

Chapter 3

Ethical Theories



Learning Objectives

- 3.1 Describe the four theses of classical utilitarianism, the utilitarian approach to decision making, and the main criticisms of the cost-benefit analysis method
- 3.2 Summarize the two intuitive principles of Kantian ethics and their implications for moral reasoning
- 3.3 Define virtue and explain how virtues and principles of virtue ethics are relevant to business
- 3.4 Identify the meaning and importance of rights and the types of rights that apply in different situations
- 3.5 Explain the role of justice in business ethics, the three kinds of justice outlined by Aristotle, and the contemporary principles of justice offered by Rawls and Nozick

Case: Big Brother at Procter & Gamble

In early August 1991, a former employee of Procter & Gamble telephoned *Wall Street Journal* reporter Alecia Swasy at her Pittsburgh office to report some disturbing news.¹ "The cops want to know what I told you about P&G," he said. This 20-year veteran of the company had just been grilled for an hour by an investigator for the Cincinnati fraud squad. The investigator Gary Armstrong, who also happened to work part-time as a security officer for P&G, had records of the ex-manager's recent long-distance calls, including some to Swasy.

Alecia Swasy had apparently angered CEO Edward Artz with two news stories about troubles at P&G that the company was not ready to reveal. An article in the *Wall Street Journal* on Monday, June 10, 1991, reported that B. Jurgen Hintz, executive vice president and heir apparent as CEO, had been forced to resign over difficulties in the food and beverage division. The next day, on

Tuesday, June 11, a long article on the division's woes quoted "current and former P&G managers" as saying that the company might sell certain product lines, including Citrus Hill orange juice, Crisco shortening, and Fisher nuts. Swasy believed that Artz had deliberately lied to her when she tried to confirm the story of Hintz's departure in a telephone conversation on Saturday, and that he tried to sabotage the *Journal* by allowing the news to be released to the rival *New York Times* and the Cincinnati newspapers in time for the Sunday editions while the public relations department continued to deny the story to Swasy.

Immediately after the two articles appeared in the *Wall Street Journal*, Artz ordered a search of P&G's own phone records to determine the source of the leaks to the press. When this investigation failed to uncover any culprits, the company filed a complaint with the Hamilton County prosecutor's office, which promptly opened a grand jury investigation. The grand jury then issued several subpoenas calling for Cincinnati Bell to search its records for all calls in the 513 and 606 area codes, which cover southern Ohio and northern Kentucky, and

to identify all telephone calls to Alecia Swasy's home or office and all fax transmissions to the newspaper's Pittsburgh office between March 1 and June 15. The search combed the records of 803,849 home and business telephone lines from which users had placed more than 40 million long-distance calls.

P&G contended that it filed the complaint because of "significant and ongoing leaks of confidential business data, plans and strategies," which included not only leaks to the news media but also leaks to competitors as well. The legal basis for the grand jury probe was provided by a 1967 Ohio law that makes it a crime to give away "articles representing trade secrets" and by a 1974 Ohio law that prohibits employees from disclosing "confidential information" without the permission of the employer. However, reporters are generally protected by the First Amendment right of freedom of the press, and Ohio, Pennsylvania, and 24 other states have so-called "shield laws" that protect the identities of reporters' confidential sources.

Information about an executive's forced departure is scarcely a trade secret on a par with the formula for Crest toothpaste, and the use of the phrase "articles representing trade secrets" has been interpreted in the Ohio courts to mean documents such as photographs and blueprints, not word-of-mouth news. Any law that limits First Amendment rights must define the kind of speech prohibited and demonstrate a compelling need, but the 1974 law does not specify what constitutes confidential information or the conditions under which it is protected. Thus, some legal experts doubt the law's constitutionality. P&G denied that any reporter's First Amendment rights were being violated: "No news media outlet is being asked to turn over any names or any information. The investigation is focused on individuals who may be violating the law."

How do you think the public responded to P&G's actions?

Compare Your Thoughts

The response to P&G's role in the investigation was quick and angry. The Cincinnati chapter of the Society of Professional Journalists wrote, in a letter to CEO Artz, "The misguided action Procter & Gamble is taking threatens to trample the First Amendment and obviously reflects more concern in identifying a possible leak within the company rather than protecting any trade secrets. . . . Your complaint has prompted a prosecutorial and police fishing expedition that amounts to censorship before the fact and could lead to further abuse of the First Amendment by other companies also disgruntled by news media coverage." An editorial in the *Wall Street Journal* asked, "What possessed P&G?" and questioned the legality by saying, "We understand that P&G swings a big stick in Cincinnati, of course, and maybe the local law can, like Pampers, be stretched to cover the leak. It is not funny, though, to the folks being hassled by the cops."

The sharpest criticism came from William Safire, the *New York Times* columnist, who objected to Edward Artz's contention that P&G's mistakes are not "an issue of ethics." Safire concluded a column entitled "At P&G: It Sinks" with the words, "It's not enough to say, 'our leak hunt backfired, so excuse us'; the maker of Tide and Ivory can only come clean by showing its publics, and tomorrow's business leaders, that it understands that abuse of power and invasion of privacy are no mere errors of judgment—regrettably inappropriate—but are unethical, bad, improper, wrong."

In the end, no charges were filed against any individual, and the company continued to deny any wrongdoing. A spokesperson for P&G stated, "[The press] has the right to pursue information, but we have the right to protect proprietary information." Fraud squad investigator Gary Armstrong later went to work for P&G full-time.

Points to Consider...

Procter & Gamble's heavy-handed investigation was undeniably a violation of several accepted business ethics principles. However, the critics of P&G did not cite any harmful consequences of the investigation beyond the chilling effect it might have had on employees and members of the press. They complained instead about the abuse of power and invasion of privacy. In particular, P&G was charged with violating certain rights—the right of reporters to search out

newsworthy information and the right of ordinary citizens not to have their telephone records searched. Less certain is whether an employee has the right to disclose information to a reporter.

Consequences aside, however, there is something objectionable about a company snooping on its own employees and using law enforcement officials for company purposes. Although P&G's conduct appears questionable, it is not easy to specify exactly the moral wrongs. Moreover, reasonable people might disagree about what is wrong in this case and on the more

general issues involved. Our ordinary moral beliefs and the simple rules and principles of morality cannot settle all controversies that might arise from this and other cases.

When reasonable persons disagree about cases like these, we need to go beyond our conflicting positions and seek common ground in ethical theory. Put simply, the really hard questions of ethics require that we think deeply and search out the best reasons available. For a fuller, more adequate understanding of ethical reasoning than that provided by the previously presented ethical framework, we may need the resources of the ethical theories that have been developed over the centuries by major moral philosophers.

It is customary initially to divide ethical theories into two types, usually called *teleological* and *deontological*. The most prominent historical examples of a teleological and a deontological theory are utilitarianism and the ethical theory of Immanuel Kant, respectively.

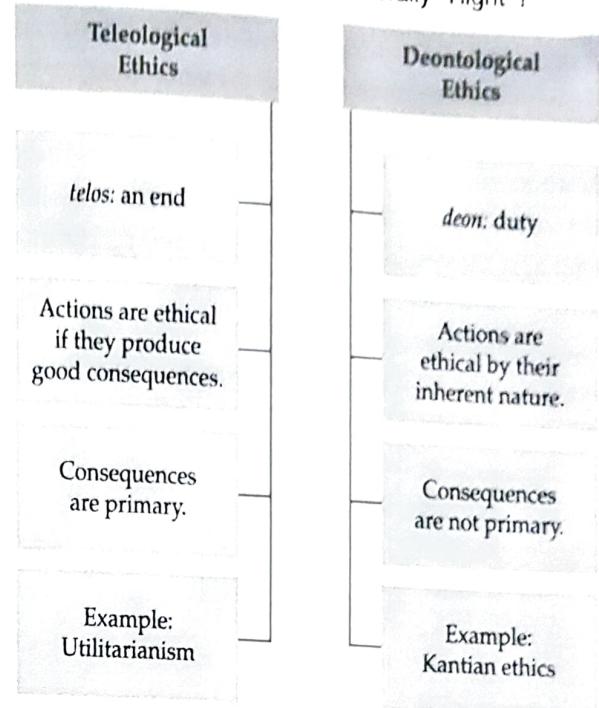
Teleological theories hold that the rightness of actions is determined solely by the amount of good consequences they produce. (The word “teleological” is derived from the Greek word “telos,” which means an end.) Actions are justified on teleological theories by virtue of the end they achieve, rather than some feature of the actions themselves.

Deontological theories, by contrast, deny that consequences are primary in determining what we ought to do. Deontologists typically hold that we have a duty to perform certain acts not because of some benefit to ourselves or others, but because of the nature of these actions or the inherent value of the principles from which they follow. (The word “deontological” is derived from “deon,” the Greek word for duty.) Thus, what makes lying wrong, a deontologist would say, is the very nature of lying, not the consequences of lying. Other examples of nonconsequentialist reasoning in ethics include arguments based on principles such as the Golden Rule and those that appeal to basic notions of rights, human dignity, and respect for other persons.

The features of these two kinds of ethical theories are shown in Figure 3.1.

A third type of ethical theory identifies *virtue* as the key element and focuses less on right conduct and more on good character. Morality on this view is mainly about acquiring and practicing the character traits that conduce to a good life. Virtue ethics does not attempt to answer the central question of teleolog-

Figure 3.1 What Actions Are Morally “Right”?



ical and deontological theories about what makes actions right; rather, it asks how we can live a life of right action.

These theories are not only a valuable resource for enabling us to think through ethical issues in business but also the foundation for the ethics of business. The arguments that are presented in subsequent chapters about a wide range of business ethics issues all draw upon these various ethical theories. Some familiarity with these theories, then, will greatly improve the moral compass that we use to navigate the treacherous ethical terrain of the business world.

WRITING PROMPT

Teleological, Deontological, and Virtue Ethics

Explain whether these three schools of thought seem equally valid. Which perspective do you adopt most often in your own life, and why?

3.1: Utilitarianism

3.1 Describe the four theses of classical utilitarianism, the utilitarian approach to decision making, and the main criticisms of the cost-benefit analysis method

Different parts of the utilitarian doctrine were advanced by philosophers as far back as the ancient Greeks, but it remained for two English reformers in

the nineteenth century to fashion them into a single coherent whole. The creators of classical utilitarianism were Jeremy Bentham (1748–1832) and John Stuart Mill (1806–1873), who lived in a turbulent era when England experienced some of the worst conditions of the Industrial Revolution. These were the conditions that moved Karl Marx to write *The Communist Manifesto*, and they were indelibly described by the poet William Blake as “these dark Satanic Mills.” In the hands of Bentham and Mill, utilitarianism was not an ivory-tower philosophy but a powerful instrument for social, political, economic, and legal change. Bentham and Mill used the principle of utility as a practical guide in the English reform movement.

