certain way or to have others act in a certain way towards oneself. An entitlement is called a **legal right.** Entitlements can come from laws or moral standards; the latter are called **moral rights** or **human rights**. They specify, in general, that all humans are permitted to do something or are entitled to have something done for them.

In our ordinary discourse, we use the term *right* to cover a variety of situations in which individuals are enabled to make such choices in very different ways. First, we sometimes use the term *right* to indicate the mere absence of prohibitions against pursuing some interest or activity. Second, we sometimes use the term *right* to indicate that a person is authorized or

Third, the term *right* is sometimes used to indicate the existence of prohibitions or requirements on others that enable the individual to pursue certain interests or activities

The most important rights are those that impose requirements or prohibitions on others, enabling people to choose whether or not to do something. Moral rights have three important features defining them:

1. Moral rights are closely correlated with duties.
2. Moral rights provide individuals with autonomy and equality in the free pursuit of their interests.
3. Moral rights provide a basis for justifying one's actions and invoking the aid of others.
4. Moral judgments made on the basis of rights differ substantially from those based on utility.

First, they are based on the individual, whereas utilitarianism is based on society as a whole. Second, rights limit the validity of preferring numbers and social benefits to the individual. On the other hand, although rights generally override utilitarian standards, they do not always do so. In times of war, for example, civil rights are commonly restricted for the public good.

Contractual Rights and Duties

There are other rights as well. Those most closely connected to business activity are **contractual rights,** sometimes called **special rights and duties** or **special obligations.** These rights attach only to specific individuals, and the duties they give rise to attach only to specific individuals. In addition, they arise out of specific transactions between parties and depend upon a pre-existing public system of rules. If I contract to do something for you, then you are entitled to my performance: you acquire a contractual right to whenever I promise, and I have a contractual duty to perform as I promised. Contractual rights and duties depend on a publicly accepted system of rules that define the transactions that give rise to those rights and duties.

Contractual rights and duties also provide a basis for the special duties or obligations that people acquire when they accept a position or a role within a legitimate social institution or organization. Married parents, have a special duty to care for the upbringing of their children.
What are the ethical rules governing contracts?

1. Both of the parties to a contract must have full knowledge of the nature of the agreement they are entering.
2. Neither party to a contract must intentionally misrepresent the fact of the contractual situation to the other party.
3. Neither party to the contract must be forced to enter the contract under duress or coercion.
4. The contract must not bind the parties to an immoral act.

Generally, a contract that violates one or more of these conditions is considered void.

Utilitarianism's problem with Rights and Justice

The major difficulty with utilitarianism, according to some critics, is that it is unable to deal with two kinds of moral issues: those relating to Rights and those relating to Justice. The utilitarian principal implies that certain actions are morally right when in fact they are unjust or they violate people's rights.

The great benefits a system may have for the majority does not justify the extreme burdens that it imposes on a small group. The shortcoming of utilitarianism is that it allows benefits and burdens to be distributed among the members of society in any way whatsoever so long as the total amount of benefits is maximized. Utilitarianism looks only at how much utility is produced in a society and fails to take into account how that utility is distributed among the members of society.

Considerations of Justice (which look at how benefits and burdens are distributed among people) and Rights (which look at individual entitlements to freedom of choice and to well-being) seemed to be ignored by analysis that looks only at the costs and benefits of decisions.

A Basis for Moral Rights: Kant

Utilitarianism and Kantian ethics, they both have different views to what they believe about lives being of equal moral value. The two also have different views of what moral considerability is, which means the certain traits that give you your personhood. When those ideas are then out in to action, they will yield two different results, such as the case when one looks at abortion. In general, people who follow Kantian ethics are more concerned and centered on the fact that if a person a living, breathing being, they are of moral value, not giving as much concern to the quality of life that the person has. When you look at these two general ideas of the different types of ethics, Kantian Ethics seems to be the much more sound and moral view. It is inclined to look at the fact that the person is a person and can contribute to society in some fashion. Even though utilitarianism claim to be more concerned with the welfare of the members of a society, it really just takes the value and importance out of human beings.

When talking about Utilitarianism and Kantian ethics, one of the things that separates the two views is the way in which they differentiate between moral considerablility.

Kant's theory of morality is the most feasible in determining a person's duty in a moral situation. The basis for his theory is perhaps the most noble of any, acting morally because doing so is the right thing to do. His ideas, no matter how vague or overly rigid, work easily in most situations. Some exceptions do exist, but are well out down by the ones that do occur in every situation. But despite these exceptions, the process Kant describes of converting maxims to universal laws to test their moral beliefs. This provides us with a useful guide and a system of ethics and morality.

The first formulation of Kant's Categorical Imperative

Kant's first formulation of the categorical imperative is as follows: "I ought never to act except in such a way that I can also will that my maxim should become a universal law." A *maxim* for Kant is the reason a person in a certain situation has for doing what he or she plans to do. A

same thing for the same reason. Kant's first version of the caregorical imperitve, then come down to the following principle:

> "An action is morally right for a person in a certain situation if, and only if, the person's reason for carrying out the action is a reason that he or she would be willing to have every person act on, in any similar situation."

An example may help to clarify the meaning of Kant's principle. Suppose that I am trying to decide whether to fire an employee because I do not like the employee's race. According to Kant's principle, I must ask myself whether I would be willing to have an employer fire any employee whenever the employer does not like the race of his or her employee. In particular, I must ask myself whether I would be willing to be fired myself should my employer not like my race. If I am not willing to have everyone act in this way, even toward me, then it is morally wrong for me to act in this way toward others. A person's reasons for acting, then, must be "reversible": one must be willing to have all others use those reasons even against oneself. There is an obvious similarity, then, between the categorical imperative and the so-called *golden rule.* "Do unto others as you would have them do unto you."

The first formulation of the categorical imperative, then, incorporates two criteria for determining moral right and wrong—universalizability and reversibility.

LESSON 09
UNIVERSALIZABILITY & REVERSIBILITY

The categorical imperative incorporates two criteria for determining moral right and wrong: **universalizability** and **reversibility**. Universalizability means the person's reasons for acting must be reasons that everyone could act on at least in principle. Reversibility means the person's reasons for acting must be reasons that he or she would be willing to have all others use, even as a basis of how they treat him or her. That is, one's reasons for acting must be reasons that everyone could act upon in principle, and the person's reasons must be such that he would be willing to have all others use them as well. Unlike utilitarianism, which focuses on consequences, Kantian theory focuses on interior motivations.

The second formulation Kant's Categorical Imperative

The second formulation Kant gives of the categorical imperative is this: "Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end." Or never treat people only as means, but always also as ends. What Kant means by "treating humanity as an end" is that everyone should treat each human being as a being whose existence as a free rational person should be promoted. For Kant, this means two things: (a) respect each person's freedom by treating people only as they have freely consented to be treated beforehand, and (b) develop each person's capacity to freely choose for him or herself the aims he or she will pursue. Kant's second version of the categorical imperative can be expressed in the following principle:

> "An action is morally right for a person if, and only if, in performing the action, the person does not use others merely as a means for advancing his or her own interests, but also both respects and develops their capacity to choose freely for themselves."

This version of the categorical imperative implies that human beings have an equal dignity that sets them apart from things such as tools or machines and that is incompatible with their being manipulated, deceived, or otherwise unwillingly exploited to satisfy the self-interests of another.

However, even if the categorical imperative explains why people have moral rights, it cannot by itself tell us what particular moral rights humans have. And when rights come into conflict, it cannot tell us which right should take precedence. Still, there seem to be three basic rights that can be defended on Kantian grounds:

1. Humans have a clear interest in being provided with the work, food, clothing, housing, and medical care they need to live.
2. Humans have a clear interest in being free from injury and in being free to live and think as they choose.
3. Humans have a clear interest in preserving the institution of contracts.

Kantian Rights

First, human beings have a clear interest in being helped by being provided with the work, food, clothing, housing, and medical care they need to live on when they cannot provide these for themselves. Second, human beings also have a clear interest in being free from injury or fraud and in being free to think, associate, speak, and live privately as they choose.

Problems with Kant

Despite the attractiveness of Kant's theory, critics have argued that, like utilitarianism, it has its limitations and inadequacies.

1. A first problem that critics have traditionally pointed out is that Kant's theory is not precise enough to always be useful.

2. Second, some critics claim that although we might be able to agree on the kinds of interests that have the status of moral rights, there is substantial disagreement concerning what the limits of each of these rights are and concerning how each of these rights should be balanced against other conflicting rights.

3. A third group of criticisms that have been made of Kant's theory is that there are counterexamples that show the theory sometimes goes wrong. Most counterexamples to Kant's theory focus on the criteria of universalizability and reversibility.

The Libertarian objection: Nozick

A very different view of rights is based on the work of libertarian philosophers such as Robert Nozick. They claim that freedom from constraint is necessarily good, and that all constraints imposed on one by others are necessary evils, except when they prevent even greater human constraints. The only basic right we all possess is the negative right to be free from the coercion of other human beings.

Libertarians may pass too quickly over the fact that the freedom of one person necessarily imposes constraints on other persons, if only that others must be constrained from interfering with that person. If I have the right to unionize, for example, I constrain the rights of my employer to treat me as he sees fit. Though libertarians tend to use Kant to support their views, there is no consensus on whether or not this is actually possible. There is also no good reason to assume that only negative rights exist.

Justice and Fairness

The dispute over "brown lung" disease caused by cotton dust illustrates how references to justice and fairness permeate such concerns. Justice and fairness are essentially comparative. They are concerned with the comparative treatment given to the members of a group when benefits and burdens are distributed, when rules and laws are administered, when members of a group cooperate or compete with each other, and when people are punished for the wrongs they have done or compensated for the wrongs they have suffered. **Justice** generally refers to matters that are more serious than fairness, though some philosophers maintain that fairness is more fundamental. In general, we think that considerations of justice are more important than utilitarian concerns: greater benefits for some do not justify injustices to others. However,

justice is, to some extent, based on individual moral rights.

There are three categories of issues involving justice:

1. **Distributive justice** is concerned with the fair distribution of society's benefits and burdens.
2. **Retributive justice** refers to the just imposition of penalties and punishments
3. **Compensatory justice** is concerned with compensating people for what they lose when harmed by others.

Questions of distributive justice arise when there is a scarcity of benefits or a plethora of burdens; not enough food or health care, for example, or too much unpleasant work. When resources are scarce, we must develop principles to allocate them fairly. The fundamental principle involved is that equals should be treated equally (and unequals treated unequally). However, it is not clear in just what respects people must be equal. The fundamental principle of distributive justice may be expressed as follows:

> "Individuals who are similar in all respects relevant to the kind of treatment in question should be given similar benefits and burdens, even if they are dissimilar in other irrelevant respects; and individuals who are dissimilar in a relevant respect ought to be treated dissimilarly, in proportion to their dissimilarity."

Egalitarians hold that there are no relevant differences among people that can justify unequal treatment. According to the egalitarian, all benefits and burdens should be distributed according to the following formula:

> "Every person should be given exactly equal shares of a society's or a group's benefits and burdens."

Though equality is an attractive social ideal for many, egalitarianism has been strongly criticized. Some critics claim that need, ability, and effort are all relevant differences among people, and that it would be unjust to ignore these differences.

LESSON 10
EGALITARIANS' VIEW

Justice as Equality: Egalitarianism

Egalitarianism holds that there are no relevant differences among people that can justify unequal treatment. According to the Egalitarian, all benefits and burdens should be distributed according to the following formula:

Every person should be given equal shares of a society's or a group's benefits and burdens.

Egalitarians base their view on the propositions that all human beings are equal in some fundamental respect and that, in virtue of this, each person has an equal claim to society's goods. According to Egalitarian, this implies that goods should be allocated to people in equal portions.

Equality has been proposed as a principle of justice not only for entire societies, but also within smaller groups or organizations. Within a family, for example, it is often assumed that children should, over the course of their lives, receive equal share of goods parents make available to them. In some companies and in some workgroups, particularly when the workgroup has strong feelings of solidarity and is working at tasks that require cooperation, workers feel that all should receive equal compensation for the work they are doing. Interestingly, when workers in a group receive equal compensation, they tend to become more cooperative with each other and to feel greater solidarity with each other. Also interestingly, workers in countries such as Japan, which is characterized as having more collectivist culture, prefer the principles of equality more than workers in countries such as the United States, which is characterized as having a more individual culture.

Justice Based on Contribution: Capitalist Justice

Some writers have argued that a society's benefits should be distributed in proportions to what each individual contributes to a society and/or to group. The more a person contributes to a society's pool of economic goods, for example, the more that person is entitled to take from that pool; the less an individual contributes, the less that individual should get. The more a worker contributes to a project, the more he or she should be paid. According to this capitalist view of justice, when people engage in economic exchanges each other, what a person gets out of the exchange should be at least equal in value to what he or she contributed. Justice requires, then, that the benefits a person receives should be proportional to the value of his or her contribution. Quite simply:

Benefits should be distributed according to the value of the contribution the individual makes to a society, a task, a group, or an exchange.

The principle of contribution is perhaps the most widely used principle of fairness used to establish salaries and wages in American companies. In workgroups, particularly when relationships among the members of the group are impersonal and the product of each worker is independent of the efforts of the others, workers tend to feel that they should be paid in proportion to the work they have contributed. Sales people out on the road, for example, or workers at individual sewing machines sewing individual garments or doing other piece-work

tend to feel that they should be paid in proportion to the quantity of good they have individually sold or made. Interestingly, when workers are paid in accordance with the principle of contribution, this tends to promote among them an uncooperative and even competitive atmosphere in which resources and information are less willingly shared and in which status differences emerge. Workers in countries that are characterized as having a more collectivist culture, such as Japan.

The main question raised by the contributive principle of distributive justice is how the "value of the contribution" if each individual is to be measured. One long-lived tradition has held that contributions should be measured in terms work effort. The more effort people put forth in their work, the greater the share of benefits to which they are entitled. The harder one works, the more one deserves, this is the assumption behind the Puritan ethic, which held that every individual had a religious obligation to work hard at his calling (the career to which God summons each individual) and that God justly rewards hard work with wealth and success, while He justly punishes laziness with poverty and failure. In the United States, this puritan ethic has evolved into a secularized work ethic, which places a high value on individual effort and which assumes that, whereas hard work does and should lead to success, loafing is and should be punished.

However, there are many problems with using effort as the basis of distribution. First to reward a person's efforts without any reference to whether the person produces anything worthwhile through these efforts is to reward incompetence and inefficiency. Second, if we reward people solely for their efforts and ignore their abilities and relative productivity, then talented and highly productive people will be given little incentive to invest their talent and productivity in producing goods for society. As a result, society's welfare will decline.

A second important tradition has held that contributions should be measured in terms of productivity: the better the quality of a person's contributed product, the more he or she should receive. (Product here should be interpreted broadly to include services rendered, capital invested, commodities manufactured, and any type of literacy, scientific, or aesthetic work produced.) A major problem with this second proposal is that it ignores people's needs. Handicapped, ill, untrained, and immature persons may be unable to produce anything worthwhile; if people are rewarded on the basis of their productivity, the needs of these disadvantaged groups will not be met. The main problem with this second proposal is that it is difficult to place any objective measure on the value of a person's product, especially in fields such as the sciences, the arts, entertainment, athletics, education, theology, and healthcare. Who would want to have their products priced on the basis of someone else's subjective estimates?

To deal with the last difficulty mentioned, some authors have suggested a third and highly influential version of the principle of contribution: they have argued that the value of a person's product should be determined by the market forces of supply and demand. The value of a product would then depend not on its intrinsic value, but on the extent to which it is both relatively scarce and it's viewed by the buyers as desirable. In other words, the value of a person's contribution would sell for in a competitive market. People then deserve to receive in exchange with others whatever the market value of their product is worth. Unfortunately, this method of measuring the value of a person's product still ignores people's needs. Moreover, to many people, market prices are an unjust method of evaluating the value of a person's product precisely because markets ignore the intrinsic values of things. Markets, for example, reward entertainers more than doctors. Also markets often reward a person who, through pure chance, has ended with something (e.g., an inheritance) that is scarce and that people happen to want.

Justice Based on needs and Abilities: Socialism

Business there are probably as many kinds of socialism as there are socialist, it is somewhat inaccurate to speak of "the" socialist position on distributive justice. Nonetheless, the dictum proposed first by Louis Blanc (1811-1882) and than by Karl Marx (1818-1883) and Nikolai Lenin (1870-1924) is traditionally taken to represent the socialist view on distribution: "From each according to his ability, to each according to his needs." The socialist principle, then, can be paraphrased as follows:

Work burdens should be distributed according to people's abilities, and benefits should be distributed according to people's needs.

This socialist principle is based first on the idea that people realize their human potential by exercising their abilities in productive work. Because the realization of one's full potentiality is a value, work that a person can be as productive as possible. and this implies distributing work according to ability. Second, the benefits produced through work should be used to promote human happiness and well being. This means distributing them so that people's basics and biological needs are met, and than using what is left over to meet people's none basic needs. Perhaps most fundamental to the socialist view is the nation that societies should be communities in which benefits and burdens are distributed on the model of a family. Just as able family members willingly support the family. And just as needy family members are willingly supported by the family, so also the able members of a society should contribute their abilities to society by taking up its burdens while the needy should be allowed to share in its benefits.

As the example of the family suggests, the principle of distribution according to need and ability is used within small groups as well as within larger society. In athletics, for example, the member of a team will distribute burdens according to each athlete's ability and will tend to stand together and help each other according to each one's need. The principle of need and ability, however, is the principle that tends to the least acknowledged in business. Managers some times invoke the principle when they pass out the more able, but the often retreat when these workers complain that they are being given larger burdens without higher compensation. Managers also sometimes invoke the principle when they make specially allowance for workers who seem to have special needs. (This was, in fact, a key consideration when congress passed the Americans with disabilities act.) However they rarely do so and are often criticized for showing favoritism when the do this.

Nevertheless there is something to be said for the socialist principle: needs and abilities certainly should be taken into account when determining how benefits and burdens should be distributed among the members of a group or society. Most people would agree, for example, that we should make a greater contribution to the lives of cotton mill workers with brown lung disease who have greater needs then to lives of healthy persons who have all they need. Most people would also agree that individuals should be employed in occupations for which they are fitted, and that this means matching each person's abilities to his or her job as for as possible. Vocational tests in high school and college, for example, are supposed to help students find carrier that match their abilities.

Justice as freedom: Libertarianism

The last section discussed libertarian views on moral rights. Libertarians also have some clear and related views on the nature of justice. The libertarian holds that no particular way of

Any distribution of benefits and burdens is just if it is the result of individuals freely choosing to exchange with each other the goods each person already owns. Robert Nozick, a leading libertarian suggests this principle as the basic principle as the distributive justice.

From each according to what he chooses to do, to each according to what he makes for himself (perhaps with the contracted aid of others) and what others choose to do for him and choose to give him of what they've been given previously (under this maxim) and haven't yet extended or transferred.

Quite simply, "From each as they choose to each as they are chosen." For example if I choose to write a novel or carve a statue of a piece of driftwood then I should be allowed to keep the novel or statue if I choose to it. If I choose I should be allowed to give them away to someone else or exchange them for other objects to whomever I choose. In general, people should be allowed to keep everything they make and everything they are freely given. Obviously, this means it would be wrong to tax one person (i.e. take the person's money) to provide welfare benefits for someone else needs.

Nozick's principle is based on the claim (which we have already discussed) that every person has a right to freedom from coercion that takes priority over all other rights and values. The only distribution that is just, according to Nozick, is one that results from free individual choices. Any distribution that results from any attempt to impose a certain pattern on society (e.g., imposing equality on everyone or taking from the have's and given to the have nots) will therefore be unjust.

LESSON 11
JOHN RAWLS' THEORY OF JUSTICE

John Rawls' theory of justice as fairness is an attempt to bring many of these disparate ideas together in a comprehensive way. According to his theory, the distribution of benefits and burdens in a society is just if:

1. Each person has an equal right to the most extensive basic liberties compatible with equal liberties for all *(the principle of equal liberty);* and

2. Social and economic inequalities are arranged so that they are both:
   a) To the greatest benefit of the least advantaged *(the difference principle),* and
   b) Attached to offices and positions open fairly and equally to all *(the principle of equal opportunity).*

Rawls tells us that Principle 1 is supposed to take priority over Principle 2 should the two of them ever come into conflict, and within Principle 2, Part b *is* supposed to take priority over Part a.

Principle 1 is called the **principle of equal liberty.** Essentially, it says that each citizen's liberties must be protected from invasion by others and must be equal to those of others. These basic liberties include the right to vote, freedom of speech and conscience and the other civil liberties, freedom to hold personal property, and freedom from arbitrary arrest. Part of Principle 2 is called the **difference principle.** It assumes that a productive society will incorporate inequalities, but it then asserts that steps must be taken to improve the position of the most needy members of society, such as the sick and the disabled, unless such improvements would so burden society that they make everyone, including the needy, worse off than before. Part b of Principle 2 is called the **principle of fair equality of opportunity.** It says that everyone should be given an equal opportunity to qualify for the more privileged positions in society's institutions.

Therefore, according to Rawls, a principle is moral if it would be acceptable to a group of rational, self-interested persons who know they will live under it themselves. This incorporates the Kantian principles of reversibility and universalizability, and treats people as ends and not as means. Some critics of Rawls point out, however, that just because a group of people would be willing to live under a principle does not mean that it is morally justified.
Two final types of justice are retributive and compensatory justice, both of which deal with how best to deal with wrongdoers. **Retributive justice** concerns blaming or punishing those who do wrong; **compensatory justice** concerns restoring to a harmed person what he lost when someone else wronged him. Traditionally, theorists have held that a person has a moral obligation to compensate an injured party only if three conditions pertain:

1. The action that inflicted the injury was wrong or negligent.
2. The action was the real cause of the injury.
3. The person did the action voluntarily.

The most controversial forms of compensation undoubtedly are the preferential treatment programs that attempt to remedy past injustices against groups.

The Ethics of Care

As the Malden Mills fire and rebuilding shows, there are perspectives on ethics that are not explainable from the point of view of utilitarianism, rights, or Kantian philosophy. The owner had no duty to rebuild (or to pay his workers when they were not working) from any of these perspectives; still, he maintained that he had a responsibility to his workers and to his community. Rather than being impartial (which all of these theories maintain is crucial), this owner treated his community and workers partially.

This is central to the point of view known as the **ethics of care,** an approach to ethics that many feminist ethicists have recently advanced. According to this method, we have an obligation to exercise special care toward the people with whom we have valuable, close relationships. Compassion, concern, love, friendship, and kindness are all sentiments or virtues that normally manifest this dimension of morality. Thus, an ethic of care emphasizes two moral demands:

LESSON 12
THE ETHICS OF CARE

The fire that reduced Malden Mills to rubble on the evening of December 11, 1995 was one of the worst in the state's history. Seven hundred people were at work in the factory when, at a little past 8:00 p.m., a boiler exploded in one of the mill buildings. The explosion was so powerful that it ruptured gas mains; fire quickly engulfed the buildings. Employees fled into the streets; 33 were injured, four of them critically.

Fueled by the chemicals and flammable materials used in textile production, the six-alarm fire gutted the mill complex. More than 200 firefighters from as far away as New Hampshire and Boston's South Shore battled 50-foot walls of flame. Strong, gusty winds and temperatures near zero degrees hampered the effort. The fire raged out of control for much of the night, forcing nearby residents to evacuate. By morning, the once-busy textile complex was a scene of utter devastation.

This happened just two weeks before Christmas, thousands of workers faced unemployment and the fear that the mill's owner would take the insurance money and follow other textile companies south. The next day, company president Aaron Feuerstein announced that he would rebuild in Lawrence, and he promised to keep his employees on the payroll during the time it would take to reconstruct the plant. Venerated as "a man of his word" and "extremely compassionate," Feuerstein became a national folk hero.

The Malden Mills incident suggests a perspective on ethics that is not adequately captured by the moral views we have so far examined. Consider that from a utilitarian perspective Feuerstein had no obligation to rebuild the factory in Lawrence not to continue to pay his workers while they were not working. Moreover, relocating the operations of Malden Mills to a third world country where labor is cheaper would not only have benefited the company, it would also have provided jobs for Third World workers who are more desperately needy than American workers. From an impartial utilitarian perspective, then, more utility would have been produced by bringing jobs to Third World workers than by spending money to preserve the jobs of current Malden Mills employees in Lawrence, Massachusetts. It is true that Malden mills workers were close to Feuerstein and that over the years they have remained loyal to him and have built a close relationship with him. However, from and impartial standpoint, the utilitarian would say such personal relationships are irrelevant and should be set aside in favor of whatever maximizes utility.

The ethics of care—that we have an obligation to exercise special care toward those particular persons with whom we have valuable close relationships, particularly relations of dependency —is a key concept in an “ethics of care,” an approach to ethics that many feminist ethicists have recently advanced. A morality of care “rests on an understanding of relationships as response to another in their terms.” According to this “care” view of ethics, the moral task is not to follow universal and impartial moral principles, but instead to attend and respond to the good of particular concrete person with whom we are in a valuable and close relationship. Compassion, concern, love, friendship, and kindness are all sentiments or virtues that normally manifest this dimension of morality. Thus and ethic of care emphasizes two moral demands:

1. We each exist in a web of relationships and should preserve and nurture those concrete and valuable relationships we have with specific persons.

2. We each should exercise special care for those with whom we are concretely related by attending to their particular needs, values, desires, and concrete well-being as seen from their own personal perspective, and by responding positively to these needs, values, desires, and concrete well-being, particularly of those who are vulnerable and dependent on our care.

An ethic of care, therefore, can be seen as encompassing the kinds of obligations that a so-called communitarian ethic advocates. A **communitarian ethic** is an ethic that sees concrete communities and communal relationships as having a fundamental value that should be preserved and maintained.

The demands of caring are sometimes in conflict with the demands of justice, though, and no fixed rule exists to resolve these conflicts. Critics point out that the ethics of care can easily degenerate into unjust favoritism. Though the ethics of care can also lead to burnout, the advantage of the theory is that it is a corrective to the other approaches that are impartial and universal.

Integrating Utility, Rights, Justice, and Caring

So far, the chapter has outlined four main kinds of basic moral considerations:

1. **Utilitarian standards** - must be used when we do not have the resources to attain everyone's objectives, so we are forced to consider the net social benefits and social costs consequent on the actions (or policies or institutions) by which we can attain these objectives.
2. **Standards that specify how individuals must be treated** - must be employed when our actions and policies will substantially affect the welfare and freedom of specifiable individuals. Moral reasoning of this type forces consideration of whether the behavior respects the basic rights of the individuals involved and whether the behavior is consistent with one's agreements and special duties.
3. **Standards of justice** - indicate how benefits and burdens should be distributed among the members of a group. These sorts of standards must be employed when evaluating actions whose distributive effects differ in important ways.
4. **Standards of caring** - indicate the kind of care that is owed to those with whom we have special concrete relationships. Standards of caring are essential when moral questions arise that involve persons embedded in a web of relationships, particularly persons with whom one has close relationships, especially those of dependency.

One simple strategy for ensuring that all four kinds of considerations are incorporated into one's moral reasoning is to inquire systematically into the utility, rights, justice, and caring involved in a given moral judgment, as in Fig. 2.1. One might, for example, ask a series of questions about an action that one is considering: (a) Does the action, as far as possible, maximize social benefits and minimize social injuries? (b) Is the action consistent with the moral rights of those whom it will affect? (c) Will the action lead to a just distribution of benefits and burdens? (d) Does the action exhibit appropriate care for the well-being of those who are closely related to or dependent on oneself? Unfortunately, there is not yet any comprehensive moral theory to show when one of these considerations should take precedence.