3.1.1: Principle of Utility

Classical utilitarianism can be stated formally as follows:

An action is right if and only if it produces the greatest balance of pleasure over pain for everyone.

So stated, the utilitarian principle involves four distinct theses:

1. **Consequentialism.** The principle holds that the rightness of actions is determined solely by their consequences. It is by virtue of this thesis that utilitarianism is a teleological theory.
2. **Hedonism.** Utility in this statement of the theory is identified with pleasure and the absence of pain. Hedonism is the thesis that pleasure and only pleasure is ultimately good.
3. **Maximalism.** A right action is one that has not merely some good consequences but also the greatest amount of good consequences possible when the bad consequences are also taken into consideration.
4. **Universalism.** The consequences to be considered are those of everyone.

Consequentialism requires that the results or consequences of an act be measured in some way so that the good and bad consequences for different individuals can be computed and the results of different courses of action compared.

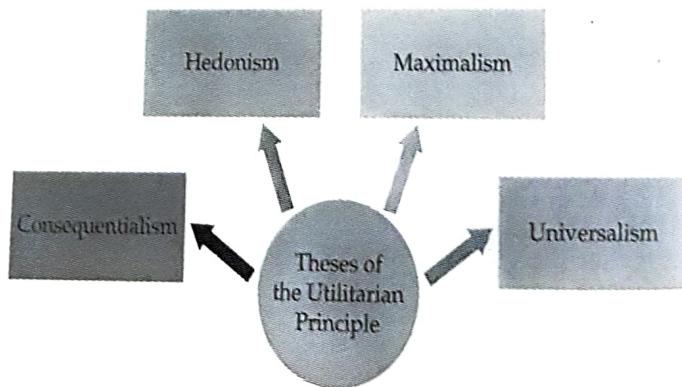
According to hedonism, the good and bad consequences to be considered are the pleasure and pain produced by an act. Virtually every act produces both pleasure and pain, and the principle of utility does not require that only pleasure and no pain result from

a right action. An action may produce a great amount of pain and still be right on the utilitarian view as long as the amount of pleasure produced is, on balance, greater than the amount of pleasure produced by any other action. Utilitarianism assumes that the amount of pain produced by an action can be subtracted from the amount of pleasure to yield the net amount of pleasure—in the same way that an accountant subtracts debts from assets to determine net worth.

The thesis of universalism requires us to consider the pleasure and pain of *everyone alike*. Thus, we are not following the principle of utility by considering the consequences only for ourselves, for our family and friends, or for an organization of which we are a part. Utilitarianism does not require us to ignore our own interest, but we are permitted to place it no higher and no lower than the interest of anyone else. The utilitarian principle does not insist that the interest of everyone be *promoted*, though. In deciding whether to close a polluting plant, for example, we need to consider the impact on everyone. No matter what decision is made, the interests of some people will be harmed. Utilitarian reasoning obligates us only to include the interests of everyone in our calculations, not to act in a way that advances every individual interest.

Use Figure 3.2 to review these four theses of utilitarianism.

Figure 3.2 Four Distinct Theses of the Utilitarian Principle



The pleasure and pain of everyone must be given equal consideration.

WRITING PROMPT

The Meaning of Utilitarianism

What problems might someone have with the four elements of utilitarianism? How might any one of these theses be modified to create a different form of utilitarianism?

ACT- AND RULE-UTILITARIANISM In classical utilitarianism, an action is judged to be right by virtue of the consequences of performing *that action*. As a result, telling a lie or breaking a promise is right if it has better consequences than any alternative course of action. Utilitarian morality thus seems to place no value on observing *rules*, such as "Tell the truth" or "Keep your promises," except perhaps as "rules of thumb," that is, as distillations of past experience about the tendencies of actions that eliminate the need to calculate consequences in every case.

This result can be avoided if we consider the consequences of performing not just particular actions but also *actions of a certain kind*. Although some instances of lying have consequences that are better than telling the truth, lying as a general practice does not. As a kind of action, then, truth-telling is right by virtue of the consequences of performing actions of that kind, and any instance of truth-telling is right because actions of that kind are right.

This suggestion leads to a distinction between two versions of utilitarianism, one in which we calculate the consequences of each act and another in which we consider the consequences of following the relevant rule. These two versions are called act-utilitarianism and rule-utilitarianism, respectively. They may now be expressed formally in the following way:

An action is right if and only if

- it produces the greatest balance of pleasure over pain for everyone. (Act-Utilitarianism)
- it conforms to a set of rules the general acceptance of which would produce the greatest balance of pleasure over pain for everyone.² (Rule-Utilitarianism)

Both act-utilitarianism and rule-utilitarianism have their merits, and there is no consensus among philosophers about which is correct.³ Act-utilitarianism is a simpler theory and provides an easily understood decision procedure. Rule-utilitarianism seems to give firmer ground, however, to the rules of morality, which are problems for all teleological theories.

CALCULATING UTILITY There is little difficulty in calculating that some actions produce more pleasure for us than others. A decision to spend an evening at a concert is usually the result of a judgment that

listening to music will give us more pleasure at that time than any available alternative. Confronted with a range of alternatives, we can usually rank them in order from the most pleasant to the least pleasant. A problem arises, however, when we attempt to determine exactly how *much* pleasure each course of action will produce, because pleasure cannot be measured precisely in terms of quantity, much less quality. Moreover, utilitarianism requires that we calculate utility not only for ourselves but also for all persons affected by an action.

Some critics contend that this requirement imposes an information burden on utilitarian decision makers that is difficult to meet. In order to buy a gift for a friend that will produce the greatest amount of pleasure, for example, we need to know something about that person's desires and tastes. Consider, for example, the task faced by a utilitarian legislator who must decide whether to permit logging in a public park. This person must identify all the people affected, determine the amount of pleasure and pain for each one, and then compare the pleasure that hiking brings to nature lovers versus the pain that would be caused to loggers if they lost their jobs. The abilities of ordinary human beings are inadequate, critics complain, to acquire and process the vast amount of relevant information in such a case. The response of utilitarians to these problems is that we manage in practice to make educated guesses by relying on past experience and limiting our attention to a few salient aspects of a situation.

Comparing the pleasure and pain of different people raises a further problem about the *interpersonal comparison of utility*. Imagine two people who each insists after attending a concert that he or she enjoyed it more. There seems to be no way in principle to settle this dispute. Some philosophers and economists consider this problem to be insoluble and a reason for rejecting utilitarianism both as an ethical theory and as a basis for economics.⁴ Others argue for the possibility of interpersonal comparisons on the basis that regardless of whether we can make such comparisons precisely, we do make them in everyday life with reasonable confidence.⁵ We may give away an extra ticket to a concert, for example, to the friend we believe will enjoy it the most based on past experience. The problem of the interpersonal comparison of utility is not insuperable, therefore, as long as rough comparisons are sufficient for utilitarian calculations.

WRITING PROMPT

Utilitarianism in Action

What are the problems with trying to objectively compare, or quantify, pleasure and pain? Think of the number scale doctors ask patients to use to describe the level of physical pain they are feeling. On this scale, 0 represents no pain and 10 represents pain so intense it causes the patient to lose consciousness. Why couldn't a similar system be used to quantify the consequences of an act for both pleasure and pain?

3.1.2: Cost–Benefit Analysis

The utilitarian ideal of a precise quantitative method for decision making is most fully realized in *cost–benefit analysis*. This method differs from classical utilitarianism, with its measure of pleasure and pain, primarily in the use of monetary units to express the consequences of various alternatives. Any project in which the dollar amount of the benefits exceeds the dollar amount of the costs is worth pursuing, according to cost–benefit analysis, and from among different projects, the one that promises the greatest net benefit, as measured in dollars, ought to be chosen.⁶

The chief advantage of cost–benefit analysis is that the prices of many goods are set by the market, so that the need to have knowledge of people's pleasures or preferences is largely eliminated. The value of different goods is easily totaled to produce a figure that reflects the costs and benefits of different courses of action for all concerned. Money also provides a common denominator for allocating resources among projects that cannot easily be compared otherwise. Would scarce resources be better spent on preschool education, for example, or on the development of new sources of energy? In cost–benefit analysis, decision makers have an analytic framework that enables them to decide among such disparate projects in a rational, objective manner.

EVALUATION OF COST–BENEFIT ANALYSIS Cost–benefit analysis is criticized for problems with assigning monetary values to costs and benefits. **First, not all costs and benefits have an easily determined monetary value.** The value of the jobs that are provided by logging on public land can be expressed precisely in dollars, as can the value of the lumber produced. But because the opportunity for hikers to enjoy unspoiled vistas and fresh-smelling air is not something that is commonly bought and sold, it has no established

market price. Experts in cost–benefit analysis attempt to overcome the problem of assigning a dollar figure to nonmarket goods with a technique known as *shadow pricing*. This consists of determining the value reflected by people's market and nonmarket behavior. For example, by comparing the prices of houses near airports, busy highways, and the like with the prices of similar houses in less noisy areas, it is possible to infer the value that people place on peace and quiet. The value of life and limb can be similarly estimated by considering the amount of extra pay that is needed to get workers to accept risky jobs.