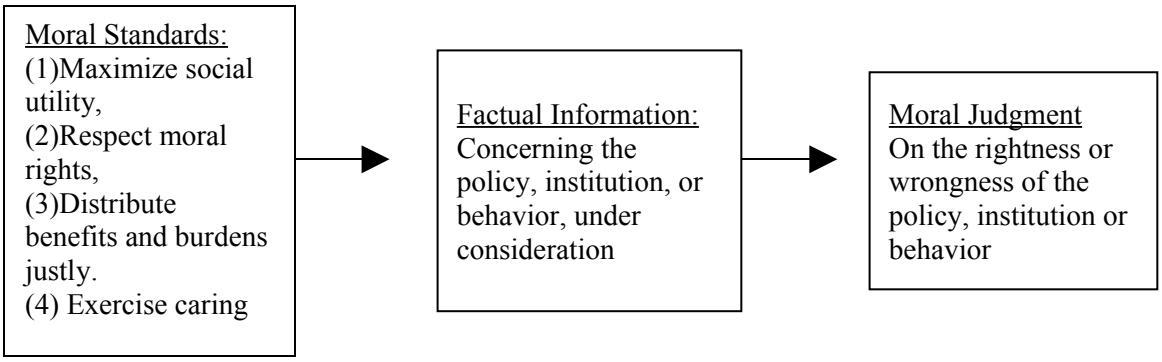


Figure 2.1

An Alternative to Moral Principles: Virtue Ethics

Many ethicists criticize the entire notion that actions are the subject of ethics. The central issue (as Ivan Boesky's case demonstrates) is the kind of person an agent ought to be and what the character of humans ought to be. This does not mean that the conclusion of this type of ethics (called *virtue ethics)* will be much different, however. Rather, the virtues provide a perspective that covers the same ground as the four approaches, just from a different perspective.

A **moral virtue** is an acquired disposition that is a valuable part of a morally good person, exhibited in the person's habitual behavior. It is praiseworthy, in part, because it is an achievement whose development requires effort. The most basic issue, from the perspective of virtue ethics, is the question: What are the traits of character that make a person a morally good human being? Which traits of character are moral virtues? According to Aristotle, moral virtues enable humans to act in accordance with their specific purpose (which he held to be reasoning). Other philosophers, such as Aquinas, have come up with different lists of virtues.

LESSON 13
THE ETHICS OF CARE (CONTD.)

The American philosopher Alasdair MacIntyre has claimed that a virtue is any human disposition that is praised because it enables a person to achieve the good at which human "practices" aim. Pincoffs suggests that virtues include all those dispositions to act, feel, and think in certain ways that we use as the basis for choosing between persons or between potential future selves. In general, the virtues seem to be dispositions that enable people to deal with human life. However, it also seems that what counts as a moral virtue will depend on one's beliefs and the situations one faces.

Virtue Ethics

The idea of virtue in business is not hopelessly out of place, because virtuous characteristics can lead not only to personal success in a career but to the successful operation of a business. Central to virtue ethics is the idea that morality is not performing certain right actions but possessing a certain character. Instead of asking, "What actions are right?" virtue ethics asks, "What kind of persons should we be?" In the *Nicomachean Ethics*, Aristotle argued that ethics enables us to live the good life and that the good life is possible only for virtuous persons. Aristotle described particular virtues in illuminating detail. After Aristotle, philosophical theory tended to focus more on right action and duties, but some contemporary philosophers argue for a return to virtue ethics.

Virtue theory says that the aim of the moral life is to develop the dispositions that we call virtues, and to exercise them as well. The key action guiding implication of virtue theory, then, can be summed up in the claim that:

> "An action is morally right if, in carrying out the action, the agent exercises, exhibits, or develops a morally virtuous character, and it is morally wrong to the extent that by carrying out the action the agent exercises, exhibits, or develops a morally vicious character."

The wrongfulness of an action can be determined by examining the character the action tends to produce (or the character that tends to produce the action). It also provides a useful criterion for evaluating our social institutions and practices.

An ethic of virtue, then, is not a fifth kind of moral principle that should take its place alongside the principles of utilitarianism, rights, justice, and caring. Instead, an ethics of virtue fills out and adds to utilitarianism, rights, justice, and caring by looking not at the actions people are required to perform, but at the character they are required to have.

What are virtues?

Virtues are specifically those traits that *everyone* needs for the good life, regardless of their specific situation. For example, courage is a virtue because it enables anyone to get what he or she wants. The virtues are integrally related to what Aristotle called practical wisdom, which is what a person needs in order to live well. Virtue is variously described as an *excellence* that is admired in a person, as a disposition to act in a certain way, and as a specific state of character. Lists of the virtues generally include: benevolence, compassion, courage, courtesy,

developing a list of virtues, we must consider not only the contribution of a virtue to some end but also the end itself. Aristotle considered happiness to be the end of life, and so the virtues must all contribute in some way to happiness. Thus, the character traits that enable a despot or a criminal or a lecher to be successful are not virtues because they do not conduce to happiness. Moreover, the virtues are not merely means to happiness but are themselves constitutive of it. For example, a parent cannot experience the joy of parenting without actually possessing the traits that make one a good parent.

Virtue ethics in business

Virtue ethics presupposes some end (happiness is the end of life for Aristotle), and so applying virtue ethics to business requires us to determine the *end* toward which business aims. Adopting an Aristotelian approach, Robert Solomon argues that the main purpose of business is not merely to create wealth but to enable us to live the good life. Thus, business is a matter of getting along with others, having a sense of self-respect, and taking pride in what we do. Business, from an Aristotelian point of view, is essentially a communal activity in which people work together for a common good. The virtues in business are those character traits that enable us to achieve this end of business. For the most part, these are the character traits necessary for everyday life, but some exceptions must be made. For example, honesty in business is compatible with a certain amount of concealment that is unacceptable in personal relations, and so the virtue of honesty must be redefined for the purposes of business.

Strengths and weaknesses of virtue ethics

Strength of virtue ethics is that it fits with our everyday moral experience. The response of most people to a complex ethical dilemma is not to think about how universal principles can be applied but to decide what they feel comfortable with or what a person they admire would do. Codes of professional ethics generally stress that a professional should be a person of integrity. Unlike the impartiality stressed by utilitarianism and Kantianism, virtue ethics makes better sense of the role that *personal relations* play in morality. Since business activity is based so heavily on roles and relationships in which such concepts as loyalty and trust figure prominently, virtue ethics is highly relevant to the workplace. A weakness of virtue ethics is its *incompleteness*. Virtue ethics can take us only so far in dealing with genuine ethical dilemmas. Some dilemmas involve the limits of rules (such as when concealing information becomes a lie) or conflicts between rules (when telling the truth would harm an innocent person, for example). Moreover, there are some difficult ethical dilemmas to which virtues do not readily apply. Some virtue ethicists respond that the importance of dilemmas in ethics has been overstated and that ethics is concerned primarily with the problems of everyday life. Another weakness is that virtue ethics does not address the problem of *conflict*. According to Aristotle, happiness is possible for anyone who becomes a certain kind of person, but insofar as our goals in life include possessing limited goods, not everyone can be successful. Virtue ethicists respond that morality is more a matter of living cooperatively than of moderating conflict.

Morality in International Contexts

Though the principles discussed in the chapter so far are clear enough, how they are to be applied in foreign countries is more complex. Petty bribery, which is considered unethical in the U.S., is standard practice in Mexico; nepotism and sexism occur as a matter of course in some Arabic business environments. Should multinationals follow the laws of the less developed countries in which they operate? Should they try to introduce their own standards?

they pay them the same wage?

The following four questions can help clarify what a multinational corporation ought to do in the face of these difficulties:

1. What does the action really mean in the local culture's context?
2. Does the action produce consequences that are ethically acceptable from the point of view of at least one of the four ethical theories?
3. Does the local government truly represent the will of all its people?
4. If the morally questionable action is a common local practice, is it possible to conduct business there without engaging in it?

LESSON 14
MORALITY IN INTERNATIONAL CONTEXTS

The following four questions can help clarify what a multinational corporation ought to do in the face of these difficulties:

1. What does the action really mean in the local culture's context?
2. Does the action produce consequences that are ethically acceptable from the point of view of at least one of the four ethical theories?
3. Does the local government truly represent the will of its entire people?
4. If the morally questionable action is a common local practice, is it possible to conduct business there without engaging in it

This chapter examines the ethical aspects of the market system itself—how it is justified, and what the strengths and weaknesses of the system are from the point of view of ethics. It begins by discussing the economic conditions in the U.S. at the close of the 20th century, when proponents of industrial policy were urging the government to help declining industries and their workers to adjust to new economic conditions. Others urged caution, advising the government to "avoid the pitfalls of protectionism." This dichotomy illustrates the difference between two opposite ideologies, those who believe in the "free market" and those who advocate a "planned" economy.

These two ideologies take different positions on some very basic issues: What is human nature really like? What is the purpose of social institutions? How does society function? What values should it try to protect?

In general, two important ideological camps, the individualistic and communitarian viewpoints, characterize modern societies. Individualistic societies promote a limited government whose primary purpose is to protect property, contract rights, and open markets. Communitarian societies, in contrast, define the needs of the community first and then define the rights and duties of community membership to ensure that those needs are met.

These two camps face the problem of coordinating the economic activities of their members in two distinct ways. Communitarian systems use a command system, in which a single authority decides what to produce, who will produce it, and who will get it. Free market systems are characteristic of individualistic societies. Incorporating ideas from thinkers like John Locke and Adam Smith, they allow individual firms to make their own decisions about what to produce and how to do so.

Free market systems have two main components: a private property system and a voluntary exchange system. Pure free market systems would have absolutely no constraints on what one can own and what one can do with it. Since such systems would allow things like slavery and prostitution, however, there are no pure market systems.

Free Markets and Rights: John Locke

John Locke (1632-1704), an English political philosopher, is generally credited with developing the idea that human beings have a "natural right" to liberty and a "natural right" to private property. Locke argued that if there were no governments, human beings would find themselves in *a state of nature.* In this state of nature, each man would be the political equal of

the moral principles that God gave to humanity and that each man can discover by the use of his own God-given reason. As he puts it, in a state of nature, all men would be in:

> "A state of perfect freedom to order their actions and dispose of their possessions and persons as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man. A state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another... without subordination or subjection [to another].... But... the state of nature has a law of nature to govern it, which obliges everyone: and reason, which is that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions."

Thus, according to Locke, the law of nature teaches us that we have a natural right to liberty. But because the state of nature is so dangerous, says Locke, individuals organize themselves into a political body to protect their lives and property. The power of government is limited, however, extending only far enough to protect these very basic rights.

Locke's views on property rights have been very influential in America. The Fifth Amendment to the U.S. Constitution even quotes Locke directly. In this view, government does not grant or create property rights. Rather, nature does, and government must therefore respect and protect these rights. Locke's view that labor creates property rights has also been influential in the U.S.

LESSON 15
FREE MARKET & PLANNED ECONOMY

FREE TRADE THEORIES

Economic Freedom: Idea, Performance, and Trends

Economic freedom is characterized by the absence of government coercion or constraint on the production distribution, and/or consumption of goods and services beyond the extent necessary for citizens to protect and maintain liberty itself. Thus, people are free to work, produce, consume, and invest in the ways they choose. The **Economic Freedom Index** approximates the extent to which a government intervenes in the areas of free choice, free enterprise, and market-driven prices for reasons that go beyond basic national needs. Presently, countries are classified as *free, mostly free, mostly unfree*, and *repressed.* Determining factors include: trade policy, the fiscal burden of the government, the extent and nature of government intervention in the economy, monetary policy, capital flows and investment, banking and financial activities, wage and price levels, property rights, other government regulation, and informal market activities. Over time, more and more countries have moved toward greater economic freedom. Countries ranking highest on this index tend to enjoy both the highest standards of living as well as the greatest degree of political freedom

The explanatory power of the theories of *absolute* and *comparative advantage* is limited to the demonstration of how economic growth can occur via specialization and trade. The concept of **free trade** (a positive-sum game) purports that nations should neither artificially limit imports nor artificially promote exports. The **invisible hand** of the market will determine which competitors survive, as customers buy those products that best serve their needs. Free trade implies specialization—just as individuals and firms efficiently produce certain products that they then exchange for things they cannot produce efficiently, nations as a whole specialize in the production of certain products, some of which will be consumed domestically, and some of which may be exported; export earnings can then in turn be used to pay for imported goods and services. This chapter examines the ethical aspects of the market system itself—how it is justified, and what the strengths and weaknesses of the system are from the point of view of ethics. It begins by discussing the economic conditions in the U.S. at the close of the 20th century, when proponents of industrial policy were urging the government to help declining industries and their workers to adjust to new economic conditions. Others urged caution, advising the government to "avoid the pitfalls of protectionism." This dichotomy illustrates the difference between two opposite ideologies, those who believe in the "free market" and those who advocate a "planned" economy.

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> "A state of perfect freedom to order their actions and dispose of their possessions and persons as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man".

LESSON 16
LAW OF NATURE

> "A state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another... without subordination or subjection [to another].... But... the state of nature has a law of nature to govern it, which obliges everyone: and reason, which is that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions."

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Although Locke never explicitly used his theory of natural rights to argue for free markets, several 20th-century authors have employed his theory for this purpose.[19] Friedrich A. Hayek, Murray Rothbard, Gottfried Dietze, Eric Mack, and many others have claimed that each person has the right to liberty and property that Locke credited to every human being and consequently, government must leave individuals free to exchange their labor and their property as they voluntarily choose. Only a free private enterprise exchange economy, in which government stays out of the market and in which government protects the property rights of private individuals, allows for such voluntary exchanges. The existence of the **Lockean rights** to liberty and property, then, implies that societies should incorporate private property institutions and free markets.

It is also important to note that Locke's views on the right to private property have had a significant influence on American institutions of property even in today's computer society. First, and most important, throughout most of its early history, American law has held to the theory that individuals have an almost absolute right to do whatever they want with their property and that government has no right to interfere with or confiscate an individual's private property even for the good of society. Second, underlying many American laws regarding property and ownership is Locke's view that when a person expends his or her labor and effort to create or improve a thing, he or she acquires property rights over that thing.

Theory of Absolute Advantage

In 1776 Adam Smith asserted that the wealth of a nation consisted of the goods and services available to its citizens. His theory of **absolute advantage** holds that a country can maximize its own economic well being by specializing in the production of those goods and services that it can produce more efficiently than any other nation and enhance global efficiency through its participation in (unrestricted) free trade. Smith reasoned that:

(i) Workers become more skilled by repeating the same tasks;
(ii) Workers do not lose time in switching from the production of one kind of product to another; and
(iii) Long production runs provide greater incentives for the development of more effective working methods. Smith also asserted that country-specific advantages can either be natural or acquired.

1. **Natural Advantage**. A country may have a **natural advantage** in the production of particular products because of given climatic conditions, access to particular resources, the availability of labor, etc. Variations in natural advantages among countries help to explain where particular products can be produced most efficiently.
2. **Acquired Advantage.** An **acquired advantage** represents a distinct advantage in skills, technology, and/or capital assets that yields differentiated product offerings and/or cost-competitive homogeneous products. Technology, in particular, has created new products, displaced old products, and altered trading-partner relationships.
3. **Resource Efficiency Example.** Real income depends on the output of products as compared to the resources used to produce them. By defining the cost of production in terms of the resources needed to produce a product, the **production possibilities** *curve* shows that through the use of specialization and trade, the output of two countries will be greater, thus optimizing global efficiency.

Comparative Advantage

In 1817 David Ricardo reasoned that there would still be gains from trade if a country specialized in the production of those things it can produce most efficiently, even if other countries can produce those same things even more efficiently. Put another way, Ricardo's theory of **comparative advantage** holds that a country can maximize its own economic well-being by specializing in the production of those goods and services it can produce relatively efficiently and enhance global efficiency through its participation in (unrestricted) free trade

Locke's critics focus on four weaknesses in his argument:

The assumption that individuals have natural rights: This assumption is unproven and assumes that the rights to liberty and property should take precedence over all other rights. If humans do not have the overriding rights to liberty and property, then the fact that free markets would preserve the rights does not mean a great deal.

The conflict between natural (negative) rights and positive rights: Why should negative rights such as liberty take precedence over positive rights? Critics argue, in fact, that we have no reason to believe that the rights to liberty and property are overriding.

The conflict between natural rights and justice: Free markets create unjust inequalities, and people who have no property or who are unable to work will not be able to live. As a result, without government intervention, the gap between the richest and poorest will widen until large disparities of wealth emerge. Unless government intervenes to adjust the distribution of property that results from free markets, large groups of citizens will remain at a subsistence level while others grow ever wealthier.

Individualistic assumptions and their conflicts with the ethics of caring: Locke assumes that people are individuals first, independent of their communities. But humans are born dependent on others, and without caring relationships, no human could survive. The degree of liberty a person has depends on what the person can do. The less a person can do, the less he is free to do. But a person's abilities depend on what he learns from those who care for him as well as on what others care to help him to do or allow him to do.

Free Markets and Utility: Adam Smith

Modifying Locke's views on free markets, Adam Smith's arguments rest on utilitarian arguments that unregulated markets and private property will produce greater benefits than any other system. According to Smith, when private individuals are left free to seek their own interests in free markets, they will inevitably be led to further the public welfare by an "invisible hand:"

> By directing [his] industry in such a manner as its produce may be of the greatest value, [the individual] intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end that was no part of his intention. By pursuing his own interest he frequently promotes that of society more effectively than when he really intends to promote it. Free markets, according to Smith, ensure that buyers will purchase what they need at the lowest prices they can find, and business will correspondingly attempt to satisfy these needs at the lowest prices they can offer. Competition forces sellers to drop their prices as low as they can and to conserve resources while producing what consumers actually want.

Supply and demand, according to this view, will help allocate resources efficiently. When the supply of a certain commodity is not enough to meet the demand, buyers bid the price of the commodity upward until it rises above what Smith called the **natural price** (i.e., the price that just covers the costs of producing the commodity, including the going rate of profit obtainable in other markets). Producers of that commodity then reap profits higher than those available to producers of other commodities. The higher profits induce producers of those other products to switch their resources into the production of the more profitable commodity. As a result, the shortage of that commodity disappears and its price sinks back to its natural level. Conversely, when the supply of a commodity is greater than the quantity demanded, its price falls, inducing its producers to switch their resources into the production of other, more profitable commodities. The fluctuating prices of commodities in a system of competitive markets then forces producers to allocate their resources to those industries where they are most in demand and to withdraw resources from industries where there is a relative oversupply of commodities. The market, in short, allocates resources so as to most efficiently meet consumer demand, thereby promoting social utility. The best thing for government to do is nothing; the market, on its own, will advance the public welfare, giving people what they want for the lowest possible cost. It is important to note that, although Adam Smith did not discuss the notion of private property at great length, it is a key assumption of his views. Before individuals can come together in markets to sell things to each other, they must have some agreement about what each individual "owns" and what each individual has the right to "sell" to others. Unless a society has a system of private property that allocates its resources to individuals, that society cannot have a free market system.

Smith's utilitarian argument is most commonly criticized for making what some call unrealistic arguments. First, Smith assumes that no one seller can control the price of a good. Though this may have been true at one time, today many industries are monopolized to some extent. Second, Smith assumes that the manufacturer will pay for all the resources used to produce a product, but when a manufacturer uses water and pollutes it without cleaning it, for example, someone else must pay to do so. Third, Smith assumes that humans are motivated only by a natural, self-interested desire for profit. This, say his critics, is clearly false. Many humans are concerned for others and act to help others, constraining their own self-interest. Market

systems, say Smith's critics, make humans selfish and make us think that the profit motive is natural.

LESSON 17
FREE MARKETS AND UTILITY: ADAM SMITH

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One especially influential critic of Smith was John Maynard Keynes. Keynes argued that government intervention was necessary because there is a mismatch between aggregate supply and demand, which inevitably leads to a contraction of supply. Government, according to Keynes, can influence the propensity to save, which lowers aggregate demand and creates unemployment. Government can prevent excess savings through its influence on interest rates, and it can influence interest rates by regulating the money supply. The higher the supply of money, the lower the rate at which it is lent. Second, government can directly affect the amount of money households have available to them by raising or lowering taxes. Third, government spending can close any gap between aggregate demand and aggregate supply by taking up the slack in demand from households and businesses. Keynes' arguments became less convincing after the stagflation of the 1970s, though. It has been replaced by a post-Keynesian school of thought, which argues for even more governmental intervention in the market.

Social Darwinists had a different take on the utilitarian justification for free markets. They argued that economic competition produced human progress. If governments were to interfere in this process, they would also unintentionally be impeding human progress. Weak firms must be weeded out by competition, they claim. The basic problem underlying the views of the social Darwinist, however, is the fundamental normative assumption that *survival of the fittest* means *survival of the best.* That is, whatever results from the workings of nature is necessarily good. The fallacy, which modern authors call the **naturalistic fallacy,** implies, of course, that whatever happens naturally is always for the best.

Free Trade and Utility: David Ricardo

Adam Smith's major work, the *Wealth of Nations,* in fact, was primarily aimed at showing the benefits of free trade. There he wrote:

> It is the maxim of every prudent master of a family never to attempt to make at home what it will cost him more to make than to buy. The tailor does not make his own shoes but buys them from the shoemaker... What is prudence in the conduct of every family can scarce be folly in that of a great kingdom. If a foreign country can supply us with a commodity cheaper than we ourselves can make it, better buy it of them with some part of the produce of our own industry, employed in a way in which we have some advantage.

Adam Smith's point here is simple. Like individuals, countries differ in their ability to produce

an **"absolute advantage"** in producing that good. These cost differences may be based on differences in labor costs and skills, climate, technology, equipment, land, or natural resources.

Suppose that because of these differences, our nation can make one product for less than a foreign nation can, and suppose the foreign nation can make some other product for less than we can. Then clearly it would be best for both nations to specialize in making the product each has an "absolute advantage" in producing, and to trade it for what the other country has an "absolute advantage" in producing. It was Ricardo's genius to realize that both countries could benefit from specialization and trade even though one can make everything more cheaply than the other. Specialization increases the total output of goods countries produce, and through trade all countries can share in this added bounty.

Ricardo's ingenious argument has been hailed as the single "most important" and "most meaningful" economic discovery ever made. Some have said it is the most "surprising" and "counterintuitive" concept in economics. It is, without a doubt, the most important concept in international trade theory today and is at the heart of the most significant economic arguments people propose today when they argue in favor of globalization. Ricardo makes a number of simplifying assumptions that clearly do not hold in the real world, such as that there are only two countries making only two products with only a fixed number of workers. But these are merely simplifying assumptions Ricardo made to get his point across more easily and Ricardo's conclusion could still be proved without these assumptions.

There are other assumptions, however, that are not so easy to get around. First, Ricardo assumes that the resources used to produce goods (labor, equipment, factories, etc.) do not move from one country to another. Yet today multinational companies can, and easily do, move their productive capital from one country to another. Second, Ricardo assumes that each country's production costs are constant and do not decline as countries expand their production or as they acquire new technology.

Third, Ricardo assumes that workers can easily and unreservedly move from one industry to another. Yet when a company closes down because it cannot compete with imports from another country that has a comparative advantage in those goods, the company's workers are laid off, suffer heavy costs, need retraining, and often cannot find comparable jobs.

Finally, and perhaps most importantly, Ricardo ignores international rule setters. International trade inevitably leads to disagreements and conflicts, and so countries must agree to abide by some set of rules and rule-setters.

Marx and Justice: Criticizing Markets and Trade

Karl Marx offers the most critical view of modern private property and free market institutions. Marx claims that free-market capitalism necessarily produces extremes of inequality. Since capitalist systems offer only two sources of income–owning the means of production and selling one's labor–workers cannot produce anything without the owner of the productive forces. But owners do not pay the full value of the workers' labor; they pay workers what they need to subsist, keeping the rest for themselves and gradually becoming wealthier as a result.

LESSON 18
RICARDO & GLOBALIZATION

Ricardo's Assumptions

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Marxism and its influence on Markets and Trade

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The result for workers is increased alienation. Rather than realizing their human nature and satisfying their real human needs, they are separated from what is actually theirs in four ways:

1. In capitalist societies, the products that the worker produces by his or her labor are taken away by the capitalist employer and used for purposes that are antagonistic to the worker's own interests.
2. Capitalism forces people into work that they find dissatisfying, unfulfilling, and that is controlled by someone else.
3. Capitalism alienates people from themselves by instilling in them false views of what their real human needs and desires are.
4. Capitalist societies alienate human beings from each other by separating them into

antagonistic and unequal social classes that break down community and caring relationships namely the Bourgeois and proletariat.

Conclusion

Though utilitarians claim that people would be lazy without private property, Marx counters that by this argument the bourgeois owners should long ago have wasted away: they do not work, while those who do cannot acquire any real property.

The real purpose of government, according to Marx, is to protect the interests of the ruling class of owners. The forces of production of a society–its substructure–always have, historically, given society its class and its superstructure (or government and popular ideologies). Those in power promote the ideologies that justify their position of privilege. This view of history is called historical materialism.

The result of unrestrained free markets and private ownership will be a series of disasters for working people, leaving them immiserated. Three general tendencies will combine to bring this about:

First, modern capitalist systems will exhibit an increasing concentration of industrial power in relatively few hands. As self-interested private owners struggle to increase the assets they control, little businesses will gradually be taken over by larger firms that will keep expanding in size.

Second, capitalist societies will experience repeated cycles of economic downturns or crises. Because workers are organized into mass assembly lines, the firm of each owner can produce large amounts of surplus.

Third, Marx argues, the position of the worker in capitalist societies will gradually worsen.' This gradual decline will result from the self-interested desire of capitalist owners to increase their assets at the expense of their workers.

Though many of Marx's predictions have turned out to be correct, the immiseration of workers has not occurred. Still, many claim that unemployment, inflation, alienation, and false desires do characterize much of modern capitalist society.

Defenders of free markets counter that Marx makes an un-provable assumption that just means equality or distribution according to need. They claim that justice really means distribution according to contribution (which requires free markets). Even if private ownership causes inequalities, defenders of free markets still maintain that the benefits of the system are greater and more important than the incidental inequalities.

Whether the free market argument is persuasive depends ultimately on the importance one gives to the rights to liberty and property as opposed to a just distribution of income and wealth.

Conclusion: The Mixed Economy

Which side, free markets or government intervention, will ultimately win? Neither the collapse of the Soviet Union nor the rise of strong collectivist governments like Japan proves one side or the other. Indeed, it may be the case that neither side by itself presents a complete picture of

how the modern economy ought to run.

Many economists now advocate retaining the market system and private property while modifying their workings through government regulation, a mixed economy that attempts to remedy the deficiencies of a free market system. Such policies can be very successful, as they have been in Sweden, Japan, Norway, and many other countries. Even though the U.S. is more successful economically than most other countries, studies do indicate that mixed economies have some advantages.

New technologies are also firing the debate over the balance between Lockean private property and collective ownership. Modern technologies, especially computers, create new forms of intellectual property that, unlike other types of property, can be copied and consumed by a number of different individuals at once. Locke's view, and the view of some utilitarians, is that the mental labor that creates the property creates the property rights over that product. Socialists point out that artists, writers, and thinkers have always created works without any financial incentive.

Should new scientific and engineering discoveries be protected as private property? Should these things be shared by the society that made their discovery possible? The debate continues. Still, though critics of Marx contend that Marxism is dead, many socialist trends and theories remain influential. Locke and Smith's form of capitalism has the upper hand, but many nevertheless maintain that a mixed economy comes closest to combining the utilitarian benefits of the market economy with a proper respect for human rights, caring and justice.

LESSON 19

FREE MARKET ECONOMY

Mixed Economy

Economic system in which land, factories, and other economic resources are more equally split between private and government ownership. Government controls economic sectors important to national security and long-term stability. Generous welfare system supports unemployed and provides health care.

1. **Origins of the Mixed Economy**

a. Successful economy must be efficient and innovative, but also protect society. Goals are low unemployment, low poverty, steady economic growth, and an equitable distribution of wealth.

b. Many mixed economies today are modernizing to become more competitive.

2. **Decline of Mixed Economies**

Mixed economies are converting to market-based systems. Government ownership means less efficiency, innovation, responsibility and accountability; higher costs; slower growth; and higher taxes and prices.

a. Move Toward Privatization

i. Selling government-owned economic resources to private companies and individuals.

ii. Increases efficiency, cuts subsidies to state-owned firms, curtails appointment of managers for political reasons.

3. Market Economy

Majority of a nation's land, factories, and other economic resources are privately owned, either by individuals or businesses. Price mechanism determines:

- *Supply*: The quantity of a good or service that producers are willing to provide at a specific selling price.
- *Demand*: The quantity of a good or service that buyers are willing to purchase at a specific selling price.

1. Origins of the Market Economy

Individual concerns are above group concerns. The group benefits when individuals receive incentives and rewards to act in certain ways.

a. *Laissez-Faire* Economics

French: "allow them to do [without interference]." Individualism fosters democracy as well as a market economy.