There are some pitfalls in using the technique of shadow pricing, especially when human life is involved. Many people buy houses in noisy areas or accept risky jobs because they are unable to afford decent housing anywhere else or to secure safer employment. Some home buyers and job seekers may not fully consider or appreciate the risks they face, especially when the hazards are hidden or speculative. Also, the people who buy homes near airports or accept work as steeplejacks are possibly less concerned with noise or danger than is the general population. We certainly do not want to assume, however, that workplace safety is of little value simply because a few people are so heedless of danger that they accept jobs that more cautious people avoid.⁷

A second criticism of cost–benefit analysis is that some applications require that a value be placed on human life. Although this may seem heartless, it is necessary if cost–benefit analysis is to be used to determine how much to spend on prenatal care to improve the rate of infant mortality, for example, or on reducing the amount of cancer-causing emissions from factories. Reducing infant mortality or the death rate from cancer justifies the expenditure of some funds, but how much? Would further investment be justified if it reduced the amount available for education or the arts? No matter where the line is drawn, some trade-off must be made between saving lives and securing other goods. The purpose of assigning a monetary value to life in a cost–benefit analysis is not to indicate how much a life is actually worth but to enable us to compare alternatives where life is at stake. Several methods exist, in fact, for calculating the value of human life for purposes of cost–benefit analysis.⁸ Among these are the discounted value of a person's future earnings over a normal lifetime, the value that existing social and political arrangements

place on the life of individuals, and the value that is revealed by the amount that individuals are willing to pay to avoid the risk of injury and death. When people choose through their elected representatives or by their own consumer behavior not to spend additional amounts to improve automobile safety, for example, they implicitly indicate the value of the lives that they otherwise be saved. Using such indicators, economists calculate that middle-income Americans value their lives between \$3 million and \$5 million.⁹ Experts in risk assessment calculate that the 'break-even' point where the amount expended to save a life even' is worth the cost is about \$10 million.¹⁰

Third, people's individual and collective decisions are not always rational. People who drive without seat belts are probably aware of their benefit for other people but are convinced that nothing will happen to them because they are such good drivers.¹¹ As a result, they (irrationally) expose themselves to risks that do not accurately reflect the value they place on their own lives. Mark Sagoff observes that the choices we make as consumers do not always correspond to those we make as citizens. He cites as examples the fact that he buys beverages in disposable containers but urges his state legislators to require returnable bottles and that he has a car with an "Ecology Now" sticker that leaks oil everywhere it is parked.¹²

ASSIGNING MONETARY VALUES A further criticism of cost-benefit analysis is that even if all the other problems with assigning monetary values could be solved, there are still good reasons for not assigning a monetary value to some things. Steven Kelman argues that placing a dollar value on some goods reduces their perceived value because they are valued precisely because they cannot be bought and sold in a market. Friendship and love are obvious examples. "Imagine the reaction," Kelman observes, "if a practi-

titioner of cost-benefit analysis computed the benefits of sex based on the price of prostitute service."¹³ In *The Gift Relationship: From Human Blood to Social Policy*, Richard M. Titmuss compares the American system of blood collection with that of the British. In the United States, about half of all blood is purchased from donors and sold to people who need transfusions.¹⁴ The British system, by contrast, is purely voluntary. No one is paid for donating blood, and it is provided without charge to anyone in need. As a result, the giving of blood and the receipt of blood have an entirely different significance. If blood has a price, then giving blood merely saves someone else an expense, but blood that cannot be bought and sold becomes a special gift that we make to others.¹⁵

Although some things are cheapened in people's eyes if they are made into commodities and traded in a market, this does not happen if goods are assigned a value merely for purposes of comparison. It is the actual buying and selling of blood that changes its perceived value, not performing a cost-benefit analysis. Moreover, Titmuss himself argues in favor of the British system on the grounds that the system in the United States is

1. highly wasteful of blood, resulting in chronic acute shortages;
 2. administratively inefficient because of the large bureaucracy that it requires;
 3. more expensive (the price of blood is 5 to 15 times higher); and
 4. more dangerous because there is a greater risk of disease and death from contaminated blood.¹⁶
- In short, a cost-benefit analysis shows that it is better not to have a market for blood.
- Use Table 3.1 to review the pros and cons of cost-benefit analysis as a quantitative method for decision making:

Table 3.1 Pros and Cons of Cost-Benefit Analysis

Review the main pros and cons for each point given in the left column. Then hide the cells to quiz yourself.

Pros	Cons
Consequences measured by monetary value in a market	The market price or value of goods and services can be used to compare outcomes.
Shadow pricing of nonmarket goods	Market value can be estimated by analyzing the relative worth of choices suggested by actual behavior.
Placing a value on human life and experiences	Can apply cost-benefit analysis to issues such as human health and safety

Seems cold-hearted and reductive; life, love, happiness, etc. cannot be bought and are cheapened by assigned values

WRITING PROMPT

Conducting a Cost–Benefit Analysis

Your city council is considering a law to raise the local minimum wage paid to all employees. Many local businesses are concerned that such a measure would significantly increase the costs of doing business. How could your city council use cost–benefit analysis to decide whether to raise the minimum wage law and, if so, by how much?

3.2: Kantian Ethics

3.2 Summarize the two intuitive principles of Kantian ethics and their implications for moral reasoning

Immanuel Kant (1724–1804) wrote his famous ethical treatise *Foundations of the Metaphysics of Morals* (1785) before the rise of English utilitarianism, but he was well acquainted with the idea of founding morality on the feelings of pleasure and pain, rather than on reason. Accordingly, Kant set out, in the spirit of the Enlightenment, to restore reason to what he regarded as its rightful place in our moral life. Specifically, he attempted to show that there are some things that we ought to do and others that we ought not to do merely by virtue of being rational. Moral obligation thus is not based on maximizing consequences, in Kant's view, but arises solely from a moral law that is binding on all rational beings. Although Kant's own expression of his theory is difficult to understand, the main thrust can be formulated in two intuitive principles: universalizability and respect for persons.

3.2.1: Universalizability

The universalizability principle can be illustrated by one of Kant's own examples:

[A] man finds himself forced by need to borrow money. He well knows that he will not be able to repay it, but he also sees that nothing will be loaned him if he does not firmly promise to repay it at a certain time. He desires to make such a promise, but he has enough conscience to ask himself whether it is not improper and opposed to duty to relieve his distress in such a way.

What (morally) ought this man to do? A teleological theory would have us answer this question by determining the consequences of each alternative course of action, but Kant regarded all such appeals to consequences as morally irrelevant. As a deontologist,

he held that the duty to tell the truth when making promises arises from a rule that ought to be followed without regard for consequences. Even if the man could do more good by borrowing money under false pretenses—by using it to pay for an operation that would save a person's life, for example—the action would still be wrong. (See *What Actions Are Morally Right?* to review the difference between teleological and deontological perspectives.)

Kant addressed the problem of making a lying promise with a principle that he called the *categorical imperative*. His own cryptic statement of the categorical imperative is as follows:

Act only according to that maxim by which you can at the same time will that it should become a universal law.

Rendered into more comprehensible English, Kant's principle is, act only on rules (or maxims) that you would be willing to have everyone follow. The categorical imperative suggests a rather remarkable “thought experiment” to be performed whenever we deliberate about what to do. Suppose, for example, that every time we accept a rule for our own conduct, that very same rule would be imposed, by some miracle, on everyone. We would become, in other words, a universal rule maker. Under such conditions, are there some rules that we, as rational beings, simply could not accept (that is, will to become universal law)?

Applying this thought experiment to Kant's example, if the man were to obtain the loan under false pretenses, the rule on which he would be acting might be formulated as: Whenever you need a loan, make a promise to repay the money, even if you know that you cannot do so. Although one person could easily act on such a rule, the effect of its being made a rule for everyone universally would be, in Kant's view, self-defeating. No one would believe anyone else, and the result would be that the phrase “I promise to do such-and-such” would lose its meaning. To Kant's own way of thinking, the objection to the rule just stated is not that everyone's following it would lead to undesirable consequences—that would be utilitarianism—but that everyone's following it describes a logically impossible state of affairs. Willing that everyone act on this rule is analogous to a person making plans to vacation in two places, say Acapulco and Aspen, *at the same time*. A person could will to go to either place, but

willing the logical impossibility of being in two places at once is not something that a rational person could will to do.

Regardless of whether Kant is successful in his attempt to show that immoral conduct is somehow irrational, many philosophers still find a kernel of truth in Kant's principle of the categorical imperative, which they express as the claim that all moral judgments must be *universalizable*. That is, if we say that an act is right for one person, then we are committed to saying, as a matter of logical consistency, that it is right for all other relevantly similar persons in relevantly similar circumstances. By the same token, if an act is wrong for other people, then it is wrong for any one person unless there is some difference that justifies making an exception. This principle of *universalizability* expresses the simple point that, as a matter of logic, we must be consistent in the judgments we make.

The principle of universalizability has immense implications for moral reasoning.

1. First, it counters the natural temptation to make exceptions for ourselves or to apply a double standard.

Example: Consider a job applicant who exaggerates a bit on a résumé but is incensed to discover, after being hired, that the company misrepresented the opportunity for advancement. The person is being inconsistent to hold that it is all right for him to lie to others but wrong for anyone else to lie to him. An effective move in a moral argument is to challenge people who hold such positions to cite some morally relevant difference. Why is lying right in the one case and wrong in the other? If they can offer no answer, then they are forced by the laws of logic to give up one of the inconsistent judgments. The principle of universalizability counters the natural temptation to make exceptions for ourselves or to apply a double standard.

2. The universalizability principle can be viewed as underlying the common question, "What if everyone did that?"

Example: The consequences of a few people cheating on their taxes are negligible. If everyone were to cheat, however, the results would be disastrous. The force of "What if everyone did that?" is to get people to see that because it would be undesirable for everyone to cheat, no

one ought to do so. This pattern of ethical reasoning involves an appeal to consequences, but it differs from standard forms of utilitarianism in that the consequences are hypothetical rather than actual. That is, whether anyone else actually cheats is irrelevant to the question, "What if everyone did that?" The fact that the results would be disastrous if everyone did is sufficient to entail the conclusion that cheating is wrong because an individual cannot rationally accept those results.

3.2.2: Respect for Persons

Kant offered a second formulation of the categorical imperative, which he expressed as follows:

Act so that you treat humanity, whether in your own person or that of another, always as an end and never as a means only.

These words are usually interpreted to mean that we should respect other people (and ourselves!) as human beings. The kind of respect that Kant had in mind is compatible with achieving our ends by enlisting the aid of other people. We use shop clerks and taxi drivers, for example, as a means for achieving our ends, and the owners of a business use employees as a means for achieving their ends. What is ruled out by Kant's principle, however, is treating people *only* as a means, so that they are no different, in our view, from mere "things."

In Kant's view, what is distinctive about human beings, which makes them different from "things" or inanimate objects, is the possession of reason, and by reason Kant means the ability to posit ends and to act purposefully to achieve them. In acting to achieve ends, human beings also have free will that enables them to create rules to govern their own conduct. This idea of acting on self-devised rules is conveyed by the term *autonomy*, which is derived from two Greek words meaning "self" and "law." To be autonomous is quite literally to be a lawgiver to oneself, or self-governing. A rational being, therefore, is a being who is autonomous. To respect other people, then, is to fully respect their capacity for acting freely, that is, their autonomy. When individuals are deceived, seriously harmed, or treated unfairly their autonomy is disrespected.