2. **Features of a Market Economy**

- *Free choice: individuals have purchase options.*
- *Free enterprise: companies can decide what to produce and which markets to compete in.*
- *Price flexibility: prices rise/fall reflecting supply and demand.*
- *Focus on China*

China's theme is "Socialism with Chinese characteristics," and the nation has undergone great economic reform over the past two decades.

a. **Early Years**
   i. 1949: communes planned all agricultural and industrial production and schedules. Rural families owned their homes and land and produced particular crops.
   ii. 1979: government reforms allowed families to grow crops they chose and sell produce at market prices.
   iii. Township and village enterprises (TVEs) obtained materials, labor, and capital on open market and used a private distribution system. Legalized in 1984, TVEs laid the groundwork for a market economy.
   iv. Outside companies were allowed to form joint ventures with Chinese partners in the mid-1980s.

b. **Challenges Ahead**
   i. Political and social problems loom. Skirmishes between secular and Muslim Chinese, and democracy restricted.
   ii. Unemployment, slow economic progress in rural areas, and misery of migrant workers.
   iii. China's one country, two systems policy must preserve order, as Taiwan is watching closely.

Bottom Line for Business

Ongoing market reforms in formerly centrally planned and mixed economies have a profound effect on international business. Freer markets are spurring major shifts in manufacturing activity. Lured by low wages and growing markets, international companies are forging ties in newly industrialized countries and exploring opportunities in developing nations. Global capital markets make it easier to set up factories abroad, and some newly industrialized countries produce world-class competitors of their own.

LESSON 20
COMPETITION AND THE MARKET

Introduction

This chapter moves the consideration of business ethics from the morality of the economic system in general to the morality of specific practices within our system. Given that our system generally follows the free market model, which is based on competition; it may be surprising to note that there are so many examples of anticompetitive practices in the U.S. today. A report on New York Stock Exchange companies showed that 10 percent of the companies had been involved in antitrust suits during the previous five years. A survey of major corporate executives indicated that 60 percent of those sampled believed that many businesses engage in price fixing.[6] One study found that in a period of two years alone over sixty major firms were prosecuted by federal agencies for anticompetitive practices. Actually, it is more than surprising. The morality of the free market system itself is based on the idea of competition creating a just allocation of resources and maximizing the utility of society's members. To the extent that the market is not competitive, it loses its moral justification for existing.

To understand the nature of market competition and the ethics of anticompetitive practices, it is helpful to examine three abstract models of the different degrees of competition in a market: perfect competition, pure monopoly, and oligopoly.

Perfect Competition

In a perfectly free competitive market, no buyer or seller has the power to significantly affect the price of a good. Seven features characterize such markets:

1. There are numerous buyers and sellers, none of whom has a substantial share of the market.
2. All buyers and sellers can freely and immediately enter or leave the market.
3. Every buyer and seller has full and perfect knowledge of what every other buyer and seller is doing, including knowledge of the prices, quantities, and quality of all goods being bought and sold.
4. The goods being sold in the market are so similar to each other that no one cares from whom each buys or sells.
5. The costs and benefits of producing or using the goods being exchanged are borne entirely by those buying or selling the goods and not by any other external parties.
6. All buyers and sellers are utility maximizers: Each tries to get as much as possible for as little as possible.
7. No external parties (such as the government) regulate the price, quantity, or quality of any of the goods being bought and sold in the market.

In addition, free competitive markets require an enforceable private property system and a system of contracts and production.

In such markets, prices rise when supply falls, inducing greater production. Thus, prices and quantities move towards the equilibrium point, where the amount produced exactly equals the amount buyers want to purchase. Thus, perfectly free markets satisfy three of the moral criteria: justice, utility, and rights. That is, perfectly competitive free markets achieve a certain kind of justice, they satisfy a certain version of utilitarianism, and they respect certain kinds of moral rights.

The movement towards the equilibrium point can be explained in terms of two principles: the **principle of diminishing marginal utility** and the **principle of increasing marginal costs.** When a buyer purchases a good, each additional item of a certain type is less satisfying than the earlier ones. Therefore, the more goods a consumer purchases, the less he will be willing to pay for them. The more one buys, the less one is willing to pay. On the supply side, the more units of a good, a producer makes, the higher the average costs of making each unit. This is because a producer will use the most productive resources to make his or her first few goods. After this point, the producer must turn to less productive resources, which means that his costs will rise. Since sellers and buyers meet in the same market, their respective supply and demand curves will meet and cross at the equilibrium point.

LESSON 21
PERFECT COMPETITION

Though some agricultural markets approximate the model of the perfectly competitive free market, in actuality there is no real example of such a market. Markets that do not have all seven features of the perfectly free market are, therefore, correspondingly less moral.

In the capitalist sense of the word, justice is when the benefits and burdens of society are distributed such that a person receives the value of the contribution he or she makes to an enterprise. Perfectly competitive free markets embody this sense of justice, since the equilibrium point is the only point at which both the buyer and seller receive the just price for a product. Such markets also maximize the utility of buyers and sellers by leading them to use and distribute goods with maximum efficiency.

Efficiency comes about in perfectly competitive free markets in three main ways:

1. They motivate firms to invest resources in industries with a high consumer demand and move away from industries where demand is low.
2. They encourage firms to minimize the resources they consume to produce a commodity and to use the most efficient technologies.
3. They distribute commodities among buyers so that they receive the most satisfying commodities they can purchase, given what is available to them and the amount they have to spend.

First, in a perfectly competitive market, buyers and sellers are free (by definition) to enter or leave the market as they choose. That is, individuals are neither forced into nor prevented from engaging in a certain business, provided they have the expertise and the financial resources required.
Second, in the perfectly competitive free market, all exchanges are fully voluntary. That is, participants are not forced to buy or sell anything other than what they freely and knowingly consent to buy or sell. Third, no single seller or buyer will so dominate the market that he is able to force the others to accept his terms or go without. In this market, industrial power is decentralized among numerous firms so that prices and quantities are not dependent on the whim of one or a few businesses. In short, perfectly competitive free markets embody the negative right of freedom from coercion. Thus, they are perfectly moral in three important respects: (a) Each continuously establishes a capitalist form of justice; (b) together they maximize utility in the form of market efficiency; and (c) each respects certain important negative rights of buyers and sellers. No single seller or buyer can dominate the market and force others to accept his terms. Thus, freedom of opportunity, consent, and freedom from coercion are all preserved under this system.

Several cautions are in order, however, when interpreting these moral features of perfectly competitive free markets. First, perfectly competitive free markets do not establish other forms of justice. Because they do not respond to the needs of those outside the market or those who have little to exchange, for example, they cannot establish a justice based on needs. Second, competitive markets maximize the utility of those who can participate in the market given the constraints of each participant's budget. However, this does not mean that society's total utility is necessarily maximized. Third, although free competitive markets establish certain negative rights for those within the market, they may actually diminish the positive rights of those outside those whose participation is minimal. Fourth, free competitive markets ignore and even

conflict with the demands of caring. As we have seen, an ethic of care implies that people exist in a web of interdependent relationships and should care for those who are closely related to them. A free market system, however, operates as if individuals are completely independent of each other and takes no account of the human relationships that may exist among them. Fifth, free competitive markets may have a pernicious effect on people's moral character. The competitive pressures that are present in perfectly competitive markets can lead people to attend constantly to economic efficiency. Producers are constantly pressured to reduce their costs and increase their profit margins. Finally, and most important, we should note that the three values of capitalist justice, utility, and negative rights are produced by free markets only if they embody the seven conditions that define perfect competition. If one or more of these conditions are not present in a given real market, then the claim can no longer be made that these three values are present.

LESSON 22
MONOPOLY COMPETITION

Of course, the three values of capitalist justice are only produced if the market embodies the seven conditions that define perfect competition. If even one of the conditions is not present, then the market cannot claim to promote those values. This, in fact, is the most important limitation of free market morality: because free markets are not perfectly competitive, they do not achieve the moral values.

Monopoly Competition

In a monopoly, two of the seven conditions are absent: there is only one seller, and other sellers cannot enter the market. As the case of Alcoa exemplifies, such markets are far from the perfectly competitive model. Although Alcoa's patents on the manufacturing of aluminum ran out in 1909, it remained the sole producer of virgin aluminum for another thirty years. No competitor could enter the market because their startup costs would have been too great, and they lacked Alcoa's experience. Alcoa and other monopolies like Western Electric, Standard Oil, and the American Tobacco Company were thus able to fix output at a quantity less than equilibrium, making demand so high that they reaped excess profits. (Had entry into these markets been open, the excess profits would have drawn others into producing these goods until prices dropped, but this does not happen in a monopoly.)

Monopolistic markets and their high prices and profits violate capitalist justice because the seller charges more than the goods are worth. Thus, the prices the buyer must pay are unjust. In addition, the monopoly market results in a decline in the efficiency of the system. First, the monopoly market allows resources to be used in ways that will produce shortages of those things buyers want and cause them to be sold at higher prices than necessary. Second, monopoly markets do not encourage suppliers to use resources in ways that will minimize the resources consumed to produce a certain amount of a commodity. A monopoly firm is not encouraged to reduce its costs and is therefore not motivated to find less costly methods of production. Third, a monopoly market allows the seller to introduce price differentials that block consumers from putting together the most satisfying bundle of commodities they can purchase given the commodities available and the money they can spend. Because everyone must buy from the monopoly firm, the firm can set its prices so that some buyers are forced to pay a higher price for the same goods than others.

In effect, those who have a greater desire for an item will buy less, and those who desire an item less will buy more, which is a great inefficiency, and means that consumers are no longer able to purchase the most satisfying bundle of goods they can.

Oligopolistic Competition

Most industries are not entirely monopolistic; in fact, most are dominated by a few large firms. These markets lie somewhere in between the monopoly and the perfectly competitive free market; the most important type of these imperfectly competitive markets is the **oligopoly**.

In an oligopoly, two of the seven conditions are not present. Instead of many sellers, there are only a few significant ones. The share each firm holds may be somewhere between 25 percent and 90 percent of the market, and the firms controlling this share may range from 2 to 50 depending on the industry. Second, as with the monopoly, other sellers are not free to enter the

markets. A list of firms in oligopoly markets in the most highly concentrated American industries reads like a who's who of American corporate power.

The most common cause of oligopolistic market structure is the horizontal merger or unification of two companies that formerly competed in the same line of business. Because such markets are comprised of a small number of firms, it is easy for their managers to join forces to set prices and restrict their output, acting, in effect, like one large monopolistic firm. Therefore, like monopolies, they can fail to set just profits, respect basic economic freedoms, and protect social utility.

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LESSON 23
OLIGOPOLISTIC COMPETITION

Oligopolistic Competition

Oligopolies can set high prices through explicit agreements to restrain competition. The more highly concentrated the oligopoly, the easier it is to collude against the interests of society, economic freedom, and justice. The following list identifies practices that are clearly unethical:

1. **Price Fixing** - when companies agree to set prices artificially high.
2. **Manipulation of Supply** - when a company agrees to limit production.
3. **Exclusive Dealing Arrangements** - when a company sells to a retailer only on condition that the retailer will not purchase products from other companies and/or will not sell outside a certain geographical area.
4. **Tying Arrangements** - when a company sells a buyer certain goods only on condition that the buyer also purchases other goods from the firm.
5. **Retail Price Maintenance Agreements** - when a company sells to a retailer only on condition that they agree to charge the same set retail prices.
6. **Price Discrimination** - when a company charges different prices to different buyers for the same goods or services.

Several industrial and organizational factors lead companies to engage in these practices:

1. **Crowded and Mature Market** - When large numbers of new entrants or declining demand create overcapacity in a market, the resulting decline in revenues and profits creates pressures on middle-level managers. They may respond by allowing, encouraging, and even ordering their sales teams to engage in price fixing.
2. **Job-Order Nature of Business** - If orders are priced individually so that pricing decisions are made frequently and at low levels of the organization, collusion among low-level salespeople is more likely.
3. **Undifferentiated Products** - When the product offered by each company in an industry is so similar to those of other companies that they must compete on price alone by continually reducing prices, salespeople come to feel that the only way to keep prices from collapsing is by getting together and fixing prices.
4. **Culture of the Business** - When an organization's salespeople feel that price fixing is a common practice and is desired, condoned, accepted, rationalized, and even encouraged by the organization, price fixing is more likely.
5. **Personnel Practices** - When managers are evaluated and rewarded solely or primarily on the basis of profits and volume so that bonuses, commissions, advancement, and other rewards are dependent on these objectives, they will come to believe that the company wants them to achieve these objectives regardless of the means.
6. **Pricing Decisions** - When organizations are decentralized so that pricing decisions are pushed down into the hands of a lower part of the organization, price fixing is more likely to happen. Price decisions should be made at higher organizational levels.
7. **Trade Associations** - Allowing salespeople to meet with competitors in trade association meetings will encourage them to talk about pricing and to begin to engage in price-setting arrangements with their counterparts in competing firms.
8. **Corporate Legal Staff** - When legal departments fail to provide guidance to sales staff until after a problem has occurred, price-fixing problems are more likely.

It is difficult to legislate against many common oligopolistic price-setting practices, however, because they are accomplished by tacit agreement. Firms may, without ever discussing it explicitly, realize that competition is not in their collective best interests. Therefore, they may recognize one firm as the "price leader," raising their prices in reaction when the leader decides to do so. No matter how prices are set, however, clearly social utility declines when prices are artificially raised.

Firms also occasionally resort to bribery, which also results in a decline in market competition. Bribes serve as a barrier to others entering the market; the briber becomes, in effect, a monopoly seller. To determine whether a payment is ethical, there are three relevant points to consider:

LESSON 24
OLIGOPOLIES AND PUBLIC POLICY

1. Is the offer of a payment initiated by the payer (the one who pays the money), or does the payee (the one who receives the money) demand the payment by threatening injury to the payer's interests? In the latter case, the payment is not a bribe but a form of extortion. If the threatened injury is large enough, the payer may not be morally responsible for his or her act, or the moral responsibility may at least be diminished.
2. Is the payment made to induce the payee to act in a manner that violates his or her official sworn duty to act in the best interests of the public? Or is the payment made to induce the payee to perform what is already his or her official duty? If the payee is being induced to violate his or her official duty, then the payer is cooperating in an immoral act because the payee has entered an agreement to fulfill these duties.
3. Are the nature and purpose of the payment considered ethically unobjectionable in the local culture? If a form of payment is a locally accepted public custom and there is a proportionately serious reason for making the payment, then it would appear to be ethically permissible on utilitarian grounds.

Oligopolies and Public Policy

What should society do in the face of the high degree of market concentration in oligopolistic industries? There are three main points of view:

First, the **Do-Nothing view** claims that the power of oligopolies is not as large as it appears. Though competition within industries has declined, they maintain that competition between industries with substitutable products has replaced it. In addition, there are "countervailing powers" of other large corporate groups, the government, and unions that keep corporations in check. Finally, they argue that bigger is better, especially in the current age of global competition. Economies of scale, produced by high concentration, actually lower prices for consumers.

Second, the **antitrust view** argues that prices and profits in highly concentrated industries are higher than they should be. By breaking up large corporations into smaller units, they claim, higher levels of competition will emerge in those industries. The result will be a decrease in collusion, greater innovation, and lower prices. Clearly, the antitrust view is based on a number of assumptions. J. Fred Weston has summarized the basic propositions on which this traditional view is based:

1. If an industry is not atomistic with many small competitors, there is likely to be administrative discretion over prices.
2. Concentration results in recognized interdependence among companies, with no price competition in concentrated industries.
3. Concentration is due mostly to mergers because the most efficient scale of operation is not more than 3 to 5 percent of the industry. A high degree of concentration is unnecessary.
4. There is a positive correlation between concentration and profitability that gives evidence of monopoly power in concentrated industries—the ability to elevate prices and the persistence of high profits. Entry does not take place to eliminate excessive profits.

5. Concentration is aggravated by product differentiation and advertising. Advertising is correlated with higher profits.
6. There is oligopolistic coordination by signaling through press releases or other means.

The third view is the **Regulation view**, which can be seen as a middle ground between the other two. Those who advocate regulation do not wish to lose the economies of scale offered by large corporations, but they also wish to ensure that large firms do not harm the consumers. Therefore, they suggest setting up regulatory agencies and legislation to control the activities of large corporations. Some even suggest that the government should take over the operation of firms where only public ownership can guarantee that they operate in the public interest.

Whichever view we take, clearly the social benefits of free markets cannot be guaranteed, and the markets themselves cannot be morally justified, unless firms remain competitive.

Ethic & Environment

This chapter on ethics and the environment begins with some rather sobering statistics from the World watch Institute. This includes population growth, rising temperature, falling water tables, shrinking cropland per person, collapsing fisheries, shrinking forests, and the loss of plant and animal species. Our environment seems to be stressed nearly to the breaking point. The ethical and technological questions that this state of affairs raises are extremely important and complex.

First, there are still serious disagreements about the extent of the environmental damage that industrial technology has produced. Furthermore, there is no precise way of knowing just how much of a threat this environmental damage will have for our future welfare. And whatever the level of damage, we must surely sacrifice some values to halt or slow it.

To explore these issues, this chapter begins with an overview of the technical aspects of environmental resource use. Then it moves to a discussion of the ethical basis of environmental protection. It concludes with a consideration of our obligation to future generations and the prospects for continued economic expansion.

The Dimensions of Pollution and Resource Depletion

Environmental damage inevitably threatens the welfare of human beings as well as plants and animals. Threats to the environment come from two sources, pollution and resource depletion. **Pollution** refers to the undesirable and unintended contamination of the environment by the manufacture or use of commodities. **Resource depletion** refers to the consumption of finite or scarce resources. In a certain sense, pollution is really a type of resource depletion because contamination of air, water, or land diminishes their beneficial qualities.

Air pollution has been with modern society for nearly 200 years; its costs are increasing greatly. It negatively affects agricultural yields, human health, and global temperatures. The result is a large economic impact and a staggering effect on the quality of human life.

Global warming itself poses a difficult and frightening challenge. Global warming greenhouse gases such as: carbon dioxide, nitrous oxide, methane, and chlorofluorocarbons, are gases that absorb and hold heat from the sun, preventing it from escaping back into space, much like a greenhouse absorbs and holds the sun's heat. Most scenarios concerning the effects of global

expansion of deserts at the expense of agricultural land. These effects will have high human and economic costs. However, to halt the increase of greenhouse gasses, we would have to reduce emissions by 60% to 70%, a level that would damage the economies of countries around the world. To halt global warming, experts say that we would need to change our lifestyles and values drastically.

Ozone depletion is also a serious concern. Caused by the release of CFCs into the atmosphere, ozone depletion may lead to several hundred thousand new cases of skin cancer each year and destroy many valuable food crops. Also, ocean plankton, on which the entire ocean's food chain depends, may be severely damaged. Even though CFC production has been nearly halted, we can expect the gasses already released to continue damaging the ozone for the next century.

Burning fossil fuels causes acid rain and global warming. Though not as devastating as global warming, it nevertheless is harming many fish populations and trees, corroding bridges and buildings, and contaminating drinking water. Airborne toxins and air quality in general are also serious concerns for human health.

Airborne Toxics are less catastrophic but highly worrisome air pollution threats; 2.4 billion pounds of airborne toxic substances released annually into the nation's atmosphere, including phosgene, a nerve gas used in warfare, and methyl isocyanate.

LESSON 25

WORLDWATCH FIGURES

Environmental ethics is the discipline that studies the moral relationship of human beings to, and also the value and moral status of, the environment and its nonhuman contents. This entry covers: (1) the challenge of environmental ethics to the anthropocentrism (i.e., human-centeredness) embedded in traditional western ethical thinking; (2) the early development of the discipline in the 1960s and 1970s; (3) the connection of deep ecology, feminist environmental ethics, and social ecology to politics; (4) the attempt to apply traditional ethical theories, including consequentialism, deontology, and virtue ethics, to support contemporary environmental concerns; and (5) the focus of environmental literature on wilderness, and possible future developments of the discipline.

Population Year

World population reached

- 1 billion in 1804
- 2 billion in 1927 (123 years later)
- 3 billion in 1960 (33 years later)
- 4 billion in 1974 (14 years later)
- 5 billion in 1987 (13 years later)
- 6 billion in 1999 (12 years later)

World population may reach

- 7 billion in 2012 (13 years later)
- 8 billion in 2026 (14 years later)
- 9 billion in 2043 (17 years later)

The importance of energy and raw materials derives from their dual role of providing the underpinnings for economic activity and human well-being, while acting as the driving force behind many environmental concerns, including climate change, acid rain and pollution. Because energy consumption is a function of economic growth and level of development, energy consumption is distributed unequally in the world. Although their share has been falling, developed market economies, constituting one fifth of the world's population, consume almost 60 per cent of the world's primary energy (figure IV). As a consequence of development and the rapid replacement of traditional energy sources by commercial (mainly fossil) sources, some developing countries have consumption patterns similar to those of developed market economies.

Nevertheless, per capita consumption in developing countries as a group remains far below that of developed market economies. The use of fossil fuels has led to substantial growth in global emissions of carbon dioxide (CO2) and the build-up of greenhouse effects, contributing to global warming. Since 1751, over 265 billion tons of carbon have been released to the atmosphere, one half of these emissions having been produced since the mid-1970s (Marland and others, 1999).

Annual global emissions of CO2 from the burning of fossil fuels have quadrupled since 1950 (figure V). The highest per capita CO2 emissions are in North America, which is followed by Europe where such emissions are less than one half those of North America (ibid.). Continuation of these trends poses serious risks of global warming, inducing a possible rise in sea levels, flooding of low-lying coastal areas, spread of vectorborne diseases and reductions in agricultural yields. The magnitude of future carbon emissions depends on many factors, including global energy demand, the pace of economic development, the introduction of energy-saving technologies and the degree of shift away from fossil fuels. Models suggest that immediate stabilization of atmospheric CO2 concentrations at present levels can be achieved only if emissions are immediately slashed by at least 50 per cent and further reduced thereafter (United Nations Environment Program, 1999). Because of the inertia of climate systems, even with stabilization of emissions, global warming and the rise of sea levels could continue for many years.

Agriculture, Food and Land Use

The persistence of under nutrition and food insecurity in some areas of the world, and the increasing scarcity and unsustainable utilization of agricultural and other environmental resources, have dominated the global assessment of food and agriculture prospects. World agricultural production has outpaced population growth, and the real price of food has declined. The green revolution that began in the 1960s enabled some developing countries to boost food production dramatically by introducing modern agricultural techniques. Over the period 1961-1998, world food for human consumption, per capita, increased by 24 per cent. A sufficient amount of food is being produced to nourish the world's population adequately (Food and Agriculture Organization of the United Nations, 2000a). Yet, recent estimates show that some 790 million persons were undernourished as of 1995-1997, owing to poverty, political instability, economic inefficiency and social inequity (Food and Agriculture Organization of the United Nations, 1999a). Although the number of undernourished people has decreased by 40 million since 1980, some countries are experiencing serious declines in food availability.

More recently, world agricultural growth has been slowing down. Many attribute this slowdown to the declining growth of population and reduced economic demand for food; others discern signs of production constraints which may ultimately threaten world food security (Food and Agriculture Organization of the United Nations, 2000a; World Resources Institute, 1996; World watch Institute, 2000). While world food production is projected to meet consumption demands for the next two decades, long-term forecasts indicate persistent and possibly worsening food insecurity in many countries, especially in sub-Saharan Africa (United Nations, 1997; Food and Agriculture Organization of the United Nations, 2000a). For most of history, food production has been increased mainly by expanding the area cultivated; but in the past few decades, rising crop yields have been the main factors and this trend is expected to continue.

Constraints on expanding cultivated land include the scarcity of WATER An adequate and dependable supply of fresh water is essential for health, food production and socio-economic development. Though more than two thirds of the planet is covered with water, less than 0.01 per cent is readily accessible for direct human use (United Nations, 1997b). Moreover, no more of this renewable fresh water is available today than existed at the dawn of human civilization. As a result, the size of a country's population and the speed at which it grows help determine the onset and severity of water scarcity. Although recent declines in population growth have improved the outlook for future water availability, the problems associated with water scarcity

Currently, humans are using about half the fresh water that is readily available. Fresh water is distributed unevenly over the globe, and already nearly half a billion people are affected by water stress or serious water scarcity, while many more are experiencing moderate stress. Given current trends, as much as two thirds of world population in 2025 may be subject to moderate-to-high water stress (United Nations, 1997b). Many countries facing water scarcity are low-income countries that have a rapidly growing population and are generally unable to make costly investments in water-saving technologies.

About 300 major river basins and many groundwater aquifers cross national boundaries (United Nations, 1997b). Therefore, the need for cooperative efforts will persist, particularly in areas facing water shortages, and wherever pollution is carried downstream across national boundaries. Estimates indicate that over 1 billion people lack access to safe drinking water and two and a half billion lack adequate sanitation, and these factors contribute to the deaths of more than 5 million people, of whom more than half are children (United Nations, 2000a).

Environmental damage inevitably threatens the welfare of human beings as well as plants and animals. Threats to the environment come from two sources, pollution and resource depletion. Pollution refers to the undesirable and unintended contamination of the environment by the manufacture or use of commodities. Resource depletion refers to the consumption of finite or scarce resources. In a certain sense, pollution is really a type of resource depletion because contamination of air, water, or land diminishes their beneficial qualities.

Air pollution has been with modern society for nearly 200 years; its costs are increasing greatly. It negatively affects agricultural yields, human health, and global temperatures. The result is a large economic impact and a staggering effect on the quality of human life.

Global warming itself poses a difficult and frightening challenge. Global warming greenhouse gases such as: carbon dioxide, nitrous oxide, methane, and chlorofluorocarbons, are gases that absorb and hold heat from the sun, preventing it from escaping back into space, much like a greenhouse absorbs and holds the sun's heat. Most scenarios concerning the effects of global warming predict massive flooding, increase of disease, loss of plant and animal species, and expansion of deserts at the expense of agricultural land. These effects will have high human and economic costs. However, to halt the increase of greenhouse gasses, we would have to reduce emissions by 60% to 70%, a level that would damage the economies of countries around the world. To halt global warming, experts say that we would need to change our lifestyles and values drastically.

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LESSON 26

FORESTS AND BIODIVERSITY

The number of plant and animal species inhabiting the planet is not accurately known. Nearly 2 million species have been identified, but estimates of the number yet to be described range from 10 million to 30 million (United Nations Environment Program, 1995). Ecosystems of all kinds are under pressure worldwide. Coastal and lowland areas, wetlands, native grasslands, and many types of forests and woodlands have been particularly affected or destroyed. While forests decreased by about 5 per cent between 1980 and 1995, the rate of deforestation has been declining slightly (Food and Agriculture Organization of the United Nations, 2000b). Additional threats confront fragile aquatic habitats, including coral reefs and freshwater habitats, which face an array of assaults from dams to land-based pollution to destructive fishing techniques.

Over the past 150 years, deforestation has contributed one third of the atmospheric build-up of CO_2, and it is a significant factor in the loss of species and critical ecosystem services (Intergovernmental Panel on Climate Change, 2000). Since the beginnings of agriculture 10,000 years ago, by some estimates, almost half of the earth's forests have been converted to farms, pastures and other uses, and only one fifth of original forest remains in large, relatively natural ecosystems. Forested areas, including forest plantations as well as natural forests, occupied about one fourth of the world's land area in 1995. Tropical rain forests are important for the quantity and diversity of life they support. They cover only 7 per cent of the earth's land area, but contain at least 50 per cent of terrestrial species (Food and Agriculture Organization of the United Nations, 1999b). The influences of forests and biodiversity are global, reaching far beyond national borders, in both space and time. Therefore, international cooperation is essential in order to integrate environmental issues better into global, regional and national decision-making processes.

The Dimensions of Pollution and Resource Depletion

Environmental damage inevitably threatens the welfare of human beings as well as plants and animals. Threats to the environment come from two sources: pollution and resource depletion. Pollution refers to the undesirable and unintended contamination of the environment by the manufacture or use of commodities. Resource depletion refers to the consumption of finite or scarce resources. In a certain sense, pollution is really a type of resource depletion because contamination of air, water, or land diminishes their beneficial qualities. But for purpose of discussion, we keep the tow issues distinct.

Air Pollution

Air pollution is not new—it has been with us since the industrial revolution introduced the world to the belching factory smokestack. However, the costs of air pollution increased exponentially as industrialization expanded. Today, air pollutants affect vegetation, decreasing agricultural yields and inflicting losses on the timber industry; they deteriorate exposed construction materials through corrosion, discoloration, and rot; they are hazardous to health and life, raising, medical costs and lessening the enjoyment of living; and they threaten catastrophic global damage in the form of global warning and destruction of the stratospheric ozone layer.