Kant's ethical theory thus yields at least two important results: the principles of universalizability

and respect for persons, which are important elements of ethical reasoning that serve as alternatives to, or perhaps as valuable additions to, the utilitarian approach.

WRITING PROMPT

A Kantian Thought Experiment

Describe a few examples of unethical behavior in business that you have witnessed or experienced. How do these examples fail to meet Kant's universalizability principle? How do they fail to demonstrate respect for human beings?

3.3: Virtue Ethics

3.3 Define virtue and explain how virtues and principles of virtue ethics are relevant to business

Despite their differences, utilitarianism and Kantian ethics both address the question, "What actions are right?" Virtue ethics asks instead,

"What kind of person should we be?"

Moral character rather than right action is fundamental in this ethical tradition, which originated with the ancient Greeks and received its fullest expression in Aristotle's *Nicomachean Ethics*.¹⁷ The role of ethics according to Aristotle is to enable us to lead successful, rewarding lives—the kinds of lives that we would call "the good life." The good life in Aristotle's sense is possible only for virtuous persons—that is, persons who develop the traits of character that we call "the virtues." Aristotle not only made the case for the necessity of virtue for good living but also described particular virtues in illuminating detail.

3.3.1: What Is Virtue?

Defining virtue has proven to be difficult, and philosophers are by no means in agreement.¹⁸

- Aristotle described virtue as a character trait that manifests itself in habitual action. Honesty, for example, cannot consist in telling the truth once; it is rather the trait of a person who tells the truth as a general practice. Only after observing people over a period of time can we determine whether they are honest. Mere feelings like hunger are not virtues, according to Aristotle, in part because virtues are *acquired* traits. A person must *become* honest through proper upbringing.

- A virtue is also something that we actually *practice*. Honesty is not simply a matter of knowing how to tell the truth but involves habitually telling the truth and possessing the attitudes that unconditionally support honest behavior. For these reasons, Aristotle classified virtue as a *state* of character, which is different from a feeling or a skill.
- Finally, a virtue is something that we *admire* in a person; a virtue is an excellence of some kind that is worth having for its own sake. A skill like carpentry is useful for building a house, for example, but everyone need not be a carpenter. Honesty, by contrast, is a trait that everyone needs for a good life.

A complete definition of virtue must be even more encompassing because a compassionate person, for example, must have certain kinds of feelings at the distress of others and also the capacity for sound, reasoned judgments in coming to their aid. Virtue, for Aristotle, is integrally related to what he calls *practical wisdom*, which may be described roughly as the whole of what a person needs in order to live well. Being wise about how to live involves more than having certain character traits, but being practically wise and exhibiting virtue are ultimately inseparable. Although the problems of defining virtue are important in a complete theory of virtue ethics, the idea of virtue as a trait of character that is essential for leading a successful life is sufficient for our purposes.

Most lists of the virtues contain few surprises. Such traits as benevolence, compassion, courage, courtesy, dependability, friendliness, honesty, loyalty, moderation, self-control, and toleration are most often mentioned. Aristotle also considered both pride and shame to be virtues on the grounds that we should be proud of our genuine accomplishments (but not arrogant) and properly shamed by our failings. More significantly, Aristotle lists justice among the virtues. A virtuous person not only has a sense of fair treatment but can also determine what constitutes fairness.

3.3.2: Defending the Virtues

Defending any list of the virtues requires consideration of the contribution that each character trait makes to a good life. In particular, the virtues are those traits that everyone needs for the good life

irrespective of his or her specific situation. Thus, courage is a good thing for anyone to have because perseverance in the face of dangers will improve our chances of getting whatever it is we want. Similarly, Aristotle's defense of moderation as a virtue hinges on the insight that a person given to excess will be incapable of effective action toward any end. Honesty, too, is a trait that serves everyone well because it creates trust, without which we could not work cooperatively with others.

What is the good life, the end for which the virtues are needed?

In defending a list of virtues, we cannot consider merely their contribution to some end, however; we must also inquire into the end itself. If our conception of a successful life is amassing great power and wealth, for example, then would not ruthlessness be a virtue? A successful life of crime or lechery requires the character of a Fagin or a Don Juan, but we scarcely consider their traits to be virtues—or Fagin and Don Juan to be virtuous characters. The “end” of life—that at which we all aim, according to Aristotle—is *happiness*, and Aristotle would claim that no despot or criminal or lecher can be happy, no matter how successful such a person may be in these (disreputable) pursuits. Defending any list of virtues requires, therefore, that some content be given to the idea of a good life.

The virtues, moreover, are not merely means to happiness but are themselves constituents of it. That is, happiness does not consist solely of what we get in life but also includes who we are. A mother or a father, for example, cannot get the joy that comes from being a parent without actually having the traits that make one a good parent. Similarly, Aristotle would agree with Plato that anyone who became the kind of person who could be a successful despot, for example, would thereby become incapable of being happy because that person's personality would be disordered in the process.

To summarize, defending a list of the virtues requires both that we determine the character traits that are essential to a good life and that we give some content to the idea of a good life itself. Virtue ethics necessarily presupposes a view about human nature and the purpose of life. This point is worth stressing because the possibility of applying virtue ethics to business depends on a context that includes some conception of the nature and purpose of business.

3.3.3: Indian Value System

Classical Indian thinkers advocate four values for leading a meaningful(virtuous) life. These are – *artha*, or wealth, for the development of body; *karma*, or the fulfillment of desires, for the development of mind; and finally *moksha*, or spiritual perfection, for the development of the soul. These four values or ends of life are called *purusarthas* (ideal for every human being).

These four values constitute the foundation of ethical systems. The concepts of individual and society in the *Vedas* and *Upanishads* are based on a deep thinking that arises in the cosmic moral order. Indian philosophers argue, that out of the four values, *dharma* (mortality) constitutes the most fundamental principle of human living. In the *Mahabharata*, it is said that *dharma* plays the primary role in regulating *artha* (wealth) and *kama* (desire). Individual gets happiness when there is no clash between *dharma* and *artha*, *dharma* and *kama*, (*dharmaarthau dhamakamau ca kamarthau capyapidayan*) *Dharma* provides a proper path to *artha* and *kama*. The *purusarthas* have no meaning without their practical application. Along with the four values, Indian seers carefully talked about the four different stages of life, that is, the *varnashrama dharmas* (namely, *brahmacharya*, *grahayasta*, *vanaaprastha* and *sanyas*), for the individuals to perform their duties in the social-ethical organization of human beings. *Rigveda* and *Atharva Veda* mention honesty, non-violence, truthfulness, modesty, agreeable speech, celibacy, religious conviction, and purity of heart are the important virtues, that should guide the human conduct. These virtues are also mentioned in the emphasis on right conduct as the means for the development of the personality of an individual. Hence, in a way, the ethics of the *Vedas* are the ethics of right action.

The classification of society into four major divisions (*varnas*), namely—(1) the *Brahmana*, the priestly class; (2) the *Kshatriya*, the ruling class; (3) the *Vaisya*, the professional class; and (4) the *Sudra*, the laboring class, undoubtedly signifies the responsibility and duty of the individual in the society. Each person has certain functions in the society, determined by the very nature of the person to fulfill his/her *dharma* (duty), arising from the cosmic moral order in a particular situation, in which he/she finds himself/herself in life. In the *Bhagavad Gita*, this devotion to duty has been

stated as - "one should prefer death while performing one's own *dharma*, to a change of professional duty."

"*Svadharma nishnatum streyad,
paradharma bhayavahat.*"

It endows the individual with the self-discipline essential for the pursuit of the other two *purusarthas*. *Dharma* is the guiding principle that supports harmonious living in a society. It is like the golden rules of Western thinking; that is, one should not do unto others that which is unpleasant to oneself (*na tatparesu kruvita janamapriyamathmanah*) (*Mahabharata*, 12.251.19). In chapter 3, verse 35 of the *Bhagavad Gita*, the devotion to duty (*dharma*) has been stated in the following manner: "One should prefer death while doing one's duty (*dharma*) which is the best course. One should not try to do someone else's duty (*dharma*), because to do others' jobs is dangerous."

Further, in the *Manu Samhita*, it is said that *dharma eva hato hanti dharmo rakṣati rakhita* (VUL15). *Dharma*, the rule of moral order, governs the entire human endeavor. The individual, the society and the organizations would protect themselves by upholding *dharma*.

For the sake of clarity, let me point out, that reason plays an important role in generating moral action and leading virtuous life. Leading virtuous life always springs from "life of reason" in Greek and Indian traditions. But, in Christian and Jewish ethics, moral values originate from "divine command," not from human reason.¹⁹ *Artha*, an instrumental value required for the satisfaction of all other needs of life, and *kama*, the psychological value concerned with the fulfillment of desires (basic appetites), are not peculiar to human beings alone, but to all sentient creatures. There are some basic needs (which are natural), such as hunger, fear, sleep, self-preservation and propagation of offspring, which are common to both human beings and other lower animals. The only difference is that, while the man can seek them by choice and deliberation, the other creatures do so instinctively. But, it is *dharma (dharma hi tesan adhito vishesa, dharmohi bina pushvurī naranam)*. As we have seen above, Aristotle regards virtue as "moral excellence;" as also, the Indian thinkers in the *Upanishads*, who consider it not only as moral value, but also as spiritual value. The reason theory of Aristotle is, because only human beings

have the capacity to generate action by deliberation and choice. The concept of *dharma*, here, can be interpreted as the practical reason of Aristotle. As a moral agent, a man has the power to do what he ought to do and abstain from doing what he ought not. *Dharma* (moral principle) provides that power to an individual. This power has a unique feature that has nothing to do with the personal liking and disliking, and pursues the eternal and universal moral law as the cardinal human values, only out of respect for it. It is like Kant's categorical imperative, that is, practicing *dharma* (morality) for its own sake.

3.3.4: Virtue in Business

Virtue ethics could be applied to business directly by holding that the virtues of a good businessperson are the same as those of a good person (period). Insofar as business is a part of life, why should the virtues of successful living not apply to this realm as well? However, businesspeople face situations that are peculiar to business, and so they may need certain business-related character traits. Some virtues of everyday life, moreover, are not wholly applicable to business.

What virtues have limited application in business?

Two examples are compassion and honesty.

Any manager should be caring, for example, but a concern for employee welfare can go only so far when a layoff is unavoidable. Honesty, too, is a virtue in business, but a certain amount of bluffing or concealment is accepted and perhaps required in negotiations.

Regardless of whether the ethics of business is different from that of everyday life, we need to show that virtue ethics is relevant to business by determining the character traits that make for a good businessperson.

Applying virtue ethics to business would require us, first, to determine the end at which business activity aims. If the purpose of business is merely to create as much wealth as possible, then we get one set of virtues. Robert C. Solomon, who develops a virtue ethics-based view of business in his book *Ethics and Excellence*, argues that mere wealth creation is not the purpose of business. Rather, a virtue approach, according to Solomon, considers business as an essential part of the good life.²⁰

Solomon contends that individuals are embedded in communities and that business is essentially a

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Solomon contends that individuals are embedded in communities and that business is essentially a

communal activity, in which people work together for a common good. For individuals, this means achieving a good life that includes rewarding and fulfilling work, and excellence for a corporation consists of making the good life possible for everyone in society. Whether any given character trait is a virtue in business, then, is to be determined by the purpose of business and by the extent to which that trait contributes to that purpose. Virtues and vices in business also depend on the character traits that enable or hinder a person in the performance of specific jobs, as illustrated in Table 3.2.

Table 3.2 Virtues and Vices in Business

For each job listed in the table, what character trait(s) might be considered a virtue? In contrast, what trait might be a vice, or a trait that might hinder the job holder's ability to do the job well?

Hide the cells to come up with your own suggestions. Then click each cell to see the provided examples.

Job	Virtue	Vice
Bank loan officer	Prudence, Caution	Charity
School guidance counselor	Empathy, Enthusiasm	Indifference
Personnel manager	Resourcefulness, Impartiality	Prejudice
Corporate executive	Confidence, Focus	Arrogance

WRITING PROMPT

Virtues as Job Requirements

Suppose that those who are happy with their jobs also perform well in them because they are personally suited for the role. Now think of a career you have considered for yourself. What character traits would a person need to excel in that job or field?

3.4: Rights

3.4 Identify the meaning and importance of rights and the types of rights that apply in different situations

Rights play an important role in business ethics and, indeed, in many ethical issues in society. Both employers and employees are commonly regarded as having certain rights. Employers have the right to conduct business as they see fit, to make decisions about hiring and promotion, and to be protected against unfair forms of competition. Employees have the right to organize and engage in collective bargaining and to be protected against discrimination and hazardous

working conditions. Consumers and the general public also have rights in such matters as marketing and advertising, product safety, and the protection of the environment. Some American manufacturers have been accused of violating the rights of workers in developing countries by offering low wages and sub-standard working conditions.

3.4.1: Meaning of Rights

The introduction of rights into the discussion of ethical issues is often confusing.

1. First, the term *rights* is used in many different ways, so that the concept of a right and the various kinds of rights must be carefully distinguished.
2. Second, many rights come into conflict. The right of an employee to leave his or her employer and join a competitor conflicts with the legitimate right of employers to protect trade secrets, for example, so that some balancing is required.
3. Third, because of the moral significance that we attach to rights, there is a tendency to stretch the concept in ways that dilute its meaning. For example, the rights to receive adequate food, clothing, and medical care, mentioned in the Universal Declaration of Human Rights, are perhaps better described as political goals rather than moral rights.
4. Fourth, there can be disagreement over the very existence of a right. Whether employees have a right to due process in discharge decisions, for example, is a subject of dispute.

For all these reasons, the claim of a right is frequently the beginning of an ethical debate rather than the end.

The concept of a right can be explained by imagining a company that treats employees fairly but does not recognize due process as a right.²¹ In this company, employees are dismissed only for good reasons after a thorough and impartial hearing, but there is no contract, statute, or other provision establishing a right of due process for all employees. Something is still missing, because the fair treatment that the employees enjoy results solely from the company's voluntary acceptance of certain personnel policies. If the company were ever to change these policies, then employees dismissed without due process would have no recourse. We can contrast this with a company in which due process is established as a right.

Employees in this company have something that was lacking in the previous company. They have an independent basis for challenging a decision by the company to dismiss them. They have something to stand on, namely, their rights.

Rights can be understood, therefore, as *entitlements*.²² To have rights is to be entitled to act on our own or to be treated by others in certain ways without asking permission of anyone or being dependent on other people's goodwill. Rights entitle us to make claims on other people either to refrain from interfering in what we do or to contribute actively to our well-being—not as beggars, who can only entreat others to be generous, but as creditors, who can demand what is owed to them. This explanation of rights in terms of entitlements runs the risk of circularity (after all, what is an entitlement but something we have a right to?), but it is sufficiently illuminating to serve as a beginning of our examination.

3.4.2: Kinds of Rights

Several kinds of rights have been distinguished.

1. **Legal and Moral Rights.** *Legal rights* are rights that are recognized and enforced as part of a legal system. In the United States, these consist primarily of the rights set forth in the Constitution, including the Bill of Rights, and those created by acts of Congress and state legislatures. *Moral rights*, by contrast, are rights that do not depend on the existence of a legal system. They are rights that we (morally) *ought* to have, regardless of whether they are explicitly recognized by law. Moral rights derive their force not from being part of a legal system but from more general ethical rules and principles.
2. **Specific and General Rights.** Some rights are *specific* in that they involve identifiable individuals. A major source of specific rights is contracts because these ubiquitous instruments create a set of mutual rights as well as duties for the individuals who are parties to them. Other rights are *general* rights because they involve claims against everyone, or humanity in general. Thus, the right to free speech belongs to everyone, and the obligation to enforce this right rests with the whole community.
3. **Negative and Positive Rights.** Generally, *negative rights* are correlated with obligations on the part of others to refrain from acting in certain ways

that interfere with our own freedom of action. *Positive rights*, by contrast, impose obligations on other people to provide us with some good or service and thereby to act positively on our behalf.²³ The right to property, for example, is largely a negative right because no one else is obligated to provide us with property, but everyone has an obligation not to use or take our property without permission. The right to adequate health care, for example, is a positive right insofar as its implementation requires others to provide the necessary resources.

4. **Natural Rights.** Among the moral rights that are commonly recognized, one particular kind that is prominent in historical documents is *natural rights*, which are thought to belong to all persons purely by virtue of their being human.²⁴ Natural rights are characterized by two main features: *universality* and *unconditionality*. Universality means that they are possessed by all persons, without regard for race, sex, nationality, or any specific circumstances of birth or present condition. Unconditionality means that natural or human rights do not depend on any particular practices or institutions in society. The unconditionality of rights also means that there is nothing we can do to relinquish them or to deprive ourselves or others of them. This feature of natural, or human, rights is what is usually meant by the phrase *inalienable rights*, which is used in the American *Declaration of Independence*.²⁵

The most prominent natural rights theory is that presented by John Locke (1633–1704) in his famous *Second Treatise of Government* (1690).²⁶ Locke began with the supposition of a state of nature, which is the condition of human beings in the absence of any government. The idea is to imagine what life would be like if there were no government and then to justify the establishment of a political state to remedy the defects of the state of nature. Locke held that human beings have rights, even in the state of nature, and that the justification for uniting into a state is to protect these rights. The most important natural right for Locke is the right to property. In his view, although the bounty of the earth is provided by God for the benefit of all, no one can make use of it without taking some portion as one's own. This is done by means of labor, which is also a form of property. "Every man

Figure 3.3 Different Kinds of Rights

Legal and Moral Rights	Specific and General Rights	Negative and Positive Rights	Natural Rights ("Human Rights")
<ul style="list-style-type: none"> • Legal rights are recognized and protected by law. • Moral rights are derived from ethical principles. • In the United States, certain moral rights did not become legal rights until after slavery was abolished and civil rights laws were passed. 	<ul style="list-style-type: none"> • Specific rights are those given to, or claimed by, particular individuals. • General rights apply to everyone. 	<ul style="list-style-type: none"> • Negative rights prohibit actions, or call for people to refrain from acting in a certain way. • Positive rights require actions; they call on people to fulfill an obligation to provide some good or service. 	<ul style="list-style-type: none"> • Natural rights are universal and unconditional from birth and need not be recognized by one's culture or legal system. • In the United States, the moral right to equal protection of the laws did not become a legal right until the adoption of the Fourteenth Amendment to the Constitution.

"has property in his own person," according to Locke, and so "[t]he labor of his body and the work of his hands . . . are properly his."

Use Figure 3.3 to review key points about the different kinds of rights discussed.

WRITING PROMPT

Rights in Business

What right do you think is most often neglected or violated in the employment relationship? Give an example, identify what type of right it is, and explain what entitlement it grants to employers or employees.

righting of wrongs. It requires, for example, that a criminal be punished for a crime and that the punishment fit the crime by being neither too lenient nor too severe. To treat people justly is to give them what they deserve, which is sometimes the opposite of generosity and compassion. Indeed, we often speak of tempering justice with mercy.

The concept of justice is relevant to business ethics primarily in the distribution of benefits and burdens. Economic transformations often involve an overall improvement of welfare that is unevenly distributed, so that some groups pay a price while others reap the rewards. Is the resulting distribution just, and if not, is there anything that is owed to the losers? Justice also requires that something be done to compensate the victims of discrimination or defective products or industrial accidents. Because justice is also an important concept in evaluating various forms of social organization, we can also ask about the justice of the economic system in which business activity takes place.

3.5: Justice

3.5 Explain the role of justice in business ethics, the three kinds of justice outlined by Aristotle, and the contemporary principles of justice offered by Rawls and Nozick

Justice, like rights, is an important moral concept with a wide range of applications. We use it to evaluate not only the actions of individuals but also social, legal, political, and economic practices and institutions. Questions of *justice* or *fairness* (the two terms are used here interchangeably) often arise when there is something to distribute. If there is a shortage of organ donors, for example, we ask, what is a just or fair way of deciding who gets a transplant? If there is a burden, such as taxes, we want to make sure that everyone bears a fair share. Justice is also concerned with the

3.5.1: Nature and Value of Justice

The ancient Greek philosopher Aristotle distinguished three kinds of justice.

1. *Distributive justice*, which deals with the distribution of benefits and burdens.
2. *Compensatory justice*, which is a matter of compensating persons for wrongs done to them.

3. *Retributive justice*, which involves the punishment of wrongdoers.