Global warming

Greenhouse gases—carbon dioxide, nitrous oxide, methane, and chlorofluorocarbons—are gases that absorb and hold hear from the sun, preventing it from escaping back into space, much like greenhouse absorbs and holds the sun's hear. Greenhouse gases occur naturally in the atmosphere where they have kept the earth's temperature about 33 C warmer than it would otherwise be, enabling life a we know it to evolve and flourish. However, industrial, agricultural, and other human activities during the last 150 years have released substantially more greenhouse gases into the atmosphere, particularly by the burning of fossil fuels such as oil and coal.

Ozone Depletion

Of equally serious concern is the gradual break-down of ozone gas in the stratosphere above us caused by the release of chlorofluorocarbons (CFCs) into the air. A layer of ozone in the lower stratosphere screens all life on earth form harmful ultraviolet radiation. This ozone layer, however, is destroyed by CFC gases, which have been used in aerosol cans, refrigerators, air conditioners, industrial solvents, and industrial foam blowers. When released into the air, CFC gases rise; in 7 to 10 years, they reach the stratosphere, where they destroy ozone molecules and remain for 75 to 130 years, continuing all the while to break down additional ozone molecules. Even though CFC production has been nearly halted, we can expect the gasses already released to continue damaging the ozone for the next century.

Acid Rain

It is a combination of water and air that is poisoned. Acid rain is a threat to the environment that, like global warming, is closely related to the combustion of fossils fuels (oil coal, and natural gas), which are heavily used by utilities to produce electricity. Burning fossil fuels, particularly coal containing high levels of sulfur, releases large quantities of sulfur oxides and nitrogen oxides into the atmosphere.

Acid rain is an international problem. Acid rain that falls on one country often has its origins in sulfur and nitrogen oxides produced in another country and blown by prevailing rains. Much of Canada and the northeastern par of the United States, for example, are subject to acid rain whose origins lie in industrial areas around the Great Lakes, and the Netherlands have suffered from acid rain that has its origins in Germany.

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LESSON 27

ETHICS AND THE ENVIRONMENT

Airborne Toxic

Airborne Toxics are less catastrophic but highly worrisome air pollution threats; 2.4 billion pounds of airborne toxic substances released annually into the nation's atmosphere, including phosgene, a nerve gas used in warfare, and methyl iso-cyanate.

Air Quality

The most prevalent forms of air pollution, however, are the gases and particulars spewed out by autos and industrial processes, which affect the quality of the air we breathe. More recent long-range studies have indicated that the deterioration of lung function in human beings caused by their chronic exposure to air pollutants, whether it be auto smog or industrial smokestack emissions, is long lasting and often irreversible.

Water Pollution

The contamination of water sources is an old problem—one that has been with us since civilization began using water to dispose of its wastes and sewage. Water pollutants today, however, are much more divers, consisting not only of organic wastes but also dissolved slats, metals, radioactive materials, as well as suspended materials such as bacteria, viruses, and sediments. These can impair or destroy life, threaten human health, and foul the water.

About 40% of the world's surface water is too polluted to fish or swim in. Pollution comes from agriculture, mines, oil wells, human wastes, manufacturing, detergents, and the food industry, among other sources. Today, almost 1 billion people lack access to safe water and the world’s per capita supplies of water are shrinking.

Heat is also a water pollutant. Water is used as a coolant in various industrial manufacturing processes and by the electrical power industry, a major hear polluter. Transferring heat into water raises the water’s thermal energy to levels that decrease its ability to hold the dissolved oxygen that aquatic organisms require. In addition, the alternating rise and fall of temperatures prevents the water from being populated by fish because most water organisms are adapted only to stable water temperatures.

Oil spills are a form of water pollution whose occurrence became more frequent as our dependence on oil increased. Since 1973, the number of oil pollution incidents reported has remained fairly constant, although the volume of oil spilled has been highly variable. Oil spills result form offshore drilling, discharges of sludge from oil tankers, and oil tanker accidents.

Underground water supplies are also becoming more polluted. According to a recent government report, “incidents of ground-water contamination—by inorganic chemicals, inorganic chemicals, radionuclides [radioactive waste], or microorganisms—are being reported with increasing frequency and have now occurred…in every state in the nation.

Land Pollution

Toxic substances

Hazardous or toxic substances are those that can cause an increase in morality rates or irreversible or incapacitating illness or those that have other seriously adverse health or environmental effects. Toxic substances released on land include acidic chemicals, inorganic metals, flammable solvents, pesticides, herbicides, phenols, explosives, and so on.

The pollution of the land by toxic substances also causes increased mortality and illness. Hazardous or toxic substances are those that can cause an increase in mortality rates or irreversible or incapacitating illness, or those that have other seriously adverse health or environmental effects. Over 58,000 different chemical compounds are currently being used in the U.S., and the number is increasing each year. How many of these chemicals affect humans, no one really knows.

Solid Wastes

Americans today produce more residential garbage then do the citizens of any other country in the world. The sheer volume of solid waste is staggering: each U.S. resident produces about seven pounds of garbage per day. Though this quantity is massive, it is not even close to the quantity of industrial waste.

Each year people living in America's cities produce more than 160 million tons of municipal solid waste—enough to fill a 145,000-mile-long convoy of 10-ton garbage trucks, more than half the distance to the moon, enough to fill the Astrodome in Houston more than twice daily for a year. Each person reading this book produces, on average, almost 4 pounds of garbage a day. Only about 10 percent of residential wastes are recovered through recycling—a disappointingly low proportion that is due to the lack of financial baking for recycling operations, the small size of markets for recycled products, and toxic chemicals present in recyclable garbage.

Nuclear Wastes

Light-water nuclear reactors contain radioactive materials, including known carcinogens such as strontium 90, cesium 137, barium 140, and iodine 131. Extremely high levels of radiation from these elements can kill a person; lower dosage can cause thyroid, lung, or bone cancer as well as genetic damage that will be transmitted to future generations.

Each nuclear reactor produces 265 pounds of plutonium waste a year, a substance so toxic that only twenty pounds would be sufficient to cause lung cancer in everyone on Earth. So far, no one really knows how to dispose of this and similar wastes safely and securely.

Depletion of Species and Habitats

It is well known that human beings have depleted dozens of plant and animal species to the point of extension. Since 1600 A.D., at least 63 major identifiable species of mammals and 88 major identifiable species of birds are known to have become extinct. Several hundred more

The loss of forest habitats combined with the effects of pollution is thought to have led to the extinction of a phenomenal number of species. As recent comprehensive study of 18,000 species and subspecies around the world found that 11,046 of them were in danger of disappearing forever. It is estimated between half a million to two million species—15 to 20 percent of all species on earth—were rendered extinct by 2000.

Depletion of Fossil Fuels

Until the early 1980s, fossil fuels were being depleted at an exponentially rising rate. That is, the rate at which they were being used had doubled with the passage of a regular fixed time period. As many researchers argue, however, our consumption of fossil fuels caould not continue rising at historical exponential rates.

Depletion of Minerals

The depletion of mineral reserves, like the depletion of fossil fuels, can also be calculated either on the basis of an exponential growth model or on the basis of a peaked growth model. If earlier exponentially rising rates of depletion continued, then aluminum would be scheduled for exhaustion in the year 2003, iron in 2025, manganese in 2018 molybdenum in 2006, nickel in 2025, tungsten in 2000, zinc in 1990, and copper and lead in 1993.

Toxic Chemicals in Teflon

New information is coming to light about the toxic effects of a chemical used in making non-stick coatings such as Teflon. The chemical goes by the name PFOA (short for perfluorooctanoic acid), or C8, and is also used in the manufacture of food wrap and water- and stain-resistant fabric coatings.

Studies presented at a March 2005 national toxicology meeting show that PFOA exposure during pregnancy causes miscarriage and low birth weight in mice; many of the exposed offspring went on to experience delayed puberty. The U.S. Environmental Protection Agency (EPA), which conducted these studies, is evaluating the possible human health risks of PFOA. Animal studies have shown that PFOA, in addition to harming development, is also linked to hypothyroidism and cancer.

Water pollution is likewise a serious problem. About 40% of the world's surface water is too polluted to fish or swim in. Pollution comes from agriculture, mines, oil wells, human wastes, manufacturing, detergents, and the food industry, among other sources. Today, almost 1 billion people lack access to safe water and the world’s per capita supplies of water are shrinking.

The pollution of the land by toxic substances also causes increased mortality and illness. Hazardous or toxic substances are those that can cause an increase in mortality rates or irreversible or incapacitating illness, or those that have other seriously adverse health or environmental effects. Over 58,000 different chemical compounds are currently being used in the U.S., and the number is increasing each year. How many of these chemicals affect humans, no one really knows. The sheer volume of solid waste is staggering: each U.S. resident produces about seven pounds of garbage per day. Though this quantity is massive, it is not even close to the quantity of industrial waste. The EPA estimates that about 15 million tons of toxic waste is produced in the U.S. each year. This does not include nuclear wastes, which, because they are so concentrated and persistent, present special problems for storage and disposal. Each

twenty pounds would be sufficient to cause lung cancer in everyone on Earth. So far, no one really knows how to dispose of this and similar wastes safely and securely.

As if pollution was not serious enough, we also must consider the depletion of species, habitats, and natural resources. The world loses about 1% of its rain forests each year, and between 15% and 20% of species had become extinct by 2000. Our consumption of fossil fuels has recently been rising at exponential rates, but this cannot continue much longer because we are coming close to the depletion point of fossil fuels. Minerals are also being depleted, so we can expect them gradually to become more scare and expensive. This scarcity will have a serious impact on the world economy.

Greenness

- Being Green' as a slogan:
- Areas of Concern:
    - Preservation of environment.
    - Avoidance of pollution.
    - Conservation of energy.
    - Depletion of raw material.
    - Animal welfare and species preservation.
    - Noise pollution.
    - Prohibition on smoking at work place.

Conceptualization of Greenness

Holism: a conception of nature wherein humans and nature together form a moral community. .i.e. to see the earth as a whole rather than to take decisions which only benefit on single part, such as one's personal profit at the expense of environmental damage, or human well being at the expense of animal and plant life.

Materialism: earth is good: it is worth preserving, and it is crucially important that it be preserved before irretrievable damage is done.

LESSON 28

ETHICS AND THE ENVIRONMENT

Ethics of Pollution Control

Businesses have been ignoring their impact on the natural environment for centuries, largely because the economic costs and harmful effects of this impact have been unclear. Businesses have treated air and water as free goods that no one owns. Since the carrying capacity of both is so large, each individual firm sees its own contribution to pollution as negligible. Combined, however, the effects are enormous. The harm comes not only from the direct activity of businesses.

Of course, pollution problems are not rooted only in business activities. Pollution also results from the use hat consumers make of products and human waste products. A primary source of air pollution, for example, is automobile use, and a primary source of water pollution is sewage. Every human being pollutes, pollution problems have increased a sour population has multiplied. The world's population grew from 1 billion in 1850 to 2 billion in 1930 to 5.7 billion in 1995; it is projected to grow to between 10 and 12 billion by 2040. This population explosion has put severe strains on the air and water resources into which we dump our share of pollutants. Moreover, these strains have been aggravated by our tendency to concentrate our populations in urban centers. All over the world urban areas are growing rapidly, and the high population densities that urbanization has created multiply the pollution burdens places on air and water resources.

The problems of pollution, then, have a variety of origins, and their treatment requires a similarly variegated set of solutions. Our focus in what follows, however, concentrates on a single range of problems: *the ethical issues raised by pollution from commercial and industrial enterprises.*

Ecological Ethics

The problem of pollution (and environmental issues in general) is seen by some researchers as a problem that can best be framed in terms of our duty to recognize and preserve the ecological systems within which we live. And ecological system is an interrelated an interdependent set of organisms and environments, such as a lake—in which the fist depend on small aquatic organisms, which in turn live off decaying plant and fist waste products. Because the various parts of an ecological system are interrelated, the activities of one of its parts will affect all other parts. Because the various parts are interdependent, the survival of each part depends on the survival of the other pars. Business firms are parts of a larger ecological system, "*spaceship earth."*

Business firms depend on the natural environment for their energy, material resources, and waste disposal, and that environment in turn is affected by the commercial activities of business firms. For example, the activities of 18th-centuary European manufacturers of beaver hats led to the wholesale destruction of beavers in United States, which in turn led to the drying up of the innumerable swamp lands that had been created by beaver dams. Unless business recognize the interrelationships and interdependencies of the ecological systems within which they operate and unless they ensure that their activities will not seriously injure these systems, we cannot hope to deal with the problem of pollution.

Because our environment is so complex and its parts are so interwoven, many theorists believe that our duty to protect the environment extends beyond the welfare of humans to other nonhuman parts of the system. This idea, called ecological ethics or deep ecology, maintains that the environment deserves to be preserved for its own sake, regardless of whether or not this directly benefits humanity. Because the various parts of an ecological system are interrelated, the activities of one of its parts will affect all the other parts. Because the various parts are interdependent, the survival of each part depends on the survival of the other parts. Business firms (and all other social institutions) are parts of a larger ecological system, "spaceship earth."

Several supporters of this approach have formulated their views in a platform consisting of the following statements:

i. The well-being and flourishing of human and nonhuman life on earth have value in themselves. These values are independent of the usefulness of the nonhuman world for human purposes.
ii. Richness and diversity of life forms contribute to the realization of these values and are also values in themselves.
iii. Humans have no right to reduce this richness and diversity except to satisfy vital needs.
iv. The flourishing of human life and cultures is compatible with a substantial decrease of the human population. The flourishing of nonhuman life requires such a decrease.
v. Present human interference with the nonhuman world is excessive, and the situation is rapidly worsening.
vi. Policies must therefore be changed. The changes in policies affect basic economic, technological, and ideological structures. The resulting state of affairs will be deeply different from the present.
vii. The ideological change is mainly that of appreciating life quality, rather than adhering to an increasingly higher standard of living.
viii. Those who subscribe to the foregoing points have an obligation directly or indirectly to participate in the attempt to implement the necessary changes.

An ecological ethic, therefore, claims that the welfare of at least some nonhumans is intrinsically valuable and deserving of respect and protection. Utilitarian and rights arguments both support such a view. Under either system, for instance, it would be wrong to raise animals for food in painful conditions.

There are several varieties of ecological ethics, some more radical and far-reaching than others, perhaps the most popular version claims that, in addition to human beings, other animals have intrinsic value and are deserving of our respect and protection. Some utilitarian have claimed, for example, that pain is an evil where it is inflicted on human or on member of other animal species. The pain of an animal must be considered as equal to the comparable pain of o human, and it s a form of *specist* prejudice to think that thy duty to avoid inflicting pain on member of other species is not equal to our duty to avoid inflicting comparable pain on members of our own species.

Certain non-utilitarians have reached similar conclusions by a different route. They have claimed that the life of every animal "itself had value" apart from the interests of human

particular the right to be treated with respect. Human have a duty to respect this right, although in some cases a human's right might override an animal's right.

Both utilitarian and the rights arguments in support of humans duties toward animals imly that it wrong to raise animals for food in the crowded and painful circumstances in which agricultural business enterprises currently raise cows, pigs, and chickens. They also imply that it is wrong to use animals in painful rest procedures as they are currently used in some business (e.g., to test the toxicity of cosmetics).

Broader versions of ecological ethics would extend our duties beyond the animal world to include plants. Thus, some ethicians have claimed that it is arbitrary and hedonistic to confine our duties to creatures that can feel pain. Instead, they urge, we should acknowledge that all living things including plants have "an interest in remaining alive" and that consequently they deserve moral consideration for their own sakes.

Though some of the views of deep ecology are unusual and controversial, two traditional views of ethics can also help us to develop an environmental ethic: utilitarianism and concern for human rights.

Environmental Rights and Absolute Bans

William T. Blackstone has argued that the possession of a livable environment is not merely a desirable state of affairs, but something to which each human being has a right. That is, a livable environment is not merely something that we would all like to have: it is something that others have a duty to allow us to have. They have this duty, Blackstone argued, because we each have a right to livable environment, and our right imposes on others the correlative duty not interfering in our exercise of that right. This is a right, moreover, that should be incorporated into our legal system.

Why do human beings have this right? According to Blackstone, a person has a moral right to a thing when possession of that thing is "essential in permitting him to live a human life" (i.e., in permitting him to fulfill his capacities as a rational and free being). At this time in our history, it has become clear that a livable environment is essential to the fulfillment of our human capacities. Consequently, human beings have a moral right to a decent environment, and it should become a legal right.

Moreover, Blackstone adds, this moral and legal right should override people's legal property rights. Our great and increasing ability to manipulate the environment has revealed that, unless we limit the legal freedom to engage in practices that destroy the environment, we shall lose the very possibility of human life and the possibility of exercising other rights, such as the right to liberty and equality.

To a larger extent, something like Blackstone's concept of *environmental rights* is recognized in federal law, section 101(b) of the National Environmental Policy Act of 1969.

The main difficulty with Blackstone's view, however, is that it fails to provide any nuanced guidance on several pressing environmental choices. This lack of nuance in the absolute rights approach is especially problematic when the costs of removing certain amounts of pollution are high in comparison to the benefits that will be attained.

Utilitarianism and Partial Controls

Utilitarianism can answer some of the difficulties with Blackstone's theory. Utilitarians see environmental problems as market defects, arguing that pollution should be avoided because it harms society's welfare. When markets do not take all costs into account, more of a commodity will be produced than society would demand if it could measure what it is actually paying for the commodity. In addition, producers ignore these costs and do not try to minimize them. Since goods are no longer efficiently distributed to consumers, pollution violates the utilitarian principles that underlie the market system.

Private Costs and Social Costs

Economists often distinguish between what it cost a private manufacturer to make a product and what the manufacture of that product costs society as a whole. Suppose, for example, that an electric firm consumes a certain amount of fuel, labor, and equipment to produce one kilowatt of electricity. The cost of these resources is its private cost: the price it must pay out of its own pocket to manufacture one kilowatt of electricity. However, producing the kilowatt of electricity may also involve other external costs for which the firm does not pay. When the firm burns fuel, for example, it may generate smoke and soot the settles on surrounding neighbors, who have to bear the costs of cleaning up the grime and paying for any medical problems the smoke creates. From the viewpoint of society as a whole, then, the costs of producing the kilowatt of electricity include not only the internal costs of clean-up and medical care that the neighbors' pay. This sum of costs (the private internal costs plus the neighbors' external costs) is the social costs of producing the kilowatt of electricity: the total price society must pay to manufacture one kilowatt of electricity. Of course, private costs and social costs do not always diverge as in this example: sometimes the two coincide. If a producer pays foe all the costs involved in manufacturing a product, for example, or if manufacturing a product imposes no external costs, then the producer's costs and the total social costs are the same.

LESSON 29

THE ETHICS OF POLLUTION CONTROL

Remedies: The duties of the Firm

The remedy for external costs, according to utilitarians, is to internalize them to ensure that the producer pays all of the real costs of production and uses these costs to determine the price of the commodity. To internalize the costs of pollution, a firm may be required to pay all those harmed by pollution. A problem with this way of internalizing the costs of pollution, however, is that when several polluters are involved, it is not always clear just who is being harmed and by whom.

A second remedy is for the polluter to stop pollution at its source by installing pollution-control devices. In this way, the external costs of polluting the environment are translated into the internal costs the form pays to install pollution controls. Once the costs are internalized in this way, market mechanisms again provide cost cutting incentives and ensure that prices reflect the true costs of producing the commodity. In addition, the installation of pollution-control devices serves to eliminate the long-range and potentially disastrous worldwide effects of pollution.

Justice

This way of dealing with pollution (i.e., by internalizing costs) is consistent with the requirements of distributive justice. Since pollution's external costs are largely borne by the poor, pollution produces a net flow of benefits away from the poor and towards the rich. Internalizing these costs can reverse this flow. However, if a firm makes basic goods, such as food, then internalizing costs may place a heavier burden on poorer people.

Internalizing external costs is also consistent with retributive and compensatory justice, because those who are responsible for pollution bear the burden of rectifying it and compensating those who have been harmed. Taken together, these requirements imply that:

1. The costs of pollution control should be borne by those who cause pollution and who have benefited from pollution activities, whereas:

2. The benefits of pollution control should flow to those who have had to bear the external costs of pollution. Internalizing external costs seems to meet these two requirements:

    a) The costs of pollution control are borne by stockholders and customers, both of whom benefit from the polluting activities of the firm; and

    b) The benefits of pollution control flow to those neighbors who once had to put up with the firm's pollution.

LESSON 30

Costs and Benefits

Environmental Injustice

If a firm pollutes, its stockholders benefit because their firm does not have to absorb the external costs of pollution; this leaves them with greater profits, and those customers who purchase the firms product also benefit because the firm does not charge them for all the costs involved in making the product. Therefore, the beneficiaries of pollution tend to be those who can afford to buy a firm's stock and its products. However, the external costs of pollution are borne largely by the poor—a phenomenon some have terms *environmental injustice.*

Cost and Benefits

The problems involved in getting accurate measurements of the benefits and costs of pollution control are also illustrated by the difficulties businesses have encountered in trying to construct a **social audit** (a report of the social costs and social benefits of the firm's activities). This can be difficult, however. How do we measure the costs and benefits of pollution control when they involve damages to human life or health? Measurement itself is also difficult when the effects of pollution are uncertain and therefore hard to predict. In fact, getting accurate pollution measurements is sometimes nearly impossible, and the problem only is multiplied when there are a number of polluters in a single area. Measuring benefits is likewise difficult, which poses significant technical problems for utilitarian approaches to pollution.

Even where measurement is not a problem, another problem remains for the utilitarian approach. Is it morally permissible to impose costs on unwilling or unknowing citizens? Can some unilaterally impose costs on others without their consent? Even getting consent is tricky, because many pollution problems involve information and risks that are extremely technical and difficult to understand. It is perhaps impossible in principle to get informed consent from a segment of the public on some complicated issues.

Because of these problems, some contend that utilitarianism cannot lead our pollution control policy. Perhaps absolute bans on pollution are more adequate. Some writers even suggest that when risk cannot be reliably estimated, it is best to steer clear of such projects. Others maintain that we should identify those who will bear the risks and take steps to protect them.

It holds that until those patterns of hierarchy and domination are changed, we will be unable to deal with environmental crises. In a system of hierarchy, one group holds power over another and members of the superior group are able to dominate those of the inferior group and get them to serve their Many thinkers have argued that the environmental crises we face are rooted in the social systems of hierarchy and domination that characterize our society. This view, now referred to as social ecology, ends.

Until these systems (such as racism, sexism, and social classes) are changed, we will be unable to deal adequately with the environment. Eco-feminists, a related group of thinkers, see the key form of hierarchy connected to the destruction of the environment as the domination of women by men. They believe that there are important connections between the domination of women and the domination of nature–patterns of thinking, which justify and perpetuate the

female) where one of the pair is seen as stronger and more important. To solve our ecological problems, we must first change these destructive modes of thinking.

According to the ethics of caring, the destruction of nature that has accompanied male domination must be replaced with caring for and nurturing our relationships with nature and other living things. Nature must be seen as an "other" that must be cared for, not tamed or dominated. Thought-provoking as these approaches are, they are still too new and undeveloped to give us specific direction.

Thomas Klein's View

Thomas Klein summarized the procedure for cost-benefit analysis as follows:

1. Identify costs and benefits of the proposed program and the person or sectors incurring or receiving them. Trace transfers.

2. Evaluate the costs and benefits in terms of their value to beneficiaries and donors. The standard of measure is the value of each marginal unit to demanders and suppliers ideally captured in competitive prices. Useful refinements involve:

    a) Incorporating time values through the use of discount rate.

    b) Recognizing risk by factoring possible outcomes according to probabilities and, where dependent, probability trees.

3. Add up costs and benefits to determine the net social benefit of a project or program.

Social Audit

A social audit is a way of measuring, understanding, reporting and ultimately improving an organization's social and ethical performance. A social audit helps to narrow gaps between vision/goal and reality, between efficiency and effectiveness. It is a technique to understand, measure, verify, report on and to improve the social performance of the organization.

Social auditing creates an impact upon governance. It values the voice of stakeholders, including marginalized/poor groups whose voices are rarely heard. Social auditing is taken up for the purpose of enhancing local governance, particularly for strengthening accountability and transparency in local bodies. The key difference between development and social audit is that a social audit focuses on the neglected issue of social impacts, while a development audit has a broader focus including environment and economic issues, such as the efficiency of a project or program.

The problems involved in getting accurate measurements of the benefits of pollution control are also illustrated by the difficulties businesses have encountered in trying to construct a social audit (a report of the social costs and social benefits of the firm's activities). Those who advocate that a corporation should measure and report the social impacts of its activities have been forces to "recognize that the goal of measuring all impacts of all actions on all conditions and all publics, using standard techniques and units, considerably exceeds current capabilities and that compromises and modifications are inevitable. As a result of this inability to measure

benefits, so called *social audits* are usually nothing more than qualitative descriptions of what a firm is doing. Without definite quantitative measurement of the benefits deriving from its attempts to reduce pollution, a firm has no way of knowing whether its efforts are cost effective from a social point of view.

Measurement of Costs and Benefits

Measurement is also difficult when the effects of pollution are uncertain and, consequently, difficult to predict. In fact, perhaps the major problem involved in obtaining the measurements needed to apply cost-benefit analysis to pollution problems is the problem of estimating and evaluating risk.

Many new technologies carry with them unknown degrees of risk to present and future generations. The use of nuclear technology, for example, involves some probability of damages to health and loss of life for present and future generations. For example, we cannot use trial and error (a usual method for learning what the probabilities of an event are) to learn the risk of a nuclear accident.

These failures of measurement pose significant technical problems for utilitarian approaches to pollution. In addition, the use of utilitarian cost-benefit analysis sometimes based on assumptions those are inconsistent with people's moral rights. Advocates of utilitarian cost-benefit analysis sometimes assume that if the benefits of a certain technology or manufacturing process clearly outweigh its costs, then it is morally permissible to impose the process on unwilling citizens,

Conclusion

In view of all the problems raised by utilitarian approaches to pollution, it may be that alternative approaches are more adequate. In particular, it may be that the absolute bans on pollution that are still incorporated in many federal laws, and the rights theory on which those absolute band rest, are, for the present at least, a more adequate approach to pollution issues than utilitarianism.

Finally, others suggest that when risks cannot be measured, the only rational procedure is to first assume that the worst will happen and then choose the option that will leave us best off when the worst happens (this is the so-called *maximin rule* of probability theory). It is unclear which, if any, of these alternative approaches should be adopted when utilitarian cost-benefit analysis fails.

LESSON 31

ETHICS OF CARE

Social Ecology

Many thinkers have argued that the environmental crises we face are rooted in the social systems of hierarchy and domination that characterize our society. This view, now referred to as *social ecology,* holds that, until those patterns of hierarchy and domination are changed, we will be unable to deal with environmental crises. In a system of hierarchy, one group holds power over another and members of the superior group are able to dominate those of the inferior group and get them to serve their ends. Example of such systems of hierarchy include social practices such as racism, sexism, and social classes, as well as social institutions such as property rights, capitalism, bureaucracies, and the mechanisms of government. Such systems of hierarchy and domination go hand in hand with the widespread environmental destruction taking place all around us and with economic ways of managing the environment.

What literally defines social ecology as "social" is its recognition of the often overlooked fact that nearly all our present ecological problems arise from deep-seated social problems. Conversely, present ecological problems cannot be clearly understood, much less resolved, without resolutely dealing with problems within society. To make this point more concrete: economic, ethnic, cultural, and gender conflicts, among many others, lie at the core of the most serious ecological dislocations we face today--apart, to be sure, from those that are produced by natural catastrophes.

If this approach seems a bit too "sociological" for those environmentalists who identify ecological problems with the preservation of wildlife, wilderness, or more broadly, with "Gaia" and planetary "Oneness," it might be sobering to consider certain recent facts. The massive oil spill by an Exxon tanker at Prince William Sound, the extensive deforestation of redwood trees by the Maxxam Corporation, and the proposed James Bay hydroelectric project that would flood vast areas of northern Quebec's forests, to cite only a few problems, should remind us that the real battleground on which the ecological future of the planet will be decided is clearly a social one.

Indeed, to separate ecological problems from social problems--or even to play down or give token recognition to this crucial relationship-- would be to grossly misconstrue the sources of the growing environmental crisis. The way human beings deal with each other as social beings is crucial to addressing the ecological crisis. Unless we clearly recognize this, we will surely fail to see that the hierarchical mentality and class relationships that so thoroughly permeate society give rise to the very idea of dominating the natural world.