Both compensatory and retributive justice are concerned with correcting wrongs. Generally, compensating the victims is the just way of correcting wrongs in private dealings, such as losses resulting from accidents and the failure to fulfill contracts, whereas retribution—that is, punishment—is the just response to criminal acts, such as assault or theft.²⁷

Questions about distributive justice arise mostly in the evaluation of our social, political, and economic institutions, where the benefits and burdens of engaging in cooperative activities must be spread over a group. In some instances, a just distribution is one in which each person shares equally, but in others, unequal sharing is just if the inequality is in accord with some principle of distribution. Thus, in a graduated income tax system, ability to pay and not equal shares is the principle for distributing the burden. Generally, distributive justice is *comparative*, in that it considers not the absolute amount of benefits and burdens of each person but each person's amount relative to that of others.²⁸ Whether income is justly distributed, for example, cannot be determined by looking only at the income of one person but requires us, in addition, to compare the income of all people in a society.

The rationale of compensatory justice is that an accident caused by negligence, for example, upsets an initial moral equilibrium by making a person worse off in some way. By paying compensation, however, the condition of the victim can be returned to what it was before the accident, thereby restoring the moral equilibrium. Similarly, a person who commits a crime upsets a moral equilibrium by making someone else worse off. The restoration of the moral equilibrium in cases of this kind is achieved by a punishment that "fits the crime." Both compensatory justice and retributive justice are *noncomparative*. The amount of compensation owed to the victim of an accident or the punishment due to a criminal is determined by the features of each case and not by a comparison with other cases.

A useful distinction not discussed by Aristotle is that between *just procedures* and *just outcomes*.²⁹ In cases of distributive justice, we can distinguish between the procedures used to distribute goods and the outcome of those procedures, that is, the actual distribution achieved. A similar distinction can be made between the procedures for conducting trials, for

example, and the outcomes of trials. If we know what outcomes are just in certain kinds of situations, then just procedures are those that produce or are likely to produce just outcomes. Thus, an effective method for dividing a cake among a group consists of allowing one person to cut it into the appropriate number of slices with the stipulation that that person take the last piece. Assuming that an equal division of the cake is just, a just distribution will be achieved, because cutting the cake into equal slices is the only way the person with the knife is assured of getting at least as much cake as anyone else. Similarly, just outcomes in criminal trials are those in which the guilty are convicted and the innocent are set free. The complex rules and procedures for trials are those that generally serve to produce those results.

3.5.2: Aristotle on Distributive Justice

Aristotle described justice as a kind of equality, but this is not very helpful since equality is subject to varying interpretations.³⁰ The extreme egalitarian position that everyone should be treated exactly alike has found few advocates, and most who call themselves egalitarians are concerned only to deny that certain differences ought to be taken into account. A more moderate egalitarianism contends that we ought to treat like cases alike. That is, any difference in the treatment of like cases requires a moral justification.

Aristotle expressed the idea of treating like cases alike in an arithmetical equation that represents justice as an equality of ratios.³¹ Let us suppose that two people, A and B, each receive some share of a good, P. Any difference in their relative shares must be justified by some relevant difference, Q. Thus, a difference in pay, P, is justified if there is a difference in some other factor, Q, that justifies the difference in P—such as the fact that one person worked more hours or was more productive. Aristotle added the further condition that the difference in each person's share of the good must be *proportional* to the difference in his or her share of the relevant difference. If one person worked twice as many hours as another, and the amount of time worked is the only relevant factor, then the pay should be exactly twice as much—no more and no less. Aristotle's principle of distributive justice can be stated in the following manner.³²

$$\frac{A's \text{ share of } P}{B's \text{ share of } P} = \frac{A's \text{ share of } Q}{B's \text{ share of } Q}$$

This account of Aristotle's principle of distributive justice is obviously not complete until the contents of both P and Q are fully specified. What are the goods in question? What features justify different shares of these goods? Among the goods distributed in any society are material goods, such as food, clothing, housing, income, and wealth, which enable people to purchase material goods. There are many nonmaterial goods, including economic power, participation in the political process, and access to the courts, which are also distributed in some manner. Finally, Aristotle counted honor as a good, thereby recognizing that society distributes status and other intangibles.

Among the many different justifying features that have been proposed are ability, effort, accomplishment, contribution, and need.³³

Example: Possible Justifications for Unequal Pay

In setting wages, for example, an employer might award higher pay to workers who:

- have greater training and experience or greater talent (ability);
- apply themselves more diligently, perhaps overcoming obstacles or making great sacrifices (effort);
- have produced more or performed notable feats (accomplishment) or who provide more valued services (contribution); or,
- have large families to support or who, for other reasons, have greater need.

WRITING PROMPT

The Concept of Distributive Justice

A manager is passed over for a lucrative promotion because her team regularly fails to meet project deadlines and goes over budget. The promotion is given instead to a manager who has been with the company for a shorter period of time, but whose team makes their deadlines and manages to stay within budget. Develop a case that explains why this promotion is fair. Develop a case that explains why it is not.

3.5.3: Rawls's Egalitarian Theory

In *A Theory of Justice* (1971), the contemporary American philosopher John Rawls (1921–2002) offered two principles that he thought express our considered views about justice. Rawls began by asking us to imagine a situation in which rational, free, and equal persons, concerned to advance their own interests, attempt to arrive at unanimous agreement on principles that will serve as the basis for constructing the

major institutions of society. Rawls stipulated further that these individuals are asked to agree on the principles of justice behind a *veil of ignorance*, which prevents them from knowing many facts about themselves and their situation. Behind this veil, the bargainers are forced to be impartial and to view principles from the perspective of all persons at once. Without any knowledge of their race or sex, for example, they are unlikely to advocate or support discriminatory principles because they could be among the victims of discrimination.

Now, what principles would rational, self-interested persons freely agree to in a position of equality behind a veil of ignorance? Rawls proposed two principles, which he stated as follows:

1. **Each person is to have an equal right to the most extensive total system of basic liberties compatible with a similar system of liberty for all.**

Rationale: The reasoning behind the first principle is that rational individuals under a veil of ignorance will choose an equal share of basic liberties (such as freedom of expression, association and political participation) because these liberties are essential to everyone, no matter their position in life.

2. **Social and economic inequalities are to be arranged so that they are both,**
 - a. **to the greatest benefit of the least advantaged, and**
 - b. **attached to offices and positions open to all under conditions of fair equality of opportunity.**³⁴

Rationale: The second principle recognizes that there are two conditions under which rational, self-interested persons would make an exception to the first principle and accept less than an equal share of some goods.

Like the person who cuts the cake knowing that he will get the last piece, persons in the original position would generally opt for equal shares. However, according to principle 2a, called the *difference principle*, an unequal distribution is justified if everyone would be better off with the inequality than without it. If it is possible to increase the total amount of income, for example, but not possible to distribute it equally, then the resulting distribution is still just, according to Rawls, as long as the extra income is distributed in such a way that everyone benefits from the inequality.

Principle 2b, the principle of equal opportunity, is similar to the view that careers should be open to all on the basis of talent. Whether a person gets a certain job, for example, ought to be determined by competence in that line of work and not by skin color, family connections, or any other irrelevant characteristic.

3.5.4: Economic Equality: The Gandhian Concept of Trusteeship

Mahatma Gandhi's conception of economic justice was based on the idea that everybody should have enough for his or her needs. For example, the amount of food an elephant needs is more than the amount of food a cow needs, but, that is not an indication of inequality. He further holds, that a single man requires less food than a man with wife and four children. Thus, according to him, the real meaning of economic equality is : "each one should get according to his need." Gandhi asserted that: "Let no one try to justify the glaring difference between the classes and the masses, the prince and the pauper, by saying that the former needs more. That will be idle sophistry and a travesty of my argument. The contrast between the rich and the poor today is a painful sight. The poor villagers are exploited by the foreign government, and also, by their own countrymen — the city-dwellers. They produce the food and go hungry. They produce milk and their children have to go without it. It is disgraceful. Everyone must have a balanced diet, a decent house to live in, facilities for the education of one's children and adequate medical relief." He did not want to taboo everything above and beyond the bare necessities, but they must come after the essential needs of the poor are satisfied. "First things must come first."³⁵

GANDHIJI'S DOCTRINE OF EQUAL DISTRIBUTION

According to Gandhi, equal distribution means each individual shall have the resource to fulfill all his basic needs. In order to bring this ideal into practice, the entire social system has to be reconstructed. In a society based on the philosophy of non-violence (*ahimsa*), it is absolutely possible for an individual to adopt a way of life without having to wait for others to do so. And if an individual can observe a certain rule of conduct, it follows, that a group of individuals can do likewise. It is necessary for me to emphasize the fact that no one need wait for anyone else in order to

adopt a right course. Men generally hesitate to make a beginning if they feel that the objective cannot be had in its entirety. Such an attitude of mind, is in reality, a bar to progress.

Now, let us consider how equal distribution can be brought about through non-violence. The first step towards it is for him, who has made this ideal part of his being, to bring about the necessary changes in his personal life. He would reduce his wants to a minimum, bearing in mind the poverty of India. His earnings would be free of dishonesty. The desire for speculation would be renounced. His habitation would be in keeping with the new mode of life. There would be self-restraint exercised in every sphere of life. When he has done all that is possible in his own life, then only, will he be in a position to preach this ideal among his associates and neighbors.

Indeed, at the root of this doctrine of equal distribution, must lie that of the trusteeship of the wealthy for the superfluous wealth possessed by them. For according to the doctrine, they may not possess a rupee more than their neighbors. How is this to be brought about? Non-violently? Or should the wealthy be dispossessed of their possessions? To do this, we would naturally have to resort to violence. This violent action cannot benefit the society. Society will be poorer, for it will lose the gifts of a man who knows how to accumulate wealth. Therefore, the non-violent way is evidently superior. The rich man will be left in possession of his wealth, of which he will use what he reasonably requires for his personal needs and will act as a trustee for the remainder to be used for the society. In this argument, honesty on the part of the trustee is assumed.

As soon as a man looks upon himself as a servant of the society, earns for its sake, spends for its benefit, then purity enters into his earnings and there is *Ahimsa* in his venture. Moreover, if men's minds turn toward this way of life, there will come about a peaceful revolution in society, and that too, without any bitterness.

It may be asked whether, history at any time, records such a change in human nature. Such changes have certainly taken place in individuals. One may not perhaps, be able to point to them in a whole society. But, this only means that up till now, there has never been an experiment on a large scale on non-violence. He said that "somehow or the other, the wrong belief has taken possession of us, that *Ahimsa* is pre-eminently a weapon for individuals and its use should, therefore, be limited to that sphere. In fact, this is not the case. *Ahimsa* is

definitely an attribute of the society. To convince people of this truth is at once my effort and my experiment. In this age of wonders, no one will say that a thing or an idea is worthless because it is new. To say it is impossible, because it is difficult, is again not in consonance with the spirit of the age. Things undreamt of are daily being seen, the impossible is ever becoming possible. We are constantly being astonished these days at the amazing discoveries in the field of violence. But, I maintain that far more undreamt of and seemingly impossible discoveries will be made in the field of non-violence. The history of religion is full of such examples.