Unless we realize that the present market society, structured around the brutally competitive imperative of "grow or die," is a thoroughly impersonal, self-operating mechanism, we will falsely tend to blame technology as such or population growth as such for environmental problems. We will ignore their root causes, such as trade for profit, industrial expansion, and the identification of "progress" with corporate self-interest. In short, we will tend to focus on the symptoms of a grim social pathology rather than on the pathology itself, and our efforts will be directed toward limited goals whose attainment is more cosmetic than curative.

While some have questioned whether social ecology has dealt adequately with issues of spirituality, it was, in fact, among the earliest of contemporary ecologies to call for a sweeping change in existing spiritual values. Such a change would mean a far-reaching transformation of our prevailing mentality of domination into one of complementarity, in which we would see our role in the natural world as creative, supportive, and deeply appreciative of the needs of nonhuman life. In social ecology, a truly natural spirituality centers on the ability of an awakened humanity to function as moral agents in diminishing needless suffering, engaging in ecological restoration, and fostering an aesthetic appreciation of natural evolution in all its fecundity and diversity.

Thus social ecology has never eschewed the need for a radically new spirituality or mentality in its call for a collective effort to change society. Indeed, as early as 1965, the first public statement to advance the ideas of social ecology concluded with the injunction: "The cast of mind that today organizes differences among human and other life-forms along hierarchical lines of 'supremacy' or 'inferiority' will give way to an outlook that deals with diversity in an ecological manner--that is, according to an ethics of complementarity."[1] In such an ethics, human beings would complement nonhuman beings with their own capacities to produce a richer, creative, and developmental whole-not as a "dominant" species but as a supportive one. Although this idea, expressed at times as an appeal for the "respiritization of the natural world," recurs throughout the literature of social ecology, it should not be mistaken for a theology that raises a deity above the natural world or that seeks to discover one within it. The spirituality advanced by social ecology is definitively naturalistic (as one would expect, given its relation to ecology itself, which stems from the biological sciences), rather than supernaturalistic or pantheistic.

To prioritize any form of spirituality over the social factors that actually erode all forms of spirituality, raises serious questions about one's ability to come to grips with reality. At a time when a blind social mechanism, the market, is turning soil into sand, covering fertile land with concrete, poisoning air and water, and producing sweeping climatic and atmospheric changes, we cannot ignore the impact that a hierarchical and class society has on the natural world. We must earnestly deal with the fact that economic growth, gender oppressions, and ethnic domination-not to speak of corporate, state, and bureaucratic interests-are much more capable of shaping the future of the natural world than are privatistic forms of spiritual self-regeneration. These forms of domination must be confronted by collective action and major social movements that challenge the social sources of the ecological crisis, not simply by personalistic forms of consumption and investment that often go under the rubric of "green capitalism." We live in a highly cooperative society that is only too eager to find new areas of commercial aggrandizement and to add ecological verbiage to its advertising and customer relations.

Until these systems (such as racism, sexism, and social classes) are changed, we will be unable to deal adequately with the environment. Eco-feminists, a related group of thinkers, sees the key form of hierarchy connected to the destruction of the environment as the domination of women by men. They believe that there are important connections between the domination of women and the domination of nature–patterns of thinking, which justify and perpetuate the subordination. This logic of domination sets up dualisms (artificial and natural, male and female) where one of the pair is seen as stronger and more important. To solve our ecological problems, we must first change these destructive modes of thinking.

According to the ethics of caring, the destruction of nature that has accompanied male domination must be replaced with caring for and nurturing our relationships with nature and other living things. Nature must be seen as an "other" that must be cared for, not tamed or dominated. Thought-provoking as these approaches are, they are still too new and undeveloped to give us specific direction.

The Ethics of Conserving Depletable Resources

Conservation refers to the saving or rationing of natural resources for later use. Conservation, therefore, looks primarily to the future: to the need to limit consumption now to have resources available for tomorrow.

In fact, even pollution control can be seen as a form of conservation, since pollution consumes air and water. However, there are basic differences between the problems of pollution and the problems of resource depletion that makes the term *conservation* more applicable to the latter problems than to the former. With some notable exception (such as nuclear wastes), most forms of pollution affect present generations, and their control will benefit present generations. The depletion of most scarce resources, however, lies far in the depletion of resources is primarily by posterity and not by present generations. Consequently, our concern over the depletion of resources is primarily a concern for future generations and for the benefits that will be available to them.

Rights of future Generations

It might appear that we have an obligation to conserve resources for future generations because they have an equal right to the limited resources of this planet. If future generations have an equal right to the world's resources, then by depleting these resources, we are taking what is actually theirs and violating their and violating their equal right to these resources.

Do you think that it is a mistake to think that future generations have rights?

If future generations did have rights, we might be led to the absurd conclusion that we must sacrifice our entire civilization?

Can we say that someone has a certain right only if we know that he or she has a certain interest which that right protects?

Generally, conservation refers to the saving of finite, depletable resources. The only source of such resources is what has been left over from previous generations.

As we deplete the world's resources, there is unavoidably a smaller amount of them left for future generations. If future generations have an equal right to the world's resources, then by depleting them we are stealing what is actually theirs.

A number of writers have claimed that it is a mistake to think that future generations have rights. They advance three main reasons to show this:

First, future generations cannot intelligently be said to have rights because they do not now exist and may never exist. I may be able to think about future people, but I cannot hit them, punish them, injure them, or treat them wrongly. Future people exist only in the imagination,

and imaginary entities cannot be acted on in any way whatsoever except in the imagination. Similarly, we cannot say that future people possess things now when they do not yet exist to possess or have them. Because there is a possibility that future generations may never exist, they cannot "possess" rights.

Second, if future generations did have rights, we might be led to the absurd conclusion that we must sacrifice our entire civilization for their sake. Suppose that each of the infinite number of future generations had an equal right to the world's supply of oil. Then we would have to divide the oil equally among them all, and our share would be a few quarts at the most. We would then be put in the absurd position of having to shut down our entire Western civilization so that each future person might be able to possess a few quarts of oil.

Third, we can say that someone has a certain right only if we know that he or she has a certain interest that that right protects. The purpose of a right, after all, is to protect the interests of the right holder, but we are virtually ignorant of what interests future generations will have. What wants will they have?

John Rawls, on the other hand, argues that though it is unjust to impose heavy burdens on present generations for the sake of the future, it is also unjust for present generations to leave nothing for the future. We should ask ourselves what we can reasonably expect they might want and, putting ourselves in their place, leave what we would like them to have left for us. Justice, in short, requires that we hand over to our children a world in no worse condition than the one we received ourselves.

LESSON 32

ETHICS OF CARE-UTILITY AND CONSERVATION

Justice to Future Generations

John Rawls, on the other hand, argues that though it is unjust to impose heavy burdens on present generations for the sake of the future, it is also unjust for present generations to leave nothing for the future. We should ask ourselves what we can reasonably expect they might want and, putting ourselves in their place, leave what we would like them to have left for us. Justice, in short, requires that we hand over to our children a world in no worse condition than the one we received ourselves.

In general, Rawls claims that this method of ascertaining what earlier generations in justice owe to later generations will lead to the conclusion that what justice demands of us is merely that we hand to the next generation a situation no worse than we received from the generation before us. Justice, then, requires that we hand over to our immediate successors a world that is not in worse condition than the one we received from our ancestors.

Rawls' conclusion is also supported by some utilitarian reasoning. Robin Attfield, a utilitarian, for example, argued that utilitarianism favors what he called *Lockean principle* that "each should leave enough and as good for others." Attfield interpreted this to mean that each generation must leave for future generations a world whose output capacity is no less than that generation received from previous generations. That is, each generation must leave the world no less productive than it found. Attfield suggested that leaving the world with the same output capacity does not necessarily mean leaving the world with the same resources. Instead, maintaining the same level of output can be achieved either through conservation, recycling, or technological innovation.

Other utilitarians have reached slightly different but otherwise similar conclusions by relying on other basic utilitarian principles. Utilitarian have argued that each generation has a duty to maximize the future beneficial consequences of its actions and to minimize their future consequences should be "discounted" in proportion to their uncertainty and to their distance in the future. Together these utilitarian principles imply that we at least have an obligation to avoid those practices whose harmful consequences for the generation that immediately follows us are certain to outweigh the beneficial consequences our own generation derives from them. Our responsibility for more distant future see what effects our present actions will have on them because we don not know what needs or technology they will have.

We cannot rely on market mechanisms to ensure adequate conservation for future generations, however. The needs of future generations are so heavily discounted by markets that they hardly affect prices at all.

Six reasons conspire to bring this about:

1. **Multiple access** - If several separate extractors can use a resource, then the shared access will invariably lead the resource to be depleted too fast. As with several people with straws in one milkshake, each owner's private interest is in taking it out as fast as possible.

2. **Time preferences and myopia** - Firms often have short time horizons under the stress of commercial competition. This may under-represent the legitimate interests of future generations.
3. **Inadequate forecasting** - Present users may simply fail to foresee future developments. This may reflect a lack of sufficient research interest and ability to discern future changes.
4. **Special influences** - Specific taxes and other incentive devices may encourage overly rapid use of resources.
5. **External effects** - There are important externalities in the uses of many resources, so that private users ignore major degrees of pollution and other external costs.
6. **Distribution** - Finally, private market decisions are based on the existing pattern of distribution of wealth and income. As resource users vote with their dollars, market demand will more strongly reflect the interests and preferences of the wealthy.

Many observers believe that conservation measures are falling short of what is needed. Some even maintain that future generations will have a quality of life much lower than our own. Industrialized nations will need to convert from growth-oriented technologies to more labor-intensive ones. In fact, our entire economic system may have to abandon the goal of steadily increasing production: continual economic growth promises to degrade the quality of life for future generations. This is because demand for depletable resources will continue to rise until the resources simply run out. Then, living standards will decline sharply.

One group, the Club of Rome, predicted that a catastrophic collapse of goods and services will result at some point in the middle of this century; by 2100 the world's population may even drop below 1900 levels. More recently, the World watch Institute has concluded that even if the Club of Rome's timetables were off, their conclusions were substantially correct.

As our supplies of energy diminish, other moral concerns are raised. Though the U.S. has only 6% of the world's population, we consume 25% of its energy; 50% of the people of the world get along with only 8%. Some seriously question whether high-consuming nations like ours can be justified in using for its own sake the nonrenewable resources of the world that others are too weak or frugal to use themselves.

In 1999, the price of petrol is the lowest it has been for over two decades, with large reserves of oil stored by governments and corporations. Many other commodity prices are also at very low levels. These present-day facts are all very different from the warnings issued in the early 1970s about a world-wide environment crisis and shortages of resources.

One of the best known warning voices was contained in the book "Limits to Growth", published in 1972. It sold twelve million copies in 37 languages. Whilst the book did not predict what precisely would happen, it stated that if the world's consumption patterns and population growth continued at the same high rates of the time, the earth would strike its limits within a century. The message was that this outcome was not inevitable. People could change their policies - and the sooner the better.

The book was very controversial. Its note of warning jarred with the sense of optimism that existed at that time. The 1950s and 1960s had been a period of immense economic growth in both the Western and Communist worlds, both of which had a very low rate of unemployment. There was a general belief in the Western world that another 1930s-type Depression could be avoided as a result of government intervention in the economy. Additionally, it was assumed that there was a standard (Western) formula for economic growth that could apply throughout

the Third World. All the West had to do was to win the Cold War and the future for the entire world was assured.

Very little attention had been paid to the environmental consequences of economic growth. Indeed, both capitalists and communists were convinced that there could not be much of an environmental crisis. For capitalists, the market would solve any environmental problem (for example, if resources were used too rapidly, then prices would go up and so usage would be forced down), and Marxist dogma assured Communists that technology could solve all problems.

Both political systems regarded criticism of their respective systems on environmental grounds as nonsense. Each said that "Limits to Growth" was alarmist and the book was branded as pessimistic and a threat to stable government. Although "Limits to Growth" sold well around the world, government policy-makers ignored much of the essence of the warning. It is true that the first ministries of the environment were established at this time and there were tougher environmental laws introduced. But both political systems remained committed to the overall idea that growth was good and that the environmental consequences could be solved by administrative, legal and technological measures.

The Club of Rome

"Limits to Growth" was commissioned by The Club of Rome, a think-tank of scientists, economists, businesspeople, international civil servants, and politicians from the five continents. The Club began in an informal way at the behest of Aurelio Peccei, an Italian businessperson based in Rome. In 1965, Peccei gave a speech on the dramatic changes taking place in the world, especially relating to science and technology. The speech attracted considerable attention.

Alexander King, who had not previously known Peccei, received a copy of the speech. King was a British scientist, who had been a scientific adviser to the British Government, and who was then at the Paris-based Organization for Economic Co-operation and Development (OECD), the organization of rich Western countries. King had similar concerns to Peccei about the commonly-held veneration for growth that allowed little thought for any long-term consequences, and decided to meet Peccei to see how these ideas could be followed up.

Peccei and King were not confident that either the market or technology could function as a way of solving environmental problems. After calling together groups of economists and scientists to discuss problems facing the world, they asked a group of computer experts at MIT in the US to examine what would happen if people continued to consume such a high amount of resources. This study became the basis of the "Limits to Growth" book.

The study had some obvious limitations, most of which stemmed from the use of computer modeling. This was the first time that computer modeling had been used for such an ambitious exercise. The success of such modeling depends on both the quality of data and the capabilities of the computer. In 1970, methods of data collection were still rudimentary. Many countries, for example, did not know the true size of their populations. There have been many improvements in national data collection but, even today, we are still far from getting all the data we need to produce accurate models. For example, there is debate in many countries on how to work out the exact numbers of unemployed people, with official statistics usually being lower than those of non-governmental organizations that work with unemployed people.

In addition, the quality of the model used was limited by the available computer technology and could only use a low number of equations in its construction. Computer modeling has now become more sophisticated with the far greater computer power that is available meaning that models have become more complex. However, computer modeling still leaves a great deal to be desired, as is evident with the failure of government finance departments to predict the size of economic growth in the coming years.

Leaving aside the details of the projections, there is the question of the essence of the warning: is the earth approaching its "Limits to Growth"?

LESSON 33

THE ETHICS OF CONSUMER PRODUCTION AND MARKETING

Gas Explosions on a construction site

Gas explosions are caused by an ignition source coming into contact with a gas leak. Construction workers must always remain alert to the presence of gas leaks. Gas can be a silent killer, filling an area with flammable toxins while going unnoticed by most people. When a flame or other source of ignition is introduced to a gaseous environment, the resulting gas explosion can be catastrophic.

In 1937, a natural gas leak was responsible for the New London School explosion in Texas. This disaster killed three hundred students and teachers. Similar explosions occur regularly throughout the world, although typically with a less dramatic loss of life.

Gas explosions are preventable throughout effective safety procedures and responsible leadership. If you are a victim of a gas explosion, you deserve justice and compensation for your suffering. Contact an attorney who will fight for what you are entitled to. Do not hesitate to move forward with your life and speak with a lawyer today.

Multi-Country Per Capita Fatality Data for 2003

Last updated on January 20, 2005 (re USA and Republic of Ireland) and on January 29 (Jamaica)

	OECD [a] Pos'n	***Per Capita* [b] Death Rate**	**Country**	**Number of [c] Deaths in 2003**	Population [d] (millions)	**Number of [m] Deaths in 2004**
1	----	**3.29**	Brunei	12 [g]	0.37	
2	----	**4.00**	Malta	16	0.4	
3	----	**5.62**	F Y R Macedonia	118	2.1	
4	1	**5.81**	United Kingdom	3,508 [ae]	60.3	3,221 [ae]
5	2	**5.88**	Sweden	529	9.0	
6	3	**6.01**	Norway	280	4.6	
7	4	**6.31**	Netherlands	1,028	16.3	
8	5	**6.97**	Japan	8,877 [t]	127.3	
9	6	**7.02**	Finland	379	5.2	370/377 [aa/ac]
10=	7=	**7.33**	Switzerland	546	7.45	
10=	7=	**7.33**	Iceland	22	0.3	
12		**7.54**	Albania	264	3.5	
13		**7.77**	Israel	482	6.2	
14		**7.94**	Serbia and Montenegro	858	10.8	
15	9	**8.00**	Denmark	432	5.4	

16	10	**8.03**	Germany	6,613	82.4	
17	11	**8.21**	Australia	1,634 [v]	19.9	
18	12	**8.43**	Ireland	337	4.0	
19		**8.46**	Ireland -- Republic of	336 [k]	3.97	
20	13	**8.55**	Canada	2,778 [x]	32.5	
21		**9.09**	Azerbaijan	718	7.9	
22	14	**9.49**	France	5,731	60.4	
23		**9.66**	Moldova	425	4.4	
24		**9.98**	Romania	2,235	22.4	
25		**>10**	Bahrain			
26	15	**11.36**	Austria	931	8.2	
27	16	**11.48**	New Zealand	459 [y]	4.0	435 [y]
28	17	**11.52**	Luxembourg	53	0.46	
29	18	**11.7** [s]	Italy	[s]	58.0	
30	19	**12.09**	Slovak Republic	653	5.4	
31	20	**12.10**	Slovenia	242	2.0	
32		**12.17**	Georgia	572	4.7	
33		**12.62**	Estonia	164	1.3	
34		**12.80**	Bulgaria	960	7.5	
35	21	**12.91**	Portugal	1,356	10.5	
36	22	**-----**	Turkey	3,966 [f]	68.9	
37	23	**13.26**	Hungary	1,326	10.0	
38	24	**13.40**	Spain	5,399	40.3	
39	25	**14.19**	Czech Republic	1,447	10.2	
40	26	**14.5** [r]	Belgium	[r]	10.3	
41	27	**14.61**	Poland	5,640	38.6	
42		**14.7**	Jamaica	399 [l]	2.71	
43	28	**14.75** [ag]	U.S.A.	42,884 [ag]	290.8 [j]	42,636 [af]
44	29	**14.9** [u]	Repub. of Korea	[u]	48.6	
45	30	**15.24**	Greece	1,615	10.6	
46		**15.58**	Croatia	701	4.5	
47		**16.67**	Liechtenstein	5	0.03	
48		**17.12**	Belarus	1,763	10.3	
49		**18.37**	China	238,584 [z]	1298.8	
50		**19.69**	Lithuania	709	3.6	
51		**21.43**	Latvia	493	2.3	
52		**24.77**	Russian Federation	35,600	143.7	>34,000 [q]
53		**25.3** [ab]	South Africa	12,353	44.3[ab]	
54		**26.75**	Malaysia	6,286 [h]	23.5	6,223 [p]

			Cyprus		0.78	117 [n]
			Ghana		20.8	649 [o]

Multi-Country Data for 2004

See a 15-year history of per capita death rates for the (now) 30 member countries of the OECD, including the USA. We also have a table showing the 2003 per capita data for all 50 American states, here

DSA Comments

It must be remembered that there are three primary measures for comparing multi-national crash and fatality data: the deaths per 100,000 population or per capita rate, as shown here, deaths in relation to overall distance traveled (known in the USA as the VMT rate), and deaths in relation to the number of registered motor vehicles in the country. All three measures should be considered when comparing disparate countries but using just one of these methods is generally acceptable when comparing countries of similar status (e.g. "highly motorized countries" [HMCs], developed nations, third world countries, etc.).

As a result, some countries in the above table may appear to present bizarre results, either because -- like China, for example -- they have a very high death toll but it is offset by a huge population, or they simply have, say, a very low proportion of motor vehicles per head of population -- such as Brunei, that is currently at the head of the per capita table, or Ghana.

There is also the question of how, exactly, a traffic fatality is defined in any particular country. Some may only include deaths at the scene, whereas others will stipulate deaths within 24 hours, and some may allow a full week or even 30 days.

In some cases, therefore, the data for the number of deaths simply cannot be relied upon as being accurate. In Turkey, for example, the national press state that over 9,000 people are killed in road crashes each year, and yet each year data is published by that country giving a much lower body count. For that reason we have elected to position Turkey in the table to allow for an approximate per capita rate of 13.06 (based on the aforementioned 9,000 estimate) but have not shown the rate in the relevant column.

The Ethics of Consumer Production and Marketing

As the examples of Bridgestone/Firestone and Metabolife International clearly demonstrate, consumers are exposed daily to high levels of risk simply by using consumer products. The risk translates into injury, death, and astonishingly high costs as a result. As if product injuries were not enough, consumers must also bear the costs of deceptive sales practices, shoddy merchandise, and un-honored warranties. This chapter examines the ethical issues raised by product quality and advertising.

Markets and Consumer Protection

Consumer advocates point out that, in 1992 alone, there were more than 585,000 injuries required hospital treatment inflicted on youngsters and adults using toys, nursery equipment, and playground equipment; 2,055,000 people needed emergency treatment for injuries involving home furnishings; and 3,467,000 people required treatment for injuries involving home construction materials. Injuries from auto-related accidents in 1995 averaged 44,200 each week while deaths averaged 120 per day; financial losses were estimated at $479 million per day.

Many people believe that consumers automatically will be protected from injury by the operations of free and competitive markets and that neither governments nor businesspeople have to take special steps to deal with these issues. As we have seen in earlier chapters (particularly in Chapter 4), free markets promote and allocation, use, and distribution of goods that are, in a certain sense, just, respectful of rights, and efficiently productive of maximum utility for those who participate in the market. Moreover, in such markets, the consumer is said to be "sovereign." When consumers want and will willingly pay for something, sellers have an incentive to cater to their wishes. If sellers do not provide what consumers want, then sellers will suffer losses. However, when sellers provide what consumers want, they will profit. As the author of a leading textbook on economics wrote, "Consumers direct by their innate or learned tastes, as expressed in their dollar votes, the ultimate uses to which society's resources are channeled."

In the "market" approach to consumer protection, consumer safety is seen as a good that is most efficiently provided through the mechanism of the free market whereby sellers must respond to consumer demands. If consumers want products to be safer, they will indicate this preference in markets by willingly paying more for safer products and showing a preference for manufacturers of safe products while turning down the goods of manufacturers of unsafe products. Producers will have to respond to this demand by building more safety into their products or they risk losing customers to competitors who cater to the preferences of consumers. Thus, the market ensures that producers respond adequately to consumers' desires for safety. However, if consumers do not place a high value on safety and demonstrate neither a willingness to pay more for safety nor a preference for safer products, then it is wrong to push increased levels of safety down their throats through government regulations that force producers to build more safety into their products than consumers demand. Such government interference, as we saw earlier, distorts markets, making them unjust, disrespectful of rights, and inefficient, it is just as wrong for businesspeople to decide on their own that consumers should have more protection than they are demanding, as to force on them-costly safety devices that they would not buy on their own. Only consumers can say what value they place on safety, and they should be allowed to register their preferences through their free choices in markets and not be coerced by businesses or governments into paying for safety levels they may not want.

For example, an appliance selling for $100 may indicate that it will overheat if it is used for more than an hour and a half, whereas one selling for $400 may indicate that it can be run safely all day and night continuously. Some buyers will prefer the cheaper model, willingly trading the somewhat higher risk for the $300 cut in price, whereas others will prefer the ore expensive one. If government regulations forced all appliance makers to make only the safer model or if manufacturers voluntarily decided to make only the safer model, then consumers who do not feel that the increase in safety is worth $300 extra to them will be out of luck. If they cannot do without the appliance, they will be forced to pay the extra $300 even if they would have preferred spending it on something else that is more valuable to them. Thus, they

are unjustly forced to pay money for something they do not want, and their resources are inefficiently wasted on something that produces little utility for them.

Critics to the market approach respond that the benefits of free markets are obtained only when the markets have all of the seven defining characteristics: (a) There are numerous buyers and sellers, (b) everyone can freely enter and exit the market, (c) everyone has full and perfect information, (d) all goods in the market are exactly similar, (e) there are no external costs, (f) all buyers and sellers are rational utility maximizers, and (g) the market is unregulated. Critics of the market approach to consumer issues argue that these characteristics are absent in consumer markets.

Most importantly, markets are efficient only if participants have full and perfect information about the goods they are buying. This is obviously not always the case, however; some products are simply too complex for anyone but an expert to understand them. Gathering information is also time consuming and expensive, so many consumers may not have the resources to acquire the necessary information on their own.

In theory, of course, if consumers really wanted this information, then a market would be created for consumer information. It is difficult, however, for such organizations to cover their costs. Once costly information is released, it is easily leaked to others who do not pay. Because people know they can become free riders, the number of people who pay for the information is too small to cover the costs of gathering it. Second, consumers are unwilling to pay for information because they do not know what its value is until after they get it, and then they already have it and don't need to pay for it. When we buy information, we cannot know in advance what we are purchasing until we have it. Markets alone, then, cannot provide consumers with the information they need.

Another criticism of the free market approach to consumer issues refers to the sixth characteristic of perfectly competitive free markets that of the consumer is a "rational utility maximizer." The consumers defined by the theory think ahead, consider, and watch every penny they spend, knowing how their choices will affect their preferences. This does not really characterize consumer choice, however. Most consumer choices are based on probability estimates that we make concerning the chances that the products we buy will function as we expect. Research shows, unfortunately, that we become inept and irrational when we make such choices.

First, most of us are not good at estimating probabilities. We typically underestimate risks and overestimate the probabilities of unlikely but memorable things. Our probability judgments go astray for five reasons:

1. We ignore prior probabilities when we get new information, even if the new information is irrelevant.
2. We emphasize "causation," but underweight evidence that is relevant but not seen as "causal."
3. We generalize based on small sample findings.
4. We believe in the nonexistent "law of averages."
5. We believe that we control purely chance events.

LESSON 34

Second, as a number of researchers have shown, people are irrational and inconsistent when weighing choices based on probability estimates of future costs and payoffs. Research shows that people inconsistently rank one payoff as being both better and worse than another. Finally, markets often fail to have numerous buyers and sellers. Since most consumer markets are monopolies or oligopolies, the sellers are able to extract abnormally high profits by ensuring that demand always exceeds supply.

As a whole, then, market forces by themselves are not able to deal with consumer concerns for safety, freedom from risk, and value. Instead, consumers must be protected by governmental action and the voluntary initiatives of businesses. Of course, part of the responsibility for consumer injuries does rest on consumers. People often use items that they have neither the skill nor experience to handle.

Injuries also occur because of flaws in design, materials, or manufacturing, however. In these cases, it is the manufacturer's duty to minimize injuries. Their expertise makes them most knowledgeable about the safest materials and methods of making their products.

Where does the consumer's duty end and the manufacturer's duty begin? Three different theories address this question: the contract, "due care," and the social costs views.

Who Should Pay? The Product Liability Debate

Every year, 34 million people are injured or killed as a result of product related accidents. Such injuries are the major cause of death for people between the ages of 1 and 36, outnumbering deaths from cancer or heart disease. The estimated cost of these injuries is $12 billion annually. Tens of thousands of product injury lawsuits are filed each year. As the number of claims has risen, so too have the number of companies forced to file bankruptcy because of massive suits. Moreover, an increasing number of companies are claiming that they have pulled established products off the market and halted research on promising products for fear of liability.

Manufacturers claim that they are victims of a system gone haywire. According to strict liability laws, a manufacturer can be held liable for injuries even when he or she had no way of preventing those injuries. Holding manufacturers responsible for injuries caused by products known to be defective or potentially dangerous is one thing, but today manufacturers face lawsuits--often bordering on the outrageous--for injuries they could not have prevented.

Consumer activists, on the other hand, claim that the threat of product liability suits forces manufacturers to make product safety a priority and that those who suffer injuries caused by products should be compensated for their injuries by the manufacturers of those products.

Product injuries represent a major cost of introducing products into a society. Since virtually every new product carries some unknown risk, a possibility always exists that the product may cause injuries or imposes other costs on users. This raises an important moral question: How should these costs is distributed among the members of our society?

Should Consumers Bear More Responsibility?

Manufacturers contend that consumers should bear more responsibility for product injuries because the costs of placing full liability onto companies far outweigh the benefits. Since the 1960s, there has been a steady increase of product liability cases. According to one study, 13,500 product liability suits were filed in federal court in 1986, compared to only 1,500 in 1974. Due to this barrage of litigation, the cost of doing business has risen dramatically. Insurance premiums have skyrocketed, where insurance is available at all. Manufacturers' legal costs have also soared: about 60% of the average corporation's litigation expenses today are product liability cases. The rising cost of product liability insurance and lawsuits has led, in turn, to great increases in consumer prices.

The economy also has suffered from the boom in product liability claims. When companies facing massive lawsuits have been forced to scale down their operations, the result is a loss of jobs. In a recent report by the Conference Board, 15% of corporations surveyed had laid off workers because of product liability costs, while 8% had been forced to close plants altogether. In addition, the threat of liability has affected American businesses' ability to compete internationally. In other countries, there are severe limits on what manufacturers can be held responsible for and there are fewer tendencies to sue. By not having to contend with a morass of lawsuits, these companies can offer cheaper products, and put American manufacturers at a competitive disadvantage.

It is also argued that the fear of being hit with a liability claim keeps many lifesaving drugs and devices off the market, and stifles creativity and innovation. Even the most rigorous conformity to safety regulations doesn't prevent liability. One report found that 39% of the companies surveyed delayed introducing new products or had discontinued products because of product liability suits. The pharmaceutical industry has been hit the hardest. Only one company in the U.S. now manufactures vaccines, a product often targeted in lawsuits. Vaccines for AIDS will certainly not reach the market without protection against lawsuits. Said one spokesperson from the drug industry, "Decisions [are] already being made on [AIDS] research priorities for liability reasons."

The costs to manufacturers and to society will only increase as technologies grow more complex and their applications more varied. Testing products for safety under every possible condition of use will not only impose great testing costs on manufacturers but will result in enormous delays in the introduction of new products that could benefit society.

Manufacturers also maintain that it is morally unjust to hold someone liable for injuries that he or she could not have prevented. Through extensive research and repeated testing, companies do all that they possibly can, to ensure product safety. And, to prevent harm, warnings and instructions are plastered over each piece of merchandise.

Finally, some manufacturers point out that in a free market system, businesses have the right to make and sell whatever products they choose and consumers have the right to choose what they buy. But rights carry with them responsibilities. When consumers choose to buy risky products rather than safe ones (both of which businesses may offer in a free market) or when they choose not to inform themselves about products, they must accept the consequences, including the responsibility for any injuries resulting from those choices.

Should Manufacturers Bear More Responsibility?

Those who hold that manufacturers should bear more of the responsibility for product injuries argue that the benefits of holding companies liable for these injuries outweigh the costs. In a recent year, more than 200,000 infants were hospitalized for injuries resulting from the use of toys, or nursery or recreational equipment. About 1,777,000 people required emergency treatment because of injuries involving home furnishings; more than 1,200 of these injuries were fatal. An additional 1,782,000 individuals required treatment for injuries involving home construction materials; 1,300 of them died from the injuries. Society has an obligation to minimize such tragedy and suffering. Without the threat of liability, manufacturers would have little incentive to ensure product safety, and the number of product-related injuries would escalate.

The costs of holding manufacturers responsible for product injuries are not as great as company representatives would have us believe. For example, the so-called "explosion" in product liability suits, "crippling American business," is a myth. A recent study by the RAND Corporation found that although the number of product liability lawsuits had increased nearly eight-fold during the last decade, more that half of these lawsuits involved only a handful of companies, reflecting mass litigation against a few asbestos and pharmaceutical companies. A report by the Government Accounting Office also concluded that, except for cases involving a few drug or asbestos companies, product liability suits "do not appear to have been rapidly accelerating or explosive." Furthermore, it cannot be claimed that product litigation makes domestic companies any less competitive internationally. Foreign companies that sell in the U.S. have to abide by the same product liability laws that American companies face. And when American companies compete abroad, they have the same advantages that foreign companies have.

Those who hold manufacturers liable for product-related injuries also claim that justice is on their side. Since the defective product that caused the injury was produced by the manufacturer, it is fair that the manufacturer bear the costs of that injury. Moreover, they argue, justice requires that the party that is most able to pay for an injury be the party that bears most of the financial burden. Manufacturers know in advance that there is always a risk of liability in introducing new products, and can therefore build the cost of potential lawsuits into the price of those products. Manufacturers also have the research expertise and laboratories, the engineering and technical knowledge, and the budgets to assess the risks of product use and to ensure that these products are safe. Consumers lack these. It is just to place greater burdens on those who are better able to bear these burdens.

Consumer activists also challenge the corporate claim that consumers "freely" choose to buy unsafe products. Consumers, they argue, are woefully uninformed about the products they buy because they don't have access to information about the products. Others lack a comprehensive understanding of the seriousness of the printed warning. Still others may be functionally illiterate or too young to make informed choices. It is manufacturers, not consumers, who make the "free" choices to compromise product safety and it is manufacturers who must therefore accept the consequences.

As long as products are produced, product injuries will occur. Who should bear the costs of those injuries? Our answer requires that we weigh the claims of consumers against those of

manufacturers--claims which appeal, in different ways, to our desire to minimize harm, our ideal of justice, and our commitment to taking responsibility for the choices we make.

LESSON 35

THE CONTRACT VIEW OF BUSINESS' DUTIES TO CONSUMERS

According to the contract view of the business firm's duties to its customers, the relationship between a business firm and its customers is essentially a contractual relationship, and the firm's moral duties to the customer are those created by this contractual relationship. When a consumer buys a product, this view holds, the consumer voluntarily enters into a "sales contract" with the business firm. The firm freely and knowingly agrees to give the consumer a product with certain characteristics, and the consumer in turn freely and knowingly agrees to pay a certain sum of money to the firm for the product. In virtue of having voluntarily entered this agreement, the firm then has a duty to provide a product with those characteristics, and the consumer has a correlative right to get a product with those characteristics.

The contract theory of the business firm's duties to its customers rests on the view that a contract is a free agreement that imposes on the parties the basic duty of complying with the terms of the agreement. We examined this view earlier (chapter 2) and noted the two justifications Kant provided for the view: A person has a duty to do what he or she contracts to do because failure to adhere to the terms of a contract is a practice that (a) cannot be universalized, and (b) treats the other person as a means and not as an end. Rawls' theory also provides a justification for the view, but one that is based on the idea that our freedom is expanded by the recognition of contractual rights and duties; an enforced system of social rules that requires people to do what they contract to do will provide them with the assurance that contracts will be kept. Only if they have such assurance will people feel able to trust each other's word and, on that basis, to secure the benefits of the institution of contracts.

We also noted in Chapter 2 that traditional moralist have argued that the act of entering into a contract is subject to several secondary moral constraints:

1. Both of the parties to the contract must have full knowledge of the nature of the agreement they are entering.
2. Neither party to a contract must intentionally misrepresent the facts of the contractual situation to the other party.
3. Neither party to a contract must be forced to enter the contract under duress or undue influence.

These secondary constraints can be justified by the same sorts of arguments that Kant and Rawls use to justify the basic duty to perform one's contracts. Kant, for example, easily shows that misrepresentation in the making of a contract cannot be universalized, and Rawls argues that if misrepresentation were not prohibited, fear fo deception would make members of a society feel less free to enter contracts. However, these secondary constraints can also be justified on the grounds that a contract cannot exist unless these constraints are fulfilled. A contract is essentially a free agreement struck between two parties. Because an agreement cannot exist unless both parties know what they are agreeing to, contracts required full knowledge and the absence of misrepresentation. Because freedom implies the absence of coercion, contracts must be made without duress or undue influence.

Hence, the contractual theory of business' duties to consumers clams that a business has four main moral duties: the basic duty of (a) complying with the terms of the sales contract, and the secondary duties of (b) disclosing the nature of the product, (c) avoiding misrepresentation, and (d) avoiding the use of duress and undue influence. By acting in accordance with these duties, a business respects the right of consumers to be treated as free and equal persons – that is, in accordance with their right to be treated only as they have freely consented to be treated.

The duty to comply:

The most basic moral duty that a business firm owes its customers, according to the contract view, is the duty to provide consumers with a product that lives up to those claims that the firm expressly made about the product, which led the customer to enter the contract freely and which formed the customer's understanding concerning what he or she was agreeing to buy. In the early 1970s, for example, Winthrop Laboratories marketed a painkiller that the firm advertised as nonaddictive. Subsequently, a patient using the painkiller became addicted to it and shortly died from an overdose. A court found Winthrop Laboratories liable for the patient's death because, although it had expressly sated that the drug was nonaddictive, Winthrop Laboratories had failed to live up to its duty to comply with this express contractual claim.

In addition to the duties that result from the express claim a seller makes about the product, the contract view also holds that the seller has a duty to carry through on any implied claims he or she knowingly makes about the product. For example, the seller has the moral duty to provide a product that can be used safely for the ordinary and special purposes for which the customer, relying on the seller's judgment, has been led to believe it can be used. The seller is morally bound to do whatever he or she knows the buyer understood the seller was promising because at the point of sale sellers should have corrected any misunderstandings of which they were aware.

The duty not to misrepresent:

Misrepresentation, even more than the failure to disclose information, renders freedom of choice impossible. That is, misrepresentation is coercive: the person who is intentionally misled acts as the deceiver wants the person to act and not as the person would freely have chosen to act if he or she had known the truth. Because free choice is an essential ingredient of a binding contract, intentionally misrepresenting the nature of a commodity is wrong.

A seller misrepresents a commodity when he or she represents it in a way deliberately intended to deceive the buyer into thinking something about the product that the seller knows is false. The deception may be created by a verbal lie, as when a used model is described as new, or it may be created by a gesture, as when an unmarked used model is displayed together with several new models. That is, the deliberate intent to misrepresent by false implication is as wrong as the explicit lie.

The duty not to coerce:

People often act irrationally when under the influence of fear or emotional stress. When a seller takes advantage of a buyer's fear of emotional stress to extract consent to an agreement that the buyer would not make if the buyer were thinking rationally, the seller is using duress or undue influence to coerce. An unscrupulous funeral director, for example, may skillfully induce guilt-ridden and grief stricken survivors to invest in funeral services they cannot afford. Because

exploiting emotional states that may induce the buyer to act irrationally against his or her own best interests. For similar reasons, the seller also has the duty not to take advantage of gullibility, immaturity, ignorance, or any other factors that reduce or eliminate the buyer's ability to make free rational choices.

Problems with the Contractual Theory

The main objectives to the contract theory focus on the unreality of the assumption on which the theory is based.

First, critics argue, the theory unrealistically assumes that manufacturers make direct agreements with consumers. Noting could be further from the truth. Normally, a series of wholesalers and retailers stand between the manufacturer and the ultimate consumer. The manufacturer sells the product to the wholesaler, who sells it to the retailer, who finally sells it to the consumer. The manufacturer never enters into any direct contract with the consumer. How then can one say that manufacturers have contractual duties to the consumer?

Second objection to the contract theory focuses on the fact that a contact is two-edged sword. If a consumer can freely agree to buy a product with certain qualities, the consumer can also freely agree to buy a product without those qualities. That is, freedom of contact allows a manufacturer to be released from his or her contractual obligations by explicitly disclaiming that the product is reliable, serviceable, safe, and so.

The third objection to the contract theory criticizes the assumption that buyer and seller meet each other as equals in the sale agreement. The contractual theory assumes that buyers and sellers are equally skilled at evaluating the quality of a product and that buyers are able to adequately protect their interests against the seller. This is the assumption built into the requirement that contracts must be freely and knowingly entered into: Both parties must know what they are doing and neither must be coerced into doing it. This equality between buyer and seller that the contractual theory assumes derives from the laissez-faire ideology that accompanied the historical development of contract theory.

Finally, critics of this theory point out that the assumption that buyer and seller meet on equal ground is false. Buyers and sellers are not equally skilled; the seller is in a much stronger position than the buyer. Sellers only have to know their own products, while buyers need to know about every sellers' products for every commodity they purchase.

LESSON 36

The Due Care Theory

The "due care" theory of the manufacturer's duties to consumers is based on the idea that consumers and sellers do not meet as equals and that the consumer's interests are particularly vulnerable to being harmed by the manufacturer who has a knowledge and an expertise that the consumer lacks. Because manufactures are in a more advantaged position, they have a duty to take special care to ensure that consumers interests are not harmed by the products that they offer them. The doctrine of caveat emptor is here replaced with a weak version of the doctrine of caveat vendor: let the seller take care.

The "due care" view holds then that, because consumers must depend on the greater expertise of the manufacturer, the manufacturer not only has a duty to deliver a product that lives up to the express and implied claims about it, but also has a duty to exercise due care to prevent others from being injured by the product even if the manufacturer violates this duty and is negligent when there is a failure to exercise the care that a reasonable person could have foreseen would be necessary to prevent others from being harmed by use of the product. Due care must enter into the design of the product, the choice of reliable materials for constructing the product, the manufacturing processes involved in putting the product together, the quality control used to test and monitor production, and the warnings, labels, and instructions attached to the product. In each of these areas, according to the due care view, the manufacturer, in virtue of a greater expertise and knowledge, has a positive duty to take whatever as possible, and the customers has a right to such assurance. Failure to take such steps is a breach of the moral duty to exercise due care and a violation of the injured person's right to expect such care – a right that rests on the consumer's need to rely on the manufacturer's expertise.

The Duty to Exercise Due Care

According to the due care theory, manufacturers exercise sufficient care only when they take adequate steps to prevent whatever injurious effects they can foresee that the use to their product may have on consumers after having attempted to anticipate any possible misuses of the product. A manufacturer then is not morally negligent when others are harmed by a product and the harm was not one that the manufacturer could have possible foreseen or prevented. Nor is a manufacturer morally negligent after having taken all reasonable steps to protect the consumer and ensure that the consumer is informed of any irremovable risks that might still attend the use of the product. For example, a car manufacturer, cannot be said to be negligent from a moral point of new when people carelessly misuse the cars the manufacturer products. A car manufacturer would be morally negligent only if it had allowed unreasonable dangers to remain in the design of the car that consumers cannot be expected to know about or cannot guard against by taking their own precautionary measures.

Manufacturers' responsibilities to exercise due care extends to the following three areas:

1. **Design** - A product's design should not conceal any dangers, should incorporate all feasible safety devices, and use adequate materials. The design should additionally be well tested to ensure that consumers will use the product properly.

2. **Production** - The manufacturing process must be controlled to eliminate any defective items, identify weaknesses, and ensure that unsafe economizing measures are not taken.

3. **Information** - The firm should fix labels, notices, and instructions on the product warning of all potential dangers involved in using or misusing the item.

Manufacturers must also take into consideration the capacities of the persons who they expect will use the product. If the possible harmful effects of using a product are serious or if they cannot be adequately understood without expert opinion, then sale of the product should be carefully controlled.

Problems with "Due Care"

The basic difficulty raised by the "due care" theory is that there is no clear method for determining when one has exercised enough "due care". That is, there is no hard and fast rule for determining how far a firm must go to ensure the safety of its product.

A **second** difficulty raised by the "due care" theory is that it assumes that the manufacturer can discover the risks that attend the use of a product before the consumer buys and uses it.

Third, the due care view appears to some to be paternalistic: it assumes that the manufacturer should be the one who makes the important decisions for the consumer, at least with respect to the levels of risks that are proper for consumers to bear. One may wonder whether such decisions should not be left up to the free choice of consumers who can decide for themselves whether they want to pay for additional risk reduction.

LESSON 37

THE SOCIAL COSTS VIEW OF THE MANUFACTURER'S DUTIES

A third theory on the duties of the manufacturer would extend the manufacturer's duties beyond those imposed by contractual relationships and beyond those imposed by the duty to exercise due care in preventing injury or harm. This third theory holds that a manufacturer should pay the costs of nay injuries sustained through any defects in the product, even when the manufacturer exercised all due care in the design and manufacture of the product and has taken all reasonable precautions to warn users of every foreseen danger. According to this third theory a manufacturer has a duty to assume the risks of even those injuries that arise out of defects in the product that no one could reasonably have foreseen or eliminated. The theory is a strong version of the doctrine of caveat vendor: let the seller take care.

This third theory, which has formed the basis of the legal doctrine of strict liability, is founded on utilitarian arguments. The utilitarian arguments for this third theory hold that the "external" costs of injuries resulting from unavoidable defects in the design of an artifact constitute part of the cost society must pay for producing and using an artifact. By having the manufacturer bear the external cost that result from these injuries as well as the ordinary internal cost that result form these injuries as well as the ordinary internal costs of design and manufacture, all costs are internalized and added on as part of the price of the product. Internalizing all costs in this way, according to proponents of this theory will lead to a more efficient use of society's resources.

First, because the price will reflect all the costs of producing and using the artifact, market forces will ensure that the product is not overproduced and resources are not wasted on it. (Whereas if some costs were not included in the price, then manufacturers would tend to produce more than is needed.)

Second, because manufacturers have to pay the costs of injuries, they will be motivated to exercise greater care and thereby reduce the number of accidents. Therefore, manufacturers will strive to cut down the social cots of injuries, and this means a more efficient care for our human resources. To produce the maximum benefits possible from our limited resources, therefore, the social costs of injuries from defective products should be internalized by passing them on to the manufacturer even when the manufacturer has done all that could be done to eliminate such defects.

Third, internalizing the costs of injury in this way enables the manufacturer to distribute losses among all the users of a product instead of allowing losses to fall on individuals who may not be able to sustain the loss by themselves.

Underlying this third theory on the duties of the manufacturer are the standard utilitarian assumptions about the values of efficiency. The theory assumes that an efficient use of resources is so important for society that social costs should be allocated in whatever way will lead to a more efficient use and care of our resources. On this basis, the theory argues that a manufacturer should bear the social costs for injuries caused by defects in a product even when no negligence was involved and no contractual relationship existed between the manufacturer and user.

Problems with the Social Costs View

The major criticism of the social costs view of the manufacturer's duties is that is unfair. It is unfair, the critics charge, because it violates the basic cannons of compensatory justice. Compensatory justice implies that a person should be forced to compensate

Social cost theorists counter by pointing out that, in reality, the costs of consumer liability suits are not large. Less than 1% of product-related injuries result in suits, and successful suits average only a few thousand dollars in any case. Moreover, the insurance industry has remained quite profitable, despite the warnings of the critics.

A third argument against the social the social costs theory focuses on the financial burdens the theory imposes on manufacturers and insurance carriers. Critics claim that a growing number of consumers successfully sue manufacturers for compensation any injuries sustained while using a product even when the manufacturer took all due care to ensure that the product was fase. Not only have the number of "strict liability" suits increased, critics claim, but the amount awarded to injured consumers have also escalated.

Advertising Ethics

Advertising is a huge industry, which imposes great expense on manufacturers and service providers. Commercial advertising is sometimes defined as a form of "information" and an advertiser as "one who gives information." The implication is that the defining function of advertising is to provide information to consumers. In the end, consumers must cover the costs of advertising, but what do they get for this extra expenditure? Most consumers say that they get very little. So is advertising a waste, or a benefit? Does it help or harm consumers

LESSON 38

ADVERTISING ETHICS

Commercial advertising is sometimes defined as a from of "information" and an advertiser as "one who gives information." The implication is that the definition of advertising is to provide information to consumers. This definition of adverting, however, fails to distinguish advertisements from, say, articles in publications like *Consumer Reports,* which compare, test, and objectively evaluate the durability, safety, defects, and usefulness of various products. One study found that more than half of all television ads contained no consumer information whatsoever about the advertised product, and they only half of all magazine ads contained more than one information cue. Consider how much information is conveyed by the following advertisements:

"Got Milk" (America's dairy farmers and milk processors)
*"Be late" (*Neiman Marcus watches*)*
"Embrace you demons" (Cinnamon Flavored Altoids)
"For the way it's made" (KitchenAid home appliances)
"Connect with style" (Nokia cell phone)
"Inside every woman is a glow just waiting to come out" (Dove soap)
"It is, in the end, the simple idea that one plus one can, and must, equal more than two" (Chrysler cars)

Advertisements often do not include much objective information for the simple reason that their primary function is not that of providing unbiased information. The primary function of commercial advertisements, rather, is to sell a product to prospective buyers, and whatever information they happen to carry is subsidiary to this basic function and usually determined by it.

Advertising's critics point out that it has several harmful effects on society. First, its psychological effects are damaging in that it debases the tastes of consumers by inculcating materialistic values about how to achieve happiness. Whether or not advertising has such effects is still uncertain. Indeed, the success of advertising may depend on consumers already having the values that the advertisements focus upon.

Another major criticism of advertising is that it is wasteful. Those who make this type of objection point to the distinction between production costs and selling costs. **Production costs** are the costs of the resources consumed in producing a product. **Selling costs** are the additional costs of resources that do not go into the product itself, but rather are incurred as a result of persuading consumers to purchase it. The resources consumed by advertising, according to this theory, add nothing to the utility of the product.

Advertisers counter that advertisements do add information to the product, but of course, the information could be supplied more directly and inexpensively. They also say, however, that advertising creates desire and thus is responsible for a gradually expanding economy.

There is considerable controversy over whether advertising is responsible for the growing economy, however. Advertising appears to be most successful at shifting consumption from one producer to another, not at expanding consumption generally. Even if it could expand consumption, theorists do not agree that this would be good: increased consumption leads,

among other things, to increased pollution and depletion of resources. Though some critics have also blamed advertising for monopolies, there is no conclusive evidence that advertising and monopolistic markets are connected.

John Kenneth Galbraith and other critics have long argued that advertising merely manipulates consumers, creating desires solely to absorb industrial output. Physical desires, such as the desire for food and shelter, are perfectly normal. But the psychological desires that are inspired by advertising are not under the consumer's control in the same way that physical desires are, which puts the firm (instead of the individual) in control. If Galbraith's view is correct, then advertising violates the individual's right to choose freely for him or herself. It is not clear, however, that this view is correct, and theorists such as F. A. von Hayek have pointed out that psychic wants have been around longer than advertising in any case.

The most common criticism of advertising concerns is its effect on the consumer's beliefs. Because advertising is a form of communication, it can be as truthful or deceptive as any other form of communication. Most criticisms of advertising focus on the deceptive aspects of modern advertising. Nevertheless, even if advertising as a whole is not manipulative, there are clearly some advertisements that are intended to manipulate. Such advertisements do clearly violate the consumer's right to be treated as a free and equal rational being.

Deceptive advertising takes many forms: the "bait and switch," untrue paid testimonials, or simulating brand names are all forms of deception. There is no controversy over whether or not deceptive advertising is immoral: it clearly is. The problem is to understand how advertising becomes deceptive.

All communication involves three things: the author or originator of the message, the medium that carries the message, and the audience who receives it. Deception involves three necessary conditions in the author:

1. The author must intend to have the audience believe something false.
2. The author must know it to be false.
3. The author must knowingly do something to bring about this false belief.

Thus, an advertiser cannot be held responsible for an audience having misinterpreted a message when the misinterpretation is unintended, unforeseen, or the result of carelessness on the part of the audience.

The media carrying the message also has a responsibility to ensure the truth of what it carries to the audience. Both the author and the media must take into account the interpretive skills of the audience as well. To determine the ethical nature of an advertisement, the following points are relevant: the intended and actual social effects of the advertisement; the informing or persuasive character of the advertisement, and whether it creates irrational or injurious desires; and the whether the advertisement's content is truthful or tends to mislead.

The Benefits of Advertising

Enormous human and material resources are devoted to advertising. Advertising is everywhere in today's world, so that, as Pope Paul VI remarked, "No one now can escape the influence of advertising."6 Even people who are not themselves exposed to particular forms of advertising confront a society, a culture — other people — affected for good or ill by advertising messages

Some critics view this state of affairs in un-relievedly negative terms. They condemn advertising as a waste of time, talent and money — an essentially parasitic activity. In this view, not only does advertising have no value of its own, but its influence is entirely harmful and corrupting for individuals and society.

We do not agree. There is truth to the criticisms, and we shall make criticisms of our own. But advertising also has significant potential for good, and sometimes it is realized. Here are some of the ways that happens.

A) Economic Benefits of Advertising

5. Advertising can play an important role in the process by which an economic system guided by moral norms and responsive to the common good contributes to human development. It is a necessary part of the functioning of modern market economies, which today either exist or are emerging in many parts of the world and which — provided they conform to moral standards based upon integral human development and the common good — currently seem to be "the most efficient instrument for utilizing resources and effectively responding to needs" of a socio-economic kind.7

In such a system, advertising can be a useful tool for sustaining honest and ethically responsible competition that contributes to economic growth in the service of authentic human development. "The Church looks with favor on the growth of man's productive capacity, and also on the ever widening network of relationships and exchanges between persons and social groups....[F]rom this point of view she encourages advertising, which can become a wholesome and efficacious instrument for reciprocal help among men."8

Advertising does this, among other ways, by informing people about the availability of rationally desirable new products and services and improvements in existing ones, helping them to make informed, prudent consumer decisions, contributing to efficiency and the lowering of prices, and stimulating economic progress through the expansion of business and trade. All of this can contribute to the creation of new jobs, higher incomes and a more decent and humane way of life for all. It also helps pay for publications, programming and productions — including those of the Church — that bring information, entertainment and inspiration to people around the world.

B) Benefits of Political Advertising

"The Church values the democratic system inasmuch as it ensures the participation of citizens in making political choices, guarantees to the governed the possibility both of electing and holding accountable those who govern them, and of replacing them through peaceful means when appropriate."

Political advertising can make a contribution to democracy analogous to its contribution to economic well being in a market system guided by moral norms. As free and responsible media in a democratic system help to counteract tendencies toward the monopolization of power on the part of oligarchies and special interests, so political advertising can make its contribution by informing people about the ideas and policy proposals of parties and candidates, including new candidates not previously known to the public.

C) Cultural Benefits of Advertising

Because of the impact advertising has on media that depend on it for revenue; advertisers have an opportunity to exert a positive influence on decisions about media content. This they do by supporting material of excellent intellectual, aesthetic and moral quality presented with the public interest in view, and particularly by encouraging and making possible media presentations which are oriented to minorities whose needs might otherwise go un-served.

Moreover, advertising can itself contribute to the betterment of society by uplifting and inspiring people and motivating them to act in ways that benefit themselves and others. Advertising can brighten lives simply by being witty, tasteful and entertaining. Some advertisements are instances of popular art, with a vivacity and elan all their own.

D) Moral and Religious Benefits of Advertising

In many cases, too, benevolent social institutions, including those of a religious nature, use advertising to communicate their messages — messages of faith, of patriotism, of tolerance, compassion and neighborly service, of charity toward the needy, messages concerning health and education, constructive and helpful messages that educate and motivate people in a variety of beneficial ways.

For the Church, involvement in media-related activities, including advertising, is today a necessary part of a comprehensive pastoral strategy. This includes both the Church's own media — Catholic press and publishing, television and radio broadcasting, film and audiovisual production, and the rest — and also her participation in secular media. The media "can and should be instruments in the Church's program of re-evangelization and new evangelization in the contemporary world."11 While much remains to be done, many positive efforts of this kind already are underway. With reference to advertising itself, Pope Paul VI once said that it is desirable that Catholic institutions "follow with constant attention the development of the modern techniques of advertising and... know how to make opportune use of them in order to spread the Gospel message in a manner which answers the expectations and needs of contemporary man."

The harm done by advertising

There is nothing intrinsically good or intrinsically evil about advertising. It is a tool, an instrument: it can be used well, and it can be used badly. If it can have, and sometimes does have, beneficial results such as those just described, it also can, and often does, have a negative, harmful impact on individuals and society.

Communio et Progressio contains this summary statement of the problem: "If harmful or utterly useless goods are touted to the public, if false assertions are made about goods for sale, if less than admirable human tendencies are exploited, those responsible for such advertising harm society and forfeit their good name and credibility. More than this, unremitting pressure to buy articles of luxury can arouse false wants that hurt both individuals and families by making them ignore what they really need. And those forms of advertising which, without shame, exploit the sexual instincts simply to make money or which seek to penetrate into the subconscious recesses of the mind in a way that threatens the freedom of the individual ... must be shunned."

A) Economic Harms of Advertising

Advertising can betray its role as a source of information by misrepresentation and by withholding relevant facts. Sometimes, too, the information function of media can be subverted by advertisers' pressure upon publications or programs not to treat of questions that might prove embarrassing or inconvenient. More often, though, advertising is used not simply to inform but to persuade and motivate — to convince people to act in certain ways: buy certain products or services, patronize certain institutions, and the like. This is where particular abuses can occur.

The practice of "brand"-related advertising can raise serious problems. Often there are only negligible differences among similar products of different brands, and advertising may attempt to move people to act on the basis of irrational motives ("brand loyalty," status, fashion, "sex appeal," etc.) instead of presenting differences in product quality and price as bases for rational choice.

Advertising also can be, and often is, a tool of the "phenomenon of consumerism," as Pope John Paul II delineated it when he said: "It is not wrong to want to live better; what is wrong is a style of life which is presumed to be better when it is directed toward ?having' rather than ? being', and which wants to have more, not in order to be more but in order to spend life in enjoyment as an end in itself. "Sometimes advertisers speak of it as part of their task to "create" needs for products and services — that is, to cause people to feel and act upon cravings for items and services they do not need. "If ... a direct appeal is made to his instincts — while ignoring in various ways the reality of the person as intelligent and free — then consumer attitudes and life-styles can be created which are objectively improper and often damaging to his physical and spiritual health."