If, however, in spite of the utmost effort, the rich do not become the guardians of the poor in the true sense of the term, and the latter are more and more crushed and die of hunger, what is to be done? In trying to find the solution to this riddle, I have lighted on non-violent, non-cooperation and civil disobedience, as the right and infallible means. The rich cannot accumulate wealth without the co-operation of the poor in a society. Man has been conversant with violence from the beginning, for he has inherited this strength from the animal in his nature. It was only when he rose from the state of a quadruped (animal) to that of a biped (man), that the knowledge of the strength of *Ahimsa* entered into his soul. This knowledge has grown within him slowly, but surely. If this knowledge were to penetrate to and spread amongst the poor, they would become strong and would learn how to free themselves by the means of non-violence, from the crushing inequalities which have brought them to the verge of starvation.”³⁶

THE CONCEPT OF TRUSTEESHIP Love and exclusive possession can never go together. Theoretically, when there is perfect love, there must be perfect non-possession. The body is our last possession. So, a man can only exercise perfect love and be completely dispossessed, if he is prepared to embrace death and renounce his body for the sake of human service. But, that is true in theory only. In actual life, we can hardly exercise perfect love, for the body as a possession will always remain with us individuals and we will always have to strive to be perfect. So that perfection in love or non-possession will remain an unattainable ideal as long as we are alive, but towards which, we must continually strive.

Those who have the wealth now, should behave like trustees holding their riches on behalf of the poor.

One may argue that trusteeship is a legal fiction or a myth. But, if people contemplate over it constantly and try to act up to it, then, life on earth would be governed far more by love than it is at present. “Absolute trusteeship is an abstraction like Euclid’s definition of a point, and is equally unattainable. But if we strive for it, we shall be able to go further in realizing a state of equality on earth than by any other method.”

Gandhiji holds that state-ownership is better than private ownership. But that, too, is objectionable on the ground of violence. But he says, that if the State suppressed capitalism by violence, it will be caught in the evils of violence itself and fail to develop non-violence at any time. The State represents violence in a concentrated and organized form. The individual has a soul, but as the State is a soulless machine, it can never be weaned from violence, to which, it owes its very existence. Hence, he preferred the doctrine of trusteeship.

His contention was not a centralization of power in the hands of the State, rather, an extension of the sense of trusteeship, as, in my opinion, the reduction of private ownership. However, if it is unavoidable, that Gandhiji admitted, that man in fact, lives by habit, but he holds, that it is better for human beings to live by the exercise of will. He also considered that human beings are capable of developing their will to an extent that will reduce exploitation to a minimum. He said, that an increase in the power of the State was the greatest fear, because although, while apparently doing good by minimizing exploitation, it does the greatest harm to mankind by destroying individuality, which lies at the root of all progress.³⁷

3.5.5: Nozick’s Entitlement Theory

Robert Nozick (1938–2002) offered a theory of justice, called the entitlement theory, which stands alongside Rawls’s egalitarianism as a major contemporary account of justice. The principles of justice in Nozick’s theory differ from Rawls’s theory in two major respects.

1. First, they are *historical* principles as opposed to *nonhistorical* or *end-state* principles.³⁸ Historical principles, Nozick explains, take into account the process by which a distribution came about, whereas end-state principles evaluate a distribution with regard to certain structural features at a given time.

2. Second, the principles of justice in both Aristotle's and Rawls's theories are *patterned*.³⁹ A principle is patterned if it specifies some feature in a particular distribution and evaluates the distribution according to the presence or absence of that feature. Any principle of the form "Distribute according to _____," such as "Distribute according to IQ scores," is a patterned principle, as is the socialist formula, "From each according to his abilities, to each according to his needs."

Nozick thought that any acceptable principle of justice must be nonpatterned because any particular pattern of distribution can be achieved and maintained only by violating the right to liberty. Upholding the right to liberty, in turn, upsets any particular pattern of justice. He argued for this point by asking us to consider a case in which there is a perfectly just distribution, as judged by some desired pattern, and also perfect freedom.

Example: Suppose that a famous athlete—Nozick suggested Wilt Chamberlain—will play only if he is paid an additional 25 cents for each ticket sold and that many people are so excited to see Wilt Chamberlain play that they will cheerfully pay the extra 25 cents for the privilege.

What distribution of income will result from this arrangement?

Both Wilt Chamberlain and the fans are within their rights to act as they do; but at the end of the season, if 1 million people pay to see him play, then Wilt Chamberlain will have an additional income of \$250,000, which is presumably more than he would be entitled to on a patterned principle of justice (such as a performance-based salary or a fair percentage of regular ticket sales). By exercising their right to liberty, though, Wilt Chamberlain and the fans have upset the just distribution that formerly prevailed.

Could the resulting distribution be altered in a just manner?

In order to maintain the patterned distribution, it would be necessary to restrict the freedom of Wilt Chamberlain or the fans in some way, such as prohibiting the extra payment or taxing away the excess. However, such a restriction of freedom might itself be considered unjust.

The entitlement theory can be stated very simply.

A distribution is just, Nozick said, "if everyone is entitled to the holdings they possess."⁴⁰

Whether we are entitled to certain holdings is determined by tracing their history. Most of what we possess comes from others through transfers, such as purchases and gifts. Thus, we might own a piece of land because we bought it from someone, who in turn bought it from someone else, and so on. Proceeding backward in this fashion, we ultimately reach the original settler who did not acquire it through a transfer but by clearing the land and tilling it. As long as each transfer was just and the original acquisition was just, our present holding is just. "Whatever arises from a just situation by just steps is itself just," Nozick wrote.⁴¹ In his theory, then, particular distributions are just not because they conform to some pattern (equality or social utility, for example) but solely because of antecedent events.

Nozick's theory thus requires at least two principles: a principle of just transfer and a principle of just original acquisition. Because holdings can be unjustly appropriated by force or fraud, a third principle, a principle of rectification, is also necessary in order to correct injustices by restoring holdings to the rightful owners. If we rightfully possess some holding—a piece of land, for example, by either transfer or original acquisition—then we are free to use or dispose of it as we wish. We have a right, in other words, to sell it to whomsoever we please at whatever price that person is willing to pay, or we can choose to give it away. As long as the exchange is purely voluntary, with no force or fraud, the resulting redistribution is just. Any attempt to prevent people from engaging in voluntary exchanges in order to secure a particular distribution is a violation of liberty, according to the entitlement theory.

A world consisting only of just acquisitions and just transfers would be just, according to Nozick, no matter what pattern of distribution results. Some people, through hard work, shrewd trades, or plain good luck, would most likely amass great wealth, whereas others, through indolence, misjudgment, or bad luck, would probably end up in poverty. However, the rich in such a world would have no obligation to aid the poor,⁴² nor would it be just to coerce them into doing so. Each person's share would be determined largely through his or her choices and those of others. Nozick suggested that the entitlement theory can be expressed simply as "From each as they choose, to each as they are chosen."

The entitlement theory supports a market system with only the absolute minimum of government intervention, as long as the principles of just acquisition and just transfer are satisfied. The reason is that a

system in which we have complete freedom to acquire property and engage in mutually advantageous trades (without violating the rights of another person, of course) is one in which our own rights are most fully protected. To critics who fear that unregulated markets would lead to great disparities between the rich and

the poor and a lowering of the overall welfare of society, Nozick had a reply. The point of justice is not to promote human well-being or to achieve a state of equality; it is to protect our rights. Because a market system does this better than any other form of economic organization, it is just.

Conclusion: Ethical Theories

This chapter presents the main concepts and theories of ethics that have been developed over centuries by major moral philosophers. The value of any theory for business ethics is its usefulness in evaluating business practices, institutional arrangements, and economic systems. In general, all of these theories justify most prevailing business practices, the institution of the modern corporation, and capitalism or the market system, but they also provide the basis for some criticism and improvement. In the subsequent chapters, this theoretical foundation is used to explore a wide range of practical business ethics topics.

End-of-Chapter Case Studies

This chapter concludes with four case studies.

These cases illustrate long-recognized tensions between the major ethical theories. The memo in "Exporting Pollution" employs seemingly valid utilitarian reasoning in the form of cost-benefit analysis, but the conclusions may strike some readers as ethically unacceptable. The classic "dirty hands" problem, which dates back to Machiavelli (i.e., Should a great leader be willing to commit immoral acts in achieving great ends?) is displayed in "Clean Hands in a Dirty Business," as one friend attempts to persuade another that what appears to be unethical conduct (Kant) might have overall beneficial consequences (Bentham and Mill). "Conflict of an Insurance Broker" shows that it is not always clear what it means for an agent to act in the interest of the client, especially when agency duties are complicated, as they are in this case, by conflict of interest. Important lessons in "An Auditor's Dilemma" are that the utilitarian search for consequences must probe deeply to find less obvious harms and that the Kantian question (What would

happen if everyone acted in the same way?) can be usefully combined with utilitarianism to produce a more complete analysis.

Case: Exporting Pollution

As an assistant to the vice president of environmental affairs at Americhem, Rebecca Wright relished the opportunity to apply her training in public policy analysis to the complex and emotion-laden issues that her company faces.⁴³ Rebecca was convinced that cost-benefit analysis, her specialty, provides a rational decision-making tool that cuts through personal feelings and lays bare the hard economic realities. Still, she was startled by the draft of a memo that her boss, Jim Donnelly, shared with her. The logic of Jim's argument seemed impeccable, but the conclusions were troubling—and Rebecca was sure that the document would create a furor if it were ever made public.

Jim was preparing the memo for an upcoming decision on the location for a new chemical plant. The main problem was that atmospheric pollutants from the plant, although mostly harmless, would produce a persistent haze, and one of the particles that would be released into the atmosphere is also known to cause liver cancer in a very small portion of the people exposed. Sitting down at her desk to write a response, Rebecca read again the section of the memo that she had circled with her pen.

From an environmental point of view, the case for locating the new plant in a Third World country is overwhelming. These reasons are especially compelling in my estimation:

1. The harm of pollution, and hence its cost, increases in proportion to the amount of already existing pollution. Adding pollutants to

a highly polluted environment does more harm than the same amount added to a relatively unpolluted environment. For this reason, much of the Third World is not efficiently utilized as a depository of industrial wastes, and only the high cost of transporting wastes prevents a more efficient utilization of this resource.