This is a serious abuse, an affront to human dignity and the common good when it occurs in affluent societies. But the abuse is still more grave when consumerist attitudes and values are transmitted by communications media and advertising to developing countries, where they exacerbate socio-economic problems and harm the poor. "It is true that a judicious use of advertising can stimulate developing countries to improve their standard of living. But serious harm can be done them if advertising and commercial pressure become so irresponsible that communities seeking to rise from poverty to a reasonable standard of living are persuaded to seek this progress by satisfying wants that have been artificially created. The result of this is that they waste their resources and neglect their real needs, and genuine development falls behind."

Similarly, the task of countries attempting to develop types of market economies that serve human needs and interests after decades under centralized, state-controlled systems is made more difficult by advertising that promotes consumerist attitudes and values offensive to human dignity and the common good. The problem is particularly acute when, as often happens, the dignity and welfare of society's poorer and weaker members are at stake. It is necessary always to bear in mind that there are "goods which by their very nature cannot and must not be bought or sold" and to avoid "an? Idolatry' of the market" that, aided and abetted by advertising, ignores this crucial fact.

B) Harms of Political Advertising

Political advertising can support and assist the working of the democratic process, but it also can obstruct it. This happens when, for example, the costs of advertising limit political

competition to wealthy candidates or groups, or require that office-seekers compromise their integrity and independence by over-dependence on special interests for funds.

Such obstruction of the democratic process also happens when, instead of being a vehicle for honest expositions of candidates' views and records, political advertising seeks to distort the views and records of opponents and unjustly attacks their reputations. It happens when advertising appeals more to people's emotions and base instincts — to selfishness, bias and hostility toward others, to racial and ethnic prejudice and the like — rather than to a reasoned sense of justice and the good of all.

C) Cultural Harms of Advertising

Advertising also can have a corrupting influence upon culture and cultural values. We have spoken of the economic harm that can be done to developing nations by advertising that fosters consumerism and destructive patterns of consumption. Consider also the cultural injury done to these nations and their peoples by advertising whose content and methods, reflecting those prevalent in the first world, are at war with sound traditional values in indigenous cultures. Today this kind of "domination and manipulation" via media rightly is "a concern of developing nations in relation to developed ones," as well as a "concern of minorities within particular nations."

The indirect but powerful influence exerted by advertising upon the media of social communications that depend on revenues from this source points to another sort of cultural concern. In the competition to attract ever larger audiences and deliver them to advertisers, communicators can find themselves tempted — in fact pressured, subtly or not so subtly — to set aside high artistic and moral standards and lapse into superficiality, tawdriness and moral squalor.

Communicators also can find themselves tempted to ignore the educational and social needs of certain segments of the audience — the very young, the very old, the poor — who do not match the demographic patterns (age, education, income, habits of buying and consuming, etc.) of the kinds of audiences advertisers want to reach. In this way the tone and indeed the level of moral responsibility of the communications media in general are lowered.

All too often, advertising contributes to the invidious stereotyping of particular groups that places them at a disadvantage in relation to others. This often is true of the way advertising treats women; and the exploitation of women, both in and by advertising, is a frequent, deplorable abuse. "How often are they treated not as persons with an inviolable dignity but as objects whose purpose is to satisfy others' appetite for pleasure or for power? How often the role of woman as wife and mother is undervalued or even ridiculed? How often is the role of women in business or professional life depicted as a masculine caricature, a denial of the specific gifts of feminine insight, compassion, and understanding, which so greatly contribute to the ?civilization of love'?"

D) Moral and Religious Harms of Advertising

Advertising can be tasteful and in conformity with high moral standards, and occasionally even morally uplifting, but it also can be vulgar and morally degrading. Frequently it deliberately appeals to such motives as envy, status seeking and lust. Today, too, some advertisers consciously seek to shock and titillate by exploiting content of a morbid, perverse,

pornographic nature. What this Pontifical Council said several years ago about pornography and violence in the media is no less true of certain forms of advertising:

"As reflections of the dark side of human nature marred by sin, pornography and the exaltation of violence are age-old realities of the human condition. In the past quarter century, however, they have taken on new dimensions and have become serious social problems. At a time of widespread and unfortunate confusion about moral norms, the communications media have made pornography and violence accessible to a vastly expanded audience, including young people and even children, and a problem which at one time was confined mainly to wealthy countries has now begun, via the communications media, to corrupt moral values in developing nations." We note, too, certain special problems relating to advertising that treats of religion or pertains to specific issues with a moral dimension.

In cases of the first sort, commercial advertisers sometimes include religious themes or use religious images or personages to sell products. It is possible to do this in tasteful, acceptable ways, but the practice is obnoxious and offensive when it involves exploiting religion or treating it flippantly.

In cases of the second sort, advertising sometimes is used to promote products and inculcate attitudes and forms of behavior contrary to moral norms. That is the case, for instance, with the advertising of contraceptives, abortifacients and products harmful to health, and with government-sponsored advertising campaigns for artificial birth control, so-called "safe sex", and similar practices.

LESSON 39

ADVERTISING ETHICS

Deceptive Advertising

The most common criticism of advertising concerns its effect on the consumer's beliefs. Because advertising is a form of communication, it can be as truthful or deceptive as any other form of communication. Most criticisms of advertising focus on the deceptive aspects of modern advertising.

Deceptive advertising can take several forms. An advertisement can misrepresent the nature of the product by using deceptive mock-ups, using untrue paid testimonials, inserting the word *guarantee* where nothing is guaranteed, and quoting misleading prices, failing to disclose defects in a product, misleadingly disparaging a competitor's goods, or simulating well-known brand names. Some fraudulent forms of advertising involve more complex schemes. For example, bait advertisements announce the sale of goods that later prove not to be available or to be deceptive. Once the consumer is lured into the store, he or she is pressured to purchase another more expensive item.

A long ethical tradition has consistently condemned deceptive in adverting on the grounds that it violates consumers' rights to choose for themselves (a Kantian argument) and on the grounds that it generates a public distrust of advertising that diminishes the utility of this form and even of this form and even of other forms of communication (a utilitarian argument). The central problem then is not understanding why deceptive advertising is wrong, but understanding how it becomes deceptive and, therefore, unethical.

The Federal Trade Commission (FTC) is the primary regulator of deceptive advertising in the U.S. It was created by the FTC Act in 1914.

Section 5 of the Act gave the Commission the authority to regulate "unfair methods of competition." The Act was later changed, by the Wheeler-Lea Amendment, to give the FTC authority over both "unfair methods of competition" and "unfair or deceptive acts or practices." It is through this latter power that the FTC regulates deceptive advertising.

Commissioners of the FTC act like judges, hearing cases when marketers are charged with violating the FTC Act. The Commission also publishes advertising guidelines for marketers, which are *not* law but merely advisory, and adopts trade regulation rules, which *are* law.

Basic Principles

According to its 1993 Policy Statement on Deception, the FTC considers a marketing effort to be deceptive if: (1) there is a representation, omission, act or practice, that (2) is likely to mislead consumers acting reasonably under the circumstances, and (3) that representation, omission, or practice is "material." The term "material" refers to the fact that some deceptive claims are trivial, and that the FTC will only regulate deceptions that are important to consumers, i.e., those that affect consumers' "choice of, or conduct regarding, a product."

Evidence

To prove that an ad claim is, in fact, deceptive, the FTC is not generally concerned with what the claim says, but what it conveys to consumers. If that conveyed message differs from the reality of the product attribute being advertised, the claim is considered deceptive. This requires the Commission to look at two types of evidence: (1) evidence concerning what message is conveyed to consumers, and (2) evidence concerning the product attribute's true qualities.

The former requires looking into the heads of consumers. The FTC considers surveys the best form of evidence to discover what message is conveyed by an ad, though sometimes the Commission relies on other evidence. The question of how best to unearth the inner thoughts of consumers has been an issue of significant research efforts and theoretical discussion. The second form of evidence can require a variety of different methods of assessing a product's attributes. If, for example, the claim refers to the fuel mileage of an automobile, laboratory testing of the vehicle's fuel efficiency would normally be required. However, the FTC requires that advertisers conduct such testing *prior* to making the ad claim. If a claim is made without evidence in hand that the product will perform as advertised, the claim will be considered deceptive. This is known as "substantiation," and the Commission's requirements are detailed in the 1984 FTC Substantiation Policy..

Remedies

Most cases started by the FTC never require the Commission to make a final decision about the deceptiveness of an advertiser's claim. Those cases end, instead, in a "consent order," whereby the advertiser simply agrees to do what the FTC staff asks. No hearing is required.

In those cases that do end in a final FTC decision, if the claim is found deceptive, the advertiser will face one of three possible remedies: (1) a Cease and Desist Order, which requires the advertiser to stop making the claim, (2) an Affirmative Disclosure Order, which forces the advertiser to provide consumers with more information, or (3) Corrective Advertising, which is a form of affirmative disclosure that is intended to correct lingering deception that results from a long history of deceiving the consumer.

Puffery

Historically, claims that were "mere exaggerations" or "hyperbole" were considered to be puffery, and therefore not deceptive. Terms like "the best" or "the greatest" were sales talk, and the FTC would not regulate them. After all, everyone knows that "Wonder Bread" is not really a wonder, and "The Greatest Show on Earth" is not what everyone considers the greatest. Puffery, therefore, was a form of opinion statement, and considered un-regulable.

Some observers have expressed concern that the "puffery defense" was a loophole through which many deceptive claims fell. The Commission has been criticized for allowing deceptive claims to slip through under the guise of puffery.

On the other hand, the FTC has defined puffery as claims that (1) reasonable people do not believe to be true product qualities, and (2) are incapable of being proved either true or false. Consequently, if deception is the creation of a "false belief" about the product in the mind of a

consumer, claims that fall into the FTC definition of puffery cannot be deceptive. By definition, such claims can be neither false nor can they create belief. This means that if deceptive claims have slipped through regulation as puffs, it is because the FTC has failed to follow its own definition. See our bibliography on puffery and puffery quotes.

LESSON 40

ADVERTISING IN TODAY'S SOCIETY

Advertising is a huge global business. No business can succeed without it, no name products appear on the market without being backed by advertising. Food, clothing, furniture, accessories, cosmetics, books, toys, everything displayed in the store is a result of intensive competition and expensive promotion on the part of each manufacturer to induce the stores to stock and stack his product. Each year billions of dollars are spent in attempts to influence our decisions and to persuade us to spend more.

On the high street, on public transport, in newspapers and magazines and on television we are bombarded with images and slogans (between four-hundred and three-thousand advertising messages per day!) designed to make us part with our cash. But for the most part we love it, secretly at least. We may resent the hideous sign that invades the beauty spot, loathe the commercial that interrupts a TV show, but we reach for our newspaper or favorite magazine not only for an update on the news but to scan the ads for bargains or to enjoy looking at them. Because of the enormous amount of advertising there is around, the advertising industry is constantly trying to come up with new ways of getting our attention ("Sex sells!",…).

Advertising agencies and the making of an ad

In very general terms, the function of an agency – this usually consists of executive, creative, research, media, technical, and administrative departments – is to present to its client a new, catchy, and practical idea for a campaign, furnish an outline with mockups and estimates, and after final approval see the project in the end. In the area of graphics, the art director, working in close cooperation with the copywriter and client, decides on the kind of illustration or spot best suited to the selling theme, the product, and kind of image the advertiser wishes to project. In the world of advertising, everyone's thinking is focused on now or on the future, never on the past.

The Influence of Advertisements on the Customers Shopping Behavior

All adverts need to use specific stimuli (for example: colorful pictures, erotic poses,…), so that the customer becomes aware of the advert and can store the given information over a longer period of time. For effective advertising, basic conditioning psychology has to be brought into effect, whereby the product is coupled with pleasant **feelings and emotions** (*Coca-Cola* in conjunction with fun and joy - *"Enjoy the taste…enjoy the fun …always Coca-Cola"*

Psychological tricks

Packaging: The design of the package decides whether the product will be accepted by the customer or not. An extravagant packaging and attractive colors are important factors, which influence his decision. Positioning and arrangement of the shelves: Luxury goods and goods the most profits are mainly to be found on the right hand shelves. This is due to an inborn tendency to look and reach to the right. In addition, these things are to be found at eye or arm level because at this height the products are easy to reach. Articles of everyday use are usually found at the back of the store, farthest away from the entrance. This is to force the customer to pass as many items as possible and to force him to make a purchase.

"Muzac", soft background music, is played, as it has a relaxing effect and produces a pleasant atmosphere. In order to give the customer the feeling that time is no problem, there are no clocks to be found. Sweets and toys are often to be found just before the cash desk, in a bid to give children a "reward" for waiting. Fully filled shelves are always an inducement to buy, so shelves are repeatedly filled. Stands are always well decorated because they bring an increase in sales.

LESSON 41

GALBRAITH vs. VON HAYEK

John Kenneth Galbraith (October 15, 1908–April 29, 2006) was an influential Canadian-American economist. He was a Keynesian and an institutionalist, a leading proponent of 20th-century American liberalism and progressivism. His books on economic topics were bestsellers in the 1950s and 1960s.

Galbraith was a prolific author who produced four dozen books and over a thousand articles on various subjects. Among his most famous works was a popular trilogy on economics, *American Capitalism* (1952), *The Affluent Society* (1958), and *The New Industrial State* (1967). He taught at Harvard University for many years. Galbraith was active in politics, serving in the administrations of Franklin D. Roosevelt, Harry S. Truman, John F. Kennedy and Lyndon B. Johnson; and among other roles served as U.S. ambassador to India under Kennedy.

He was one of a few two-time recipients of the Presidential Medal of Freedom. He received one from President Truman in 1946 and another from President Bill Clinton in 2000[1]. He was also awarded the Padma Vibhushan, India's second highest civilian award, for his contributions to strengthening ties between India and the United States. Some of Galbraith's Ideas

In The Affluent Society Galbraith asserts that classical economic theory was true for the eras before the present, which were times of "poverty"; now, however, we have moved from a state of poverty into an age of "affluence," and for such an age, a completely new economic theory is needed.

Galbraith's main argument is that as society becomes relatively more affluent, so private business must "create" consumer wants through advertising, and while it generates artificial affluence through the production of commercial goods and services, the "public sector" becomes neglected as a result. He pointed out that while many Americans were able to purchase luxury items, their parks were polluted and their children attended poorly maintained schools. He argues that markets alone will under provide (or fail to provide at all) for many public goods, whereas private goods are typically 'overprovided' due to the process of advertising creating artificial demand above individual's basic needs.

He proposed curbing the consumption of certain products through greater use of consumption taxes, arguing this could be more efficient than other forms of taxes such as labor or land taxes.

Galbraith's major proposal was a program he called "investment in men" - a large-scale publicly-funded education program aimed at empowering ordinary citizens. Galbraith wished to entrust citizens with the future of the American republic.

Advertising and the Creation of Consumer Desires

John K. Galbraith and other have long argued that advertising is manipulation lative: it is the creation of desires in consumers for the sole purpose of absorbing industrial output. Galbraith distinguished two kinds of desires: those that have a “physical” basis, such as desires for food and shelter; and those that are “psychological in origin,” such as the individual’s desires for goods that “give him a sense of personal achievement, accord him a feeling of equality with

this neighbors, direct his mind form thought, serve sexual aspiration, promise social acceptability, enhance his subjective feeling of health, contribute by conventional cannons to personal beauty, or are otherwise psychologically rewarding.
The physically based desires originate in the buyer and are relatively immune to being changed by persuasion. The psychic desires, however, are capable of being managed, controlled, and expanded by advertising. Because the demand created physical needs is finite, producers soon produce enough to meet these needs. If production is to expand, therefore, producers must create new demand by manipulating the pliable psychic desires through advertising. Advertising is therefore used to create psychic desires for the sole purpose of "ensuring that people buy what is produced"—that is, to absorb the output of an expanding industrial system.

The effect of this management of demand through advertising is to shift the focus of decision in the purchase of goods from the consumer where it is beyond control to the firm where it is subject to control. Production is not molded to serve human desires; rather, human desires ar molded to serve the needs of production.

If this view of Galbraith's is correct, then advertising violates the individual's right to choose for him or herself: advertising manipulates the consumer. The consumer is used merely as a means for advancing the ends and purposes of producers, and this diminishes the consumer's capacity to freely choose for him or herself.

It is not clear that Galbraith argument is correct. As we have already seen, the psychological effects of advertising are still unclear. Consequently, it is unclear whether psychic desires can be manipulated by advertising in the whole sale way that Galbraith's argument assumes.

Moreover, as **F.A Hayek** and others have pointed out, the "creation" of psychic wants did not originate with modern advertising. New wants have always been "created" by the invention of novel and attractive products (such as the first bow and arrow, the first painting, the first perfume), and such a creation of wants seems harmless enough.

However, although it is unclear whether advertising as a whole has the massive manipulative effects that Galbraith attributes to it., it is clear that some particular advertisements are at least intended to manipulate. They are intended, to arouse in the consumer a psychological desire for the product without the consumer's knowledge and without the consumer being able to rationally weigh whether the product is in his or her own best interests. Advertisements that intentionally rely on "subliminal suggestion," or that attempt to make consumers associate unreal sexual or social fulfillment with a product, fall into this class, as do advertisements that are aimed at children.

Criticism of Galbraith's Work

Galbraith's work and *The Affluent Society* in particular drew sharp criticism from free-market supporters at the time of its publication.

Milton Friedman in "Friedman on Galbraith, and on curing the British disease" views Galbraith as a 20th-century version of the early 19th-century Tory radical of Great Britain. He asserts that Galbraith believes in the superiority of aristocracy and in its paternalistic authority, that consumers should not be allowed choice and that all should be determined by those with "higher minds":

"Many reformers -- Galbraith is not alone in this -- have as their basic objection to a free market that it frustrates them in achieving their reforms, because it enables people to have what they want, not what the reformers want. Hence every reformer has a strong tendency to be averse to a free market."

Galbraith versus Hayek

Two of the great economists of the 20th century were John Kenneth Galbraith and Friedrich Hayek. They held very different views about advertising, which to a large extent reflected their views about the capitalist system more broadly.

John Kenneth Galbraith's most famous book was *The Affluent Society*, which was published in 1958. In it, he argued that corporations use advertising to create demand for products that people otherwise do not want or need. The market system should not be applauded, he believed, for satisfying desires that it has itself created. Galbraith was skeptical that economic growth was leading to higher levels of well-being, because people's aspirations were being made to keep pace with their increased material prosperity. He worried that as advertising and salesmanship artificially enhanced the desire for private goods, public spending on such items as better schools and better parks suffered. The end result, according to Galbraith, was "private opulence and public squalor." Galbraith policy recommendation was clear: Increase the size of government.

Friedrich Hayek's most famous book was *The Road to Serfdom*, published in 1944. It argued that an extensive government role in the economy inevitably means a sacrifice of personal freedoms. Hayek also wrote a well-known critique of Galbraith in 1961, addressing in particular Galbraith's view of advertising. Hayek observed that advertising was merely one example of a broader phenomenon: Many preferences are created by the social environment. Literature, art, and music are all acquired tastes. A person's demand for hearing a Mozart concerto may have been created in a music appreciation class, but this fact does not make the desire less legitimate or the music professor a sinister influence. Hayek concluded, "It is because each individual producer thinks that the consumers can be persuaded to like his products that he endeavors to influence them. But though this effort is part of the influences which shape consumers' taste, no producer can in any real sense 'determine' them."

Although these two economists disagreed about the roles of advertising, markets, and government, they did have one thing in common: great acclaim. In 1974, Hayek won the Nobel prize in economics. In 2000, President Clinton awarded Galbraith the National Medal of Freedom. And even though their most famous works were written many decades ago, they are still well worth reading today.

LESSON 42

GALBRAITH vs. VON HAYEK

This is a pretty good measure of how far we have come in America in our understanding of freedom from that of the founders: Bill Clinton awarded the "Medal of Freedom" to John Kenneth Galbraith on August 9, 2000, despite the fact that Galbraith has been a stalwart champion of the very opposite idea of freedom from that laid out by those founders.

Galbraith, a professor emeritus at the department of economics at Harvard University, although a fine writer and charming human being-- so much so that William F. Buckley, Jr., has been his long time friend despite their political differences--has been a socialist for nearly all of his career. He has been a relentless critic of capitalism and the market system, based on his essentially elitist and paternalistic idea of what governments must do for the people they serve. This was to make them all abide by tenets of "fairness" or, at least, his socialist version of that ideal.

Galbraith, though an avowed statist--not of the Marxist-Leninist but more of the democratic socialist variety--has been one of the most fervent bashers of the "rich" in contemporary American culture. While not an explicit Marxist, he accepted the Marxian idea that capitalists create nothing and take a great deal that they should not be allowed to have. In his most popular book, *The Affluent Society*, he laid out a case for a powerful welfare state. He has written in some of the most prestigious publications of our society, including *The New York Review of Books*, *The New York Times*, *American Prospect*, *Dissent*, *The Nation* and so on.

One of his most well known and widely studied legacies was created from a section of his book dealing with advertising. Galbraith asserted that advertising is a device by which business creates desires in consumers which must be acted on and thus produce what he called "the dependency effect." In other words, consumers become dependent on corporations because the latter create desires in them for the goods and services they offer for sale. By this means, corporations become wealthy, make huge profits, while resources are taken away from far more important projects, you guessed it, those the government wants to provide for us. The public sector is diminished and the private sector unfairly benefits.

This famous section of *The Affluent Society* is reprinted in nearly all business ethics readers serving as text books for business school students across the world. Far fewer of these volumes offer the decisive rebuttal to Galbraith's position, penned by the great economists, the late F. A. Hayek. Hayek noted that Galbraith's claim is true but not just for business and advertisers but also of all human creative endeavors.

The difference is that unlike Galbraith, Hayek did not believe that the desires that people might cultivate for what is presented to them must be acted on. Instead, we have the freedom to choose whether to try to fulfill our desires, however they might be created. Advertising appeals to us but cannot make us do anything. It is a promotional project by which producers call out to us hoping we would consider what they have to offer and to purchase it. But there is no guarantee at all that we will act as the advertisers wishes we would.

In what sense does Galbraith deserve a medal of freedom? Only in the sense that a certain conception of freedom does underlie his thinking. This is what is called "positive" freedom. It means a condition whereby people are provided by government, and at the expense of other people, with what they could use to advance their lot. Such provisions would "free" them to move forward.

The freedom of the American founders is quite different, mainly backed by a different idea of human nature. It is that people in communities require first and foremost not to be thwarted in their efforts to make headway in life.

Others may not be conscripted into involuntary servitude to provide them with what they might need because if they are not thwarted by them, they will be able to do this on their own. Not equally rapidly, not to the same extent, perhaps, but if they only apply themselves, they will flourish without coercing others.

Galbraith has never championed this kind of "negative" freedom. So his views are alien to the American political tradition. It is not surprising, then, that he receives the medal of freedom from President Bill Clinton, someone who has done nothing at all to further freedom in this truly American sense.

To Galbraith's minor credit, however, he did, a few years ago, finally admit that capitalism is a far better economic system than socialism. He did this only in the wake of the collapse of the Soviet Empire. And even then with great reservations and regret.

He was asked, in an interview published in Alitalia's October 1996 "in flight" magazine: "You spoke of the failure of socialism. Do you see this as a total failure, a counterproductive alternative?" He replies this way: "I'd make a distinction here. What failed was the entrepreneurial state, but it had some beneficial effect. I do not believe that there are any radical alternatives, but there are correctives. The only alternative socialism, that is the alternative to the market economy, has failed. The market system is here to stay."

LESSON 43

ADVERTISING AND SELF-REGULATION

The self-regulatory system comprises three bodies: the Advertising Standards Authority (ASA), the Advertising Standards Board of Finance (ASBOF) and the Committee of Advertising Practice (CAP). Their work is described below.

60.2 The strength of the system depends on the long-term commitment of all those involved in advertising, sales promotions and direct marketing (marketing).
Practitioners in every sphere share an interest in seeing that marketing communications are welcomed and trusted by their audience; unless they are accepted and believed they cannot succeed. If they are offensive or misleading they discredit everyone associated with them and the industry as a whole.

60.3 The Code and all ASA rulings together with ASA and CAP guidance on a wide range of topics are available on www.asa.org.uk and www.cap.org.uk. The
ASA and CAP update their websites regularly.

In the UK, the British Code of Advertising, Sales Promotion and Direct Marketing (the Code) is the rule book for non-broadcast advertisements, sales promotions and direct marketing communications (marketing communications). The Code is primarily concerned with the content of marketing communications and not with terms of business or products themselves. Some rules, however, go beyond content, for example those that cover the administration of sales promotions, the suitability of promotional items, the delivery of products ordered through an advertisement and the use of personal information in direct marketing. Editorial content is specifically excluded from the Code, though it might be a factor in determining the context in which marketing communications are judged.

The Committee of Advertising Practice (CAP) is the self-regulatory body that creates, revises and enforces the Code. CAP's members include organizations that represent the advertising, sales promotion, direct marketing and media businesses. Through their membership of CAP member organizations, or through contractual agreements with media publishers and carriers, those businesses agree to comply with the Code so that marketing communications are legal, decent, honest and truthful and consumer confidence is maintained.

Some CAP member organizations, for example the Direct Marketing Association and the Proprietary Association of Great Britain, also require their members to observe their own codes of practice. Those codes may cover some practices that are not covered in this Code. The Code supplements the law, fills gaps where the law does not reach and often provides an easier way of resolving disputes than by civil litigation or criminal prosecution. In many cases, self-regulation ensures that legislation is not necessary. Although advertisers, promoters and direct marketers (marketers), agencies and media may still wish to consult lawyers, compliance with the Code should go a long way to ensuring compliance with the law in areas covered by both the Code and the law. By creating and following self-imposed rules, the marketing community produces marketing communications that are welcomed and trusted. By practicing self-regulation, it ensures the integrity of advertising, promotions and direct marketing.

The value of self-regulation as an alternative to statutory control is recognized in EC Directives, including those on misleading and comparative advertising (Directives 84/450 and 97/55 EC), and self-regulation is accepted by the Department of Trade and Industry and the Office of Fair Trading as a first line of control in protecting consumers.

The Advertising Standards Authority (ASA) is the independent body that endorses and administers the Code, ensuring that the self-regulatory system works in the public interest. The ASA's activities include investigating and adjudicating on complaints and conducting research. A leaflet describing the ASA's complaints procedure is available on request and full information
is available on www.asa.org.uk.

The vast majority of advertisers, promoters and direct marketers comply with the Code. Those that do not may be subject to sanctions. Adverse publicity may result from the rulings published by the ASA weekly on its website. The media, contractors and service providers may withhold their services or deny access to space. Trading privileges (including direct mail discounts) and recognition may be revoked, withdrawn or temporarily withheld. Pre-vetting may be imposed and, in some cases, non-complying parties can be referred to the Office of Fair Trading for action, where appropriate, under the Control of Misleading Advertisements Regulations. The system is structured so that it does not operate in an unfair or anti-competitive manner or restrict free speech unjustifiably. ASA decisions are subject to independent review, including in exceptional cases by the Administrative Division of the High Court. The full text of the Code is available on www.cap.org.uk. Copyright The Committee of Advertising Practice 2005.

MEMBERS OF THE COMMITTEE OF ADVERTISING PRACTICE

- Advertising Association
- Broadcast Advertising Clearance Centre
- Cinema Advertising Association
- Direct Marketing Association
- Direct Selling Association
- Incorporated Society of British Advertisers
- Institute of Practitioners in Advertising
- Institute of Sales Promotion
- Interactive Advertising Bureau
- Mail Order Traders Association
- Newspaper Publishers Association
- Newspaper Society
- Outdoor Advertising Association
- Periodical Publishers Association
- Proprietary Association of Great Britain
- Radio Advertising Clearance Centre
- Royal Mail
- Scottish Daily Newspaper Society
- Scottish Newspaper Publishers Association

INTRODUCTION

This eleventh edition of the Code comes into force on 4 March 2003. It replaces all previous editions.

Advertisements in newspapers, magazines, brochures, leaflets, circulars, mailings, e-mails, text transmissions, fax transmissions, catalogues, follow-up literature and other electronic and printed material posters and other promotional media in public places, including moving images

- Cinema and video commercials
- Advertisements in non-broadcast electronic media, including online advertisements in paid-for space (e.g. banner and pop-up advertisements)
- View data services
- Marketing databases containing consumers' personal information
- Sales promotions
- Advertisement promotions

The Code does not apply to:

a. Broadcast commercials. (The BCAP Advertising Standards Codes set out the rules that govern broadcast advertisements on any television channel and radio station licensed by Ofcom.)
b. The contents of premium rate services, which are the responsibility of the Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS); marketing communications that promote these services are subject to ICSTIS regulation and to the Code
c. Marketing communications in foreign media. Direct marketing that originates outside the UK but is targeted at UK consumers will be subject to the jurisdiction of the relevant authority in the country where it originates so long as that authority operates a suitable cross-border complaint system. If it does not, the ASA will take what action it can. All members of the European Union, and many non-European countries, have self-regulatory organizations that are members of the European Advertising Standards Alliance (EASA). EASA co-ordinates the cross-border complaints system for its members (which include the ASA).
d. Health-related claims in marketing communications addressed only to the medical, dental, veterinary and allied professions
e. Classified private advertisements, including those appearing online
f. Statutory, public, police and other official notices/information, as opposed to marketing communications, produced by public authorities and the like
g. Works of art exhibited in public or private
h. Private correspondence, including correspondence between companies and their customers about existing relationships or past purchases
i. Live oral communications, including telephone calls
j. Press releases and other public relations material, so long as they do not fall under 1.1 above
k. Editorial content, for example of the media and of books
l. Regular competitions such as crosswords
m. Fly posting (most of which is illegal)
n. Packages, wrappers, labels, tickets, timetables and price lists unless they advertise another product, a sales promotion or are visible in a marketing communication
o. Point of sale displays, except those covered by the sales promotion rules and the rolling paper and filter rules
p. Election advertisements as defined in clause 12.1
q. Website content, except sales promotions and advertisements in paid-for space

s. Customer charters and codes of practice.

These definitions apply to the Code:

a. A *product* encompasses goods, services, ideas, causes, opportunities, prizes or gifts
b. A *consumer* is anyone who is likely to see a given marketing communication, whether in the course of business or not
c. The *United Kingdom* rules cover the Isle of Man and the Channel Islands
d. A *claim* can be implied or direct, written, spoken or visual
e. The Code is divided into numbered *clauses*
f. A *marketing communication* includes all forms of communication listed in 1.1
g. A *marketer* includes an advertiser, promoter or direct marketer
h. A *supplier* is anyone who supplies products that are sold by distance selling
i. marketing communications (and may also be the marketer)
j. A *child* is anyone under 16.
k. A *corporate subscriber* includes corporate bodies such as limited companies in the UK, limited liability partnerships in England, Wales and N. Ireland or any partnerships in Scotland. It also includes schools, hospitals, Government departments or agencies and other public bodies. It does not include sole traders or non-limited liability partnerships in England, Wales and N. Ireland.

These criteria apply to the Code:

a. The ASA Council's interpretation of the Code is final
b. Conformity with the Code is assessed according to the marketing communication's probable impact when taken as a whole and in context. This will depend on the medium in which the marketing communication appeared, the audience and its likely response, the nature of the product and any additional material distributed to consumers
c. The Code is indivisible; marketers must conform with all appropriate rules
d. The Code does not have the force of law and its interpretation will reflect its flexibility. The Code operates alongside the law; the Courts may also make rulings on matters covered by the Code
e. An indication of the statutory rules governing marketing is given on www.cap.org.uk; professional advice should be taken if there is any doubt about their application
f. No spoken or written communications with the ASA or CAP should be understood as containing legal advice
g. The Code is primarily concerned with the content of advertisements, promotions and direct marketing communications and not with terms of business or products themselves. Some rules, however, go beyond the content, for example those that cover the administration of sales promotions, the suitability of promotional items, the delivery of products ordered through an advertisement and the use of personal information in direct marketing. Editorial content is specifically excluded from the remit of the Code (see 1.2k), although it might be a factor in determining the context in which marketing communications are judged.
h. The rules make due allowance for public sensitivities but will not be used by the ASA to diminish freedom of speech unjustifiably
i. The ASA does not arbitrate between conflicting ideologies.

GENERAL RULES
Principles

All marketing communications should be legal, decent, honest and truthful.
All marketing communications should be prepared with a sense of responsibility to consumers

2.3All marketing communications should respect the principles of fair competition generally accepted in business.
2.4 No marketing communication should bring advertising into disrepute.
2.5 Marketing communications must conform with the Code. Primary responsibility for observing the Code falls on marketers. Others involved in preparing and publishing marketing communications such as agencies, publishers and other service suppliers also accept an obligation to abide by the Code.
2.6 Any unreasonable delay in responding to the ASA's enquiries may be considered a breach of the Code.
2.7 The ASA and CAP will on request treat in confidence any genuinely private or secret material supplied unless the Courts or officials acting within their statutory powers compel its disclosure.
2.8 The Code is applied in the spirit as well as in the letter.

Substantiation

Before distributing or submitting a marketing communication for publication, marketers must hold documentary evidence to prove all claims, whether direct or implied, that are capable of objective substantiation. Relevant evidence should be sent without delay if requested by the ASA or CAP. The adequacy of evidence will be judged on whether it supports both the detailed claims and the overall impression created by the marketing communication. The full name and geographical business address of marketers should be provided without delay if requested by the ASA or CAP.

- If there is a significant division of informed opinion about any claims made in a marketing communication they should not be portrayed as generally agreed.
- Claims for the content of non-fiction books, tapes, videos and the like that have not been independently substantiated should not exaggerate the value, accuracy, scientific validity or practical usefulness of the product.
- Obvious untruths or exaggerations that are unlikely to mislead and incidental minor errors and unorthodox spellings are all allowed provided they do not affect the accuracy or perception of the marketing communication in any material way.

Legality

Marketers have primary responsibility for ensuring that their marketing communications are legal. Marketing communications should comply with the law and should not incite anyone to break it.

Decency (i.e. avoiding serious or widespread offence)

Marketing communications should contain nothing that is likely to cause serious or widespread offence. Particular care should be taken to avoid causing offence on the grounds of race, religion, sex, sexual orientation or disability. Compliance with the Code will be judged on the context, medium, audience, product and prevailing standards of decency.

Marketing communications may be distasteful without necessarily conflicting with 5.1 above. Marketers are urged to consider public sensitivities before using potentially offensive material.
The fact that a particular product is offensive to some people is not sufficient grounds for objecting to a marketing communication for it.

Honesty

Marketers should not exploit the credulity, lack of knowledge or inexperience of consumers.

Truthfulness

No marketing communication should mislead, or be likely to mislead, by inaccuracy, ambiguity, exaggeration, omission or otherwise.

Matters of opinion

Marketers may give a view about any matter, including the qualities or desirability of their products, provided it is clear that they are expressing their own opinion rather than stating a fact. Assertions that go beyond subjective opinions.

Fear and distress

- No marketing communication should cause fear or distress without good reason. Marketers should not use shocking claims or images merely to attract attention.
- Marketers may use an appeal to fear to encourage prudent behavior or to discourage dangerous or ill-advised actions; the fear likely to be aroused should not be disproportionate to the risk.

Safety

- Marketing communications should not condone or encourage unsafe practices. Particular care should be taken with marketing communications addressed to or depicting children.
- Consumers should not be encouraged to drink and drive. Marketing communications should, where appropriate, include a prominent warning on the dangers of drinking and driving and should not suggest that the effects of drinking alcohol can be masked.

Violence and anti-social behavior

Marketing communications should contain nothing that condones or is likely to provoke violence or anti-social behavior.

Political advertising

- Any advertisement or direct marketing communication, whenever published or distributed, whose principal function is to influence voters in local, regional, national or international elections or referendums is exempt from the Code.
- There is a formal distinction between Government policy and that of political parties. Marketing communications by central or local government, as distinct from those concerning party policy, are subject to the Code.

Protection of privacy

Marketers should not unfairly portray or refer to people in an adverse or offensive way. Marketers are urged to obtain written permission before:

a. Referring to or portraying members of the public or their identifiable possessions; the use of crowd scenes or general public locations may be acceptable without permission
b. Referring to people with a public profile; references that accurately reflect the contents of books, articles or films may be acceptable without permission
c. Implying any personal approval of the advertised product; marketers should recognize that those who do not wish to be associated with the product may have a legal claim.
    - Prior permission may not be needed when the marketing communication contains nothing that is inconsistent with the position or views of the person featured.
    - References to anyone who is deceased should be handled with particular care to avoid causing offence or distress.
    - Members of the Royal Family should not normally be shown or mentioned in marketing communications without their prior permission. Incidental references unconnected with the advertised product, or references to material such as books, articles or films about members of the Royal Family, may be acceptable.
    - The Royal Arms and Emblems should be used only with the prior permission of the Lord Chamberlain's office. References to Royal Warrants should be checked with the Royal Warrant Holders' Association.

Testimonials and endorsements

- Marketers should hold signed and dated proof, including a contact address, for any testimonial they use. Unless they are genuine opinions taken from a published source, testimonials should be used only with the written permission of those giving them.
- Testimonials should relate to the product being advertised.
- Testimonials alone do not constitute substantiation and the opinions expressed in them must be supported, where necessary, with independent evidence of their accuracy. Any claims based on a testimonial must conform to the Code.
- Fictitious testimonials should not be presented as though they are genuine.
- Unless they are genuine statements taken from a published source, references to tests, trials, professional endorsements, research facilities and professional journals should be used only with the permission of those concerned.
- Marketers should not refer in marketing communications to advice received from CAP or imply any endorsement by the ASA or CAP.

Prices
(see CAP Help Notes on Lowest Price Claims and Price Promises and on Retailers' Price Comparisons)

- Any stated price should be clear and should relate to the product advertised.
- Marketers should ensure that prices match the products illustrated (see 48.7).
- Prices quoted in marketing communications addressed to the public should include VAT and other non-optional taxes and duties imposed on all buyers. In some circumstances, for example where marketing communications are likely to be read mainly by businesses able to recover VAT, prices may be quoted exclusive of VAT or other taxes and duties, provided prominence is given to the amount or rate of any additional costs.

- If the price of one product is dependent on the purchase of another, the extent of any commitment by consumers must be made clear.
- Price claims such as 'up to' and 'from' should not exaggerate the availability of benefits likely to be obtained by consumers.
- A recommended retail price (RRP), or similar, used as a basis of comparison should be genuine; it should not differ significantly from the price at which the product is generally sold.

Availability of products

- Marketers must make it clear if stocks are limited. Products must not be advertised unless marketers can demonstrate that they have reasonable grounds for believing that they can satisfy demand. If a product becomes unavailable, marketers will be required to show evidence of stock monitoring, communications with outlets and swift withdrawal of marketing communications whenever possible.
- Products which cannot be supplied should not normally be advertised as a way of assessing potential demand unless it is clear that this is the purpose of the marketing communication.
- Marketers must not use the technique of switch selling, where their sales staff criticizes the advertised product or suggest that it is not available and recommend the purchase of a more expensive alternative. They should not place obstacles in the way of purchasing the product or delivering it promptly.

LESSON 44

CONSUMER PRIVACY

Going online and taking advantage of what the Internet has to offer may require that you disclose personal information. Whether you're new to the Net, or consider yourself savvy in the ways of the Web, you may have concerns about how personal information is collected, what choices you have about how it is used and shared, and under what circumstances you can access it.

Many of the creators of Consumer Privacy Guide believe that to assure the privacy of their personal information, consumers must have the protection provided by basic law. Law would provide Internet users with basic expectations about Web sites' responsibilities for protecting the privacy of the personal information they collect. We continue to work toward this goal. But whether information in the online world is protected by law or not, consumers need information and tools to take charge of their privacy.

Privacy Guide gives you useful tips for protecting your privacy and helps you take control of the way your information is used. It attempts to answer your questions, in consumer friendly, practical terms, about what you can do to assure that information that you choose to share with companies is used in ways you believe are appropriate. This site will explain terms used on the Internet that may be unfamiliar to you, provide "how-to" guides to understanding privacy resources and technologies, and point you toward other helpful resources.

Consumer Privacy

Advances in computer processing power, database software, and communication technologies have given us the power to collect, manipulate, and disseminate personal information about consumers on a scale unprecedented in the history of the human race. This new power over the collection, manipulation, and dissemination of personal information has enabled mass invasions of the privacy of consumers and has created the potential for significant harms arising from mistaken or false information. For example, a pair of British investigators reported that in England, where companies register with the government the kind of information they will collect, businesses were collecting highly detailed and very personal information about their customers.

Speaking broadly, the right to privacy is the right to be left alone. We do not discuss this broad characterization of the right to privacy, however, but concentrate on privacy as the right of a person not to have others spy on his or her private life. In this more narrow sense, the right to privacy can be defined as the right of persons to determine what, to whom, and how much information about themselves will be disclosed to other parties.

There are two basic types of privacy: **Psychological privacy** is privacy with respect to a person's inner life. This includes the person's thoughts and plans, personal beliefs and values, feelings, and wants. These inner aspects of a person are so intimately connected with the person that to invade them is almost an invasion of the very person. **Physical privacy** is privacy with respect to a person's physical activities. For example, a person in our culture normally feels degraded if force to disrobe publicly or perform biological or sexual functions in public. Physical privacy, therefore, is also valued for its own sake.

Privacy is also important because it has several enabling functions. First, privacy enables a person to develop ties of friendship, love, and trust. Without intimacy, these relationships could not flourish. Intimacy, however, requires both sharing information about oneself that is not shared with everyone and engaging in special activities with others that are not publicly performed. Therefore, without privacy, intimacy would be impossible and relationships of friendship, love, and trust could not exist.

Second, privacy enables certain professional relationships to exist. Insofar as the relationships between doctor and patient, lawyer and client, and psychiatrist and patient all require trust and confidentiality, they could not exist without privacy.

Third, privacy also enables a person to sustain distinct social roles. The executive of a corporation, for example, may want, as a private citizen, to support a cause that is unpopular with his of her firm. Privacy enables the executive to do so without fear of reprisal.

Fourth, privacy enables people to determine who they are by giving them control of the way they present themselves to society in general and of the way that society in general looks on them. At the same time, privacy enables people to present themselves in special way to those whom they select. In both cases, this self-determination is secured by the right of the individual to determinate the nature and extent of disclosure of information about oneself.

It must be balanced, however, with the rights and needs of others. Banks must know something about the credit history of those to whom they are lending money, for example. Since consumers benefit from the banking system, they also benefit from their right to privacy being balanced against the banks' right to know their personal information.
To balance these two factors, the following factors are crucial:

1. **Relevance** - Databases should contain only information directly relevant to the purpose for which it is collected.
2. **Informing** - Consumers should be informed that information is being collected and told what the purpose of its collection is.
3. **Consent** - Businesses should collect information only if consumers consent to provide it.
4. **Accuracy -** Agencies must ensure that the information is up to date and otherwise accurate, quickly correcting any errors.
5. **Purpose** - The purpose for which the information is collected must be legitimate, resulting in benefits generally enjoyed by those who are having the information gathered from them.
6. **Recipients and Security** - Agencies must ensure that the information is secure and not available to unintended users or sold to others without the individual's consent.

Privacy is the number one concern of Internet users; it is also the top reason why non-users still avoid the Internet. Survey after survey indicates mounting concern. While privacy faces threats from both private and government intrusions, the existing motley patchwork of privacy laws and practices fails to provide comprehensive protection. Instead, it causes confusion that fuels a sense of distrust and skepticism, limiting realization of the Internet's potential.

A unique combination of tools -- legal, technical, and self-regulatory -- is being designed to address the privacy concerns of Internet users. Top-priority objectives include setting limits on government access to personal information, ensuring that new information and communication

appropriate federal legislation to set baseline standards for consumer privacy. This guide is intended to educate Internet users about online privacy, and offer practical suggestions and policy recommendations.

LESSON 45

THE ETHICS OF JOB DISCRIMINATION

This lecture discusses one of the internal conflicts that arise in business, namely the issue of job discrimination. It begins by quoting two long passages illustrating the current state of the debate in the U.S.–one by former President Bill Clinton, one by former California Governor Pete Wilson.

Clinton calls for the U.S. to preserve its affirmative action programs. He outlines many inequities that still remain in American business, and argues that affirmative action is still necessary to "give our nation a way to finally address the systematic exclusion of individuals of talent on the basis of their gender or race." As long as there are no specific quotas, he maintains, then the affirmative action's critics are wrong.

Wilson, on the other hand, cites Thomas Jefferson in his criticism of affirmative action. He argues that it is unfair to award jobs based on any criteria other than merit. He sees affirmative action as preferential treatment, "special privileges" for a select minority–in effect, a type of reverse discrimination.

Because discrimination based on gender and race have been around for so long in business, its consequences in this area have been substantial and persistent. This chapter examines the nature of discrimination, discusses the ethical aspects of such behavior, and concludes by considering affirmative action programs in particular.

Job Discrimination: Its Nature

Though more women and minorities are entering formerly white male-dominated jobs, they still face discrimination. The experiment conducted by ABC shows that women and minorities were systematically given less consideration in hiring: they received fewer job offers and less desirable jobs than white males. Other research suggests that blacks and Hispanics were offered jobs 50% fewer times than white males.

Discrimination in its root meaning is not at all wrong. It simply refers to the act of distinguishing one object from another. However, in modern usage, the term refers to "wrongful discrimination," or distinguishing among people on the basis of prejudice instead of individual merit.

Discrimination in employment involves three basic elements:

1. It must be a decision not based on individual merit.
2. The decision must derive from racial or sexual prejudice.
3. The decision must have a harmful impact on the interest of employees.

Discriminatory acts themselves can be categorized according to the extent to which they are intentional and institutionalized. An act may be part of the isolated behavior of a single individual who:

1. Intentionally discriminates based on personal prejudice.
2. An act may be part of the routine, institutionalized behavior of a group.
3. The act must intentionally discriminate out of personal prejudice.

4. An act may be part of the isolated behavior of a single individual who unintentionally discriminates because he or she uncritically adopts the practices and stereotypes of his or her society.

An act may be part of the systematic routine of a group that unintentionally discriminates because group members uncritically incorporate the discriminatory practices of society.

Whereas in the early 1960s discrimination was generally seen an intentional and individual, by the 1970s a shift had occurred to emphasize the effects of unintentional forms of discrimination. A group would be guilty of discrimination if minority group representation were not proportionate to the minority group's local availability.

Subsequently, people came to criticize this view. They argued that discrimination was the act of individuals, that individual minority and women were its victims. The problem with this criticism is that it is often difficult to know whether a specific individual, was discriminated against. The only way of telling whether a process is fair or discriminatory is to see what happens to minorities as a group. American society has gone back and forth on this issue ever since. Many even believe that though businesses in the U.S. used to be discriminatory, they are no longer so.

Discrimination: It's Extent

An indication of discrimination exists when a disproportionate number of a certain group's members hold less desirable positions despite their preferences and abilities. We can make three types of comparisons to provide evidence of this type: comparisons of average benefits given to various groups, comparisons of the proportion of a group found in the lowest levels of the institution, and comparisons of the proportion of a group found in the most advantageous positions in the institution. When we make these three comparisons, it seems clear that some form of discrimination is still present in the U.S., though for some groups it is not as intense as it used to be.

Income comparisons are the most suggestive indicators of discrimination. The income gap between whites and blacks, counter to what many think, has not decreased (black average family income remains about 65% that of whites). There are similar inequalities found based on gender as well. Though the ratio between male and female earnings is getting more equal, this is largely due not to a rise in female earnings but to a drop in, male earnings. Disparities begin immediately after graduation; in fact, female college graduates earn about as much as male high school graduates. In every occupational group, women earn less than men. Blacks fare a bit better than females, but not much. For black male college graduates, the picture is better: they now earn about what white male college graduates do.

For most other blacks, however, the picture remains grim. Lowest income group comparisons and desirable occupation comparisons give similar results. Statistically, larger proportions of minorities and women are poor, and larger proportions of white males have the most desirable occupations. In fact, the more women who work in an occupation, the lower the average pay for that job. Though perhaps some of the disparities between white males and women or minorities can be accounted for by the preferences of the latter (who voluntarily choose to work in the lower paying jobs), the disparities are so large that it cannot entirely be accounted for in this way.

The difficulties for minorities seem to be getting worse. Though they will soon be a majority of the labor force, studies indicate that many of the new jobs that will be created will require education beyond high school, and most minorities are falling behind in their educational attainment. For women, another obstacle exists: unwanted sexual attention.

Finding that our economic institutions generally seem to embody discrimination, as this section proves it, does not in itself prove that any particular business is discriminatory, however.

Discrimination: Utility, Rights, and Justice

Given the inequalities found in U.S. businesses, we must address the issue of whether these inequalities are wrong and, if they are, how they should be changed. Arguments against discrimination fall into three groups: utilitarian arguments, rights arguments, and justice arguments. The utilitarian argument against discrimination maintains that society's productivity will be highest when jobs are awarded based on competence or merit. Discrimination based on anything else is inefficient and, therefore, counter to utility.

Utilitarian arguments have been attacked on two fronts. First, if jobs should be assigned on the basis of job-related qualifications only so long as such assignments will advance the public welfare, then if public welfare would be advanced to a greater degree by assigning jobs on the basis of some factor not related to job performance, then the utilitarian would have to hold that in those situations jobs should not be assigned on the basis of job related qualifications, but on the basis of that other factor. Second, it might be true that society as a whole would benefit by having some group discriminated against.

Other, non-utilitarian arguments against discrimination maintain that it is wrong because it violates people's basic human rights. Kant, for example, says that humans should be treated as ends in themselves and never as a means to an end. Therefore, discrimination is wrong because it violates people's rights to be treated as equals. In addition, some Kantian thinkers argue that discrimination is wrong because the person who discriminates would not want to see his or her behavior universalized (at least they would not want to change places with the victim of their own discrimination).

A third group of arguments against discrimination views it as unjust. Rawls argues that it is unjust arbitrarily to give some people more opportunity than others. Another related argument sees it as a form of injustice because individuals who are equal in all relevant respects cannot be treated differently just because they differ in other, non-relevant respects. The problem with this argument is that it is difficult to define precisely what counts as relevant and to explain why sex and race are not relevant, but intelligence is.

Despite the difficulties with these arguments against discrimination, there are five widely recognized categories of discriminatory practices:

1. Recruitment practices that rely on the word-of-mouth referrals of present employees will tend to recruit only from the groups already represented.
2. Screening practices that include qualifications not relevant to a job (such as requiring a certain level of education for very low-level jobs).
3. Promotion practices that place groups on separate tracks or that rely solely on seniority when past discrimination has kept women or minorities out of senior positions.
4. Conditions of employment that do not award equal wages and salaries to people doing essentially the same work.

5. Discharging an employee based on race or gender, or layoff policies that rely solely on seniority.

Women are victims of a different and troublesome type of discrimination: sexual harassment. Generally, the guidelines against sexual harassment are clearly morally justified. However, there are some aspects of the guidelines that must be examined. They prohibit more than just particular acts of harassment; they also prohibit creating an intimidating, hostile, or offensive working environment.

This raises some difficult questions. Are mechanics who hang pin-up calendars guilty of sexual harassment? Though most people now say yes, there are a number of critics who say that these kinds of environments were not intended to degrade women, and besides, women have the power to take care of themselves. In addition, the guidelines say that verbal or physical contact is harassment if it has the effect of unreasonably interfering with the victim's work performance. This means, claim some critics, that sexual harassment depends on the purely subjective judgments of the victim; what is unreasonable to one person may seem perfectly acceptable to another.

A more serious objection to such guidelines is that they violate people's right to free speech. However, though these objections may be valid on college campuses, they are not at all relevant to businesses, where free discussion and examination of ideas are not the focus.

A firm can be guilty of sexual harassment even if it did not know and could not have known that the harassment was going on–indeed, even if the firm had expressly forbidden the offensive act. Supporters of the guidelines point out that the harms caused by sexual harassment should be considered a cost of doing business, which it is proper to internalize.

Groups other than women and racial minorities can be the victims of discrimination. The disabled, victims of AIDS, homosexuals, and the overweight are all discriminated against. Currently, there are no federal laws prohibiting discrimination against many of these groups.

Affirmative Action

So far, the policies discussed in this chapter are all negative, aimed at preventing further discrimination. Affirmative action programs, in contrast, call for positive steps designed to eliminate the effects of past discrimination. Such programs are now legally required of all firms holding government contracts.

Affirmative action programs begin with a detailed study, a "utilization analysis" of the major job classifications in an organization. The analysis is designed to discover whether there are fewer minorities or women in a particular job classification than could reasonably be expected. If the analysis shows that women or minorities are underutilized, then the firm must establish practices to correct these deficiencies.

The U.S. Supreme Court has not been clear about the legality of affirmative action programs. Rulings suggest significant vacillation on the issue. The main grounds for attacking them is that, in attempting to correct the effects of past injustice, affirmative action may actually be racially or sexually discriminatory itself.

In the face of this objection, supporters of affirmative action make two main counterarguments. One of these is to interpret affirmative action as a form of compensation for past injuries. The

other interprets preferential treatment as an instrument for achieving social goals. The former arguments are backward looking, focusing on the wrongness of the past; the latter are forward looking, instrumentalist arguments focusing on what the future ought to be.

Those who see affirmative action as a form of compensation maintain that white males must pay reparations for unjustly injuring others by discrimination in the past. The difficulty with such arguments is that the principle of compensatory justice requires that compensation should come only from those specific individuals who intentionally inflicted a wrong, and should be paid only to those specific individuals who suffered that wrong. It does not require that compensation should come from all members of a group containing some wrongdoers, nor that compensation should go to all members of a group containing some injured parties. Many have attempted to counter this argument by claiming that every minority living today has been injured by discrimination and that every white male has benefited from those injuries. Whether these arguments are successful or not is unclear.

The second way of justifying affirmative action sees it as an instrument for social change. Based on the statistics such as those at the beginning of this chapter, such arguments maintain that race and gender provide an indicator of need. Since reducing this need is consistent with utilitarian principles (as it will increase total utility), affirmative action is justified.

Objections made to this argument question whether the social costs of affirmative action outweigh their benefits. However, even more elaborate and convincing arguments for affirmative action are made. They argue that the goal of affirmative action is social justice, and that affirmative action is a morally legitimate means for achieving this goal.

Presently, women and minorities do not have the equal opportunity that justice demands statistics prove this. The conscious and unconscious bias that brings this injustice about must be neutralized, along with the competitive disadvantages with which women and minorities are burdened. The basic end, therefore, is a more just society, and preferential treatment is a morally legitimate means to attain this end.

However, three reasons have been advanced to show that affirmative action is not, in fact, morally legitimate. First, it is claimed that affirmative action discriminates against white males. However, given the definition of discrimination, because the preferential treatment is not based on contempt of white males, it cannot be said to be the same thing as discrimination against minorities or women.

Second, some claim that preferential treatment violates the principle of equality because it takes into consideration race, which is an irrelevant characteristic. Defenders of affirmative action counter by saying that sexual and racial differences are actually relevant characteristics. Third, critics claim that affirmative action actually harms minorities by implying that they are so inferior to white males that they need special help to succeed. This claim is countered by saying that, though affirmative action undoubtedly has some costs, the benefits of such programs outweigh them. Moreover, they point out that affirmative action is not based on an assumption of white male superiority but on recognition of bias in favor of white males. Finally, they point out that though some minorities may feel inferior because of affirmative action, many more are made to feel inferior because of racism–and besides, showing preference towards them does not make them feel inferior. The arguments on both sides are powerful, and the debate continues.

Because of concerns raised by opponents of affirmative action, guidelines have been suggested to ensure that its more harmful effects will be lessened. Of course, the problems encountered by

minorities differ markedly from those encountered by women. Recently, some proposals that are more radical than affirmative action have been made to deal with sexual discrimination. Since the jobs women have historically taken pay low wages and salaries, proponents of *comparable worth programs* attempt not to place women into higher paying jobs, but to increase the salaries of those jobs where women currently are employed.

In a comparable worth program, each job in a firm is assigned a certain number of points for difficulty, skill requirements, experience, and other factors. Then, jobs are assumed to deserve equal pay if they score similarly. The fundamental argument in favor of comparative worth is the principle of justice. Opponents counter that the market is the most appropriate determining factor of wages. If the market pays a certain job a low salary, they claim, it is because there is a large supply of workers in that category.

In the near future, only a small proportion of new workers will be white males. Because of this demographic trend, firms' enlightened self-interest will prompt them to give women and minorities special consideration. If they do not accommodate themselves to these workers, they may not be able to find the workers they need to compete in the world market.