2. The cost of health-impairing pollution is a function of the forgone earnings of those who are disabled or who die as a result. The cost of pollution will be least, therefore, in the country with the lowest wages. Any transfer of pollution from a high-wage, First World country to a low-wage, Third World country will produce a net benefit.
3. The risk of liver cancer from this plant's emissions has been estimated at one-in-a-million in the United States, and the resulting cancer deaths would occur mostly among the elderly. The risk posed by the new plant will obviously be much less in a country where people die young from other causes and where few will live long enough to incur liver cancer from any source. Overall, the people of any Third World country might prefer the jobs that our plant will provide if the only drawback is a form of cancer that they are very unlikely to incur.
4. The cost of visibility-impairing pollution will be greater in a country where people are willing to spend more for good visibility. The demand for clear skies—which affects the aesthetics of the environment and not people's health—has very high-income elasticity, and so the wealthy will pay more than the poor to live away from factory smoke, for example. Because the cost of anything is determined by how much people are willing to pay in a market, the cost of visibility-impairing pollution in a First World country will be higher than the same amount of pollution in a Third World country. Thus, people in the United States might prefer clear skies over the benefits of our plant, but people elsewhere might choose differently.

SHARED WRITING: EXPORTING POLLUTION

This case is based on an actual memo that aroused a storm of criticism. What points in the memo might critics consider to be morally objectionable? Should moral criticism be directed only to this particular application of cost—benefit analysis or to the method of cost—benefit itself?

Case: Clean Hands in a Dirty Business

Even with her newly-minted MBA degree, Janet Moore was having no luck finding that dream job in the mar-

keting department of a spirited, on-the-move company. Now, almost any job looked attractive, but so far no one had called her back for a second interview. Employers were all looking for people with experience, but that requires getting a job first. Just as she began to lose hope, Janet bumped into Karen, who had been two years ahead of her in college. Karen, too, was looking for a job, but in the meantime she was employed by a firm that was planning to add another marketing specialist. Janet was familiar with Karen's employer from a case study that she had researched for an MBA marketing course, but what she had learned appalled her.

The company, Union Tobacco, Inc., is the major U.S. manufacturer of snuff, and her case study examined how this once staid company had managed to attract new customers to a product that had long ago saturated its traditional market.⁴⁴ Before 1970, almost all users of snuff—a form of tobacco that is sucked rather than chewed—were older men. The usual form of snuff is unattractive to nonusers because of the rough tobacco taste, the unpleasant feel of loose tobacco particles in the mouth, and the high nicotine content, which makes many first-time users ill. Snuff, to put it mildly, is a hard sell.

The company devised a product development and marketing campaign that a federal government report labeled a "graduation strategy." Two new lines were developed—a low-nicotine snuff in a tea-bag-like pouch with a mint flavor that had proved to be popular with young boys and a step-up product with slightly more nicotine, a cherry flavor, and a coarse cut that avoids the unpleasantness of tobacco floating in the mouth. Both products are advertised heavily in youth-oriented magazines with the slogan "Easy to use, anywhere, anytime," and free samples are liberally distributed at fairs, rodeos, and car races around the country.

The strategy had worked to perfection. Youngsters who started on the low-nicotine mint- and cherry-flavored products soon graduated to the company's two stronger, best-selling brands. Within two decades, the market for snuff tripled to about 7 million users, of which 1 million to 2 million are between the ages of 12 and 17. The average age of first use was now estimated to be 9½ years old. Janet also reported in her case study that snuff users were more than 4 times more likely to develop cancers of the mouth generally and 50 times more likely to develop specific cancers of the gum and inner-cheek lining. Several suits had been filed by the parents of teenagers who had developed mouth can-

cers, and tooth loss and gum lesions have also been widely reported, even in relatively new users.

Karen admitted that she was aware of all this but encouraged Janet to join her anyway. "You wouldn't believe some of the truly awful marketing ploys that I have been able to scuttle," she said. "Unless people like you and me get involved, these products will be marketed by people who don't care one bit about the little kids who are getting hooked on snuff. Believe me, it's disgusting work. I don't like to tell people what I do, and I sometimes look at myself in the mirror and ask what has become of the idealism I had starting out. But there will always be someone to do this job, and I feel that I have made a difference. If you join me, the two of us together can slow things down and avoid the worst excesses, and maybe we'll even save a few lives. Plus, you can get some experience and be in a better position to move on."

Janet admitted to herself that Karen had a strong argument. Maybe she was being too squeamish and self-centered, just trying to keep her own hands clean. Maybe she could do others some good and help herself at the same time by taking the job. But then again. . . .

SHARED WRITING: CLEAN HANDS IN A DIRTY BUSINESS

On what grounds can Karen's work at the tobacco company be considered ethical or unethical? Explain whether or not you believe that Karen has made a morally significant difference and done more good than harm, as she states. Would you advise Janet to take the job or hold out for something else?

Case: Conflict of an Insurance Broker

I work for an insurance brokerage firm, Ashton & Ashton (A&A), which is hired by clients to obtain the best insurance coverage for their needs.⁴⁵ To do this, we evaluate a client's situation, keep informed about insurance providers, negotiate on the client's behalf, and present a proposal to the client for approval. Our compensation comes primarily from a commission that is paid by the client as part of the premium. The commission is a percentage of the premium amount, and the industry average for commissions is between 10 percent and 15 percent. A secondary source of compensation is a contingency payment that is made annually by insur-

ance providers; the amount of this payment is based on the volume of business during the past year.

One of our clients, a world-class museum in a major American city, has been served for years by Haverford Insurance Company. Haverford is a financially sound insurer that has provided the museum with reliable coverage at reasonable prices and has gone out of its way on many occasions to be accommodating. Haverford has also built good relations with A&A by allowing a 17 percent commission—a fact that is not generally known by the clients. When the museum's liability insurance policy came up for renewal, A&A was asked to obtain competitive proposals from likely insurers. We obtained quotations from four comparable insurance companies with annual premiums that ranged between \$90,000 and \$110,000. A fifth, unsolicited proposal was sent by a small, financially shaky insurance company named Reliable. The annual premium quoted by Reliable was \$60,000.

There is no question that the museum is best served by continuing with Haverford, and our responsibility as an insurance broker is to place clients with financially sound insurers that will be able to honor all claims. The museum has a very tight operating budget, however, and funding from public and private sources is always unpredictable. As a result, the museum is forced to be extremely frugal in its spending and has always chosen the lowest bid for any service without regard for quality. The dilemma I faced, then, was: Should I present the Reliable bid to the museum? If I present Reliable's bid, the museum will almost certainly accept it given its priority of saving money. Because the market indicates that the value of the needed policy is around \$100,000, the Reliable proposal is definitely an attempt to "low-ball" the competition, and the company would probably raise the premium in future years. Is this honest competition? And if not, should A&A go along with it? Allowing a client to accept a low-ball bid might also jeopardize our relations with the reputable insurers that submitted honest proposals in good faith. If relations with Reliable are not successful, the museum is apt to blame us for not doing our job, which is not merely to pass along proposals but to evaluate them for suitability.

On the other hand, A&A will receive a higher commission and a larger contingency payment at the end of the year if the museum is presented with only the four solicited proposals and never learns of the Relia-

ble bid. Because of our financial stake in the outcome, however, do we face a conflict of interest? Could we be accused of choosing a course of action that benefits us, even though in reality the client is also better served?

SHARED WRITING: CONFLICT OF AN INSURANCE BROKER

Explain whether or not A&A would be acting responsibly in its role as a broker by allowing the museum to make a poor choice. How can the broker act responsibly toward the museum while still presenting the inferior insurance bid?

Case: An Auditor's Dilemma

Sorting through a stack of invoices, Alison Lloyd's attention was drawn to one from Ace Glass Company. Her responsibility as the new internal auditor for Gem Packing was to verify all expenditures, and she knew that Ace had already been paid for the June delivery of the jars that are used for Gem's jams and jellies. On closer inspection, she noticed that the invoice was for deliveries in July and August that had not yet been made. Today was only June 10. Alison recalled approving several other invoices lately that seemed to be misdated, but the amounts were small compared with \$130,000 that Gem spends each month for glass jars. "I had better check this out with purchasing," she thought.

Over lunch, Greg Berg, the head of purchasing, explained the system to her. The jam and jelly division operates under an incentive plan whereby the division manager and the heads of the four main units—sales, production, distribution, and purchasing—receive substantial bonuses for meeting their quota in pretax profits for the fiscal year, which ends on June 30. The bonuses are about one-half of annual salary and constitute one-third of the managers' total compensation. In addition, meeting quota is weighted heavily in evaluations, and missing even once is considered to be a deathblow to the career of an aspiring executive at Gem. So the pressure on these managers is intense. On the other hand, there is nothing to be gained from exceeding a quota. An exceptionally good year is likely to be rewarded with an even higher quota the next

year because quotas are generally set at corporate headquarters by adding 5 percent to the previous year's results.

Greg continued to explain that several years ago, after the quota had been safely met, the jam and jelly division began prepaying as many expenses as possible—not only for glass jars but also for advertising costs, trucking charges, and some commodities such as sugar. The practice has continued to grow, and sales also helps out by delaying orders until the next fiscal year or by falsifying delivery dates when a shipment has already gone out. "Regular suppliers like Ace Glass know how we work," Greg said, "and they sent the invoices for July and August at my request." He predicted that Alison will begin seeing more irregular invoices as the fiscal year winds down. "Making quota gets easier each year," Greg observed, "because the division gets an ever-increasing head start, but the problem of finding ways to avoid going too far over quota has become a real nightmare." Greg is not sure, but he thinks that other divisions are doing the same thing. "I don't think corporate has caught on yet," he said, "but they created the system, and they've been happy with the results so far. If they're too dumb to figure out how we're achieving them, that's their problem."

Alison recalled that upon becoming a member of the Institute of Internal Auditors (IIA), she agreed to abide by the IIA code of ethics. This code requires members to exercise "honesty, objectivity, and diligence" in the performance of their duties but also to be loyal to the employer. However, loyalty does not include being a party to any "illegal or improper activity." As an internal auditor, she is also responsible for evaluating the adequacy and effectiveness of the company's system of financial control. "But what is the harm of shuffling a little paper around? Nobody is getting hurt, and it all works out in the end," she thinks to herself.

SHARED WRITING: AN AUDITOR'S DILEMMA

What, if anything, is really wrong with the practice that Greg has explained? How could someone criticize Alison's assessment that "nobody is getting hurt, and it all works out in the end"?