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A brief on business ethics: The essential ideas

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A Brief on Business Ethics - The Essential Ideas

Tibor R. Machan

IEA Discussion Paper No. 17

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CONTENTS

PART ONE: BUSINESS ETHICS TRUE AND FALSE

Expectations	4
Ethics and Law	5
Ethics and Ethical Systems	5
The Assumptions of Business Ethics	8
The Bottom Line and Other Goals	9
Entrepreneurship and Ethics	10
Business Ethics Confusions	10
More on the Assumptions Underlying Ethics	11
The Assumptions of Business Ethics and Ethical Theories	13
The Ethical Elements of Employment	15
Advertising	16
Subjectivism, Relativism and Consistency	17
The Moral Responsibility of Corporate Managers	17
Business Abroad	18
Government Regulations	18
Replies to Arguments for Government Regulation	20
Friendship and Commercial Life	20
Political Economies in Brief	22

PART TWO: FURTHER REFLECTIONS AND ELABORATIONS ON BUSINESS ETHICS

Business and the Virtue of Prudence	26
The Principle of Private Property Rights	26
Some Glitches in the System	28
Applying Business Ethics I: Talking About Products and Services	29
Do Ads Create Desires?	31
The Benefits of Advertising	32
Advertising and Prudence	33
What is a Good Ad?	33
Applying Business Ethics II: Voluntary Cooperation in the Business Enterprise	34
Bargaining Power	34
The Stakeholder Theory	35
The Moral Responsibility of Corporations	36
Corporations as an Arm of Government	38
Corporations as Just Profit Makers	38
Humanising Corporations	39
Which View Makes the Most Sense?	40

A Brief on Business Ethics - The Essential Ideas

Tibor R. Machan

1. Business Ethics - True and False

Expectations

As a child in Budapest, Hungary, back in the late 1940s and early 1950s, I often saw cartoons depicting American capitalists as cigar-chewing fat cats, crushing workers and all beneath them with their ruthless greed and reckless hedonism.

I saw through this, of course, because I also read lots of American books, mostly fiction, which conveyed a very different sense of American life. Zane Gray, Max Brand, Erle Stanley Gardner, Mark Twain and the rest projected to me a free society in which most folks had a shot at doing well in their lives or at least living life as they chose. I knew well enough that this was fiction but I had the sense that folks at least aspired to those romantic ideals of individualism with a very human face.

When I arrived in the USA and eventually started to immerse myself in academic life, I soon discovered that what was caricature to the communists was actually serious dogma for most intellectuals. It was a very sad awakening to find that nearly all of them, both Left and Right, but for different reasons, had a demeaning view of commerce and business. This didn't make sense, considering that business was also very much in the midst of American culture - nearly everything that needed financial backing, from education to the fine arts, from science to politics, from athletics to recreation, sought the support of business. And at some level even those in the academy understood how much more productive capitalism is than socialism, that penultimate stage toward the dream world of communism (wherein everyone automatically loves humanity, nothing else). But the dream also held them captive.

I decided I wanted to check this out for myself - why such schizophrenia? I had been inspired by some authors to look into this - Cameron Hawley, the novelist who wrote Cash McCall and Executive Suite, Ayn Rand, who wrote The Fountainhead and, especially, Atlas Shrugged, Ludwig von Mises, Henry Hazlitt, F. A. Hayek, Milton Friedman, Murray N. Rothbard and some others gave me some hope that my sense that there is something amiss in all this business bashing that I encountered from intellectuals was misguided.

I decided to enter the field of philosophy where fundamental issues are studied, so I could get to the bottom of the problem.

Ethics and Law

To start with, it became clear to me that the problem lay with how intellectuals understood ethics or morality, not so much law. The latter is, after all, the more or less explicit will of the governing body of a society - democratic, monarchical, dictatorial, what have you. But that will is shaped by ideas concerning what is right and wrong for people to do. For example, alcohol was made illegal for a while because some believed they were right to forbid others to consume liquor. More drastically, Jews were exterminated in Germany because many people accepted the leadership of someone who held that the purity of the race was a sufficient reason to murder people. In the USSR the government could abolish private property and herd millions to their death because powerful people believed that it was morally acceptable to sacrifice human beings for the sake of what they took to be a future paradise on earth.

So it was not law that interested me, mainly, but the more basic issue of ethics, the different ways human beings have answered the question “How should I live, act, conduct myself, as a human being?” Or, alternatively, “What are the correct standards of proper, good conduct for me and other human beings?” I figured, as have many others in philosophy, that if this question can be understood and answered, then law would in the end take care of itself, especially in a nearly democratic country.

Ethics and Ethical Systems

I learned a few things and these I would like to sketch for you now. First of all, ethics is a field of inquiry that is quite problematic. When one says “He is acting unethically”, the meaning of this is by no means self-evident. There are competing ethical theories, systems, and this is evident in how often people disagree about what is the right thing to do. And among the philosophers who concentrated in ethics, I also found many disagreements.

Not only that - some people, many in the social sciences, believed ethics is a bogus field, like astrology, witchcraft or demonology. Clearly, we can see this view widely embraced today, even while others complain about ethical problems. Just recently The New York Times ran a discussion of how the human mind developed and only two positions were taken seriously: either we are hard wired and everything flows from our genetic make-up (nature) or our brains are flexible and the environment shapes them (nurture). The idea that individuals have something to contribute to their own thinking and, thus, behaviour, didn’t even get one line in this report! So the basis of the criminal law, namely, individual responsibility, seems now to lack any scientific support.

Clearly many matters needed to be looked into if I was to make headway with my goal of figuring out what, if anything, is morally problematic about business in a

country so closely associated with it. But I think I made some headway, eventually. Here is how I now see the problem:

First, many people think that the hard sciences are the only rational field of study, so if we are to understand human life, this understanding must use the methods that we follow in the hard sciences - or actually used to follow until recently, led by Isaac Newton and others. That means that we need to be able to explain what people do by reference to the various forces acting on them - genetic or environmental, for instance.

Second, even if this doesn't tell the whole story, it is completed once we add the (Kantian) idea that in the area of our "inner selves" we are free. We can intend to do well but that is all - it is the thought that counts and actual behaviour is not really in our control. Free will is a kind of spiritual issue. So what counts most, ethically or morally, is what someone intends or means - the categorical imperative our will accepts. What the person actually does, the behavior engaged in, is morally not important. Feeling another's pain is about all that can be done - doing anything to alleviate it is something else. The reason is that in the physical, empirical areas the laws of nature dictate what happens and the human will is impotent.

From these kinds of thoughts it emerged that those of our actions that produce good results for ourselves are morally irrelevant. Consequences do not count, only intentions. Moreover, such matters really cannot be dealt with scientifically, so they may even have to remain a matter of faith, religion.

This situation makes business unlikely to appear to have any moral standing. Actually, not even medicine or any other productive profession, can have moral standing. With medicine, though, one can assume that people mean well, are impartial and not concerned with their own well being. This is not possible to imagine about commerce - in it people usually want to make a good deal, one from which they will benefit. It is egoistic and self-interested, therefore clearly not impartial. Business is concerned with prosperity, usually for the acting agent or those close to the acting agent. Such a moral outlook bodes ill for business; there is no doubt of that. Prudence, which is the virtue in terms of which one ought to take decent care of oneself, lost its status as a moral virtue and became a kind of inner compulsion.

After a bit of study I did, however, also discover, that this view of what is right for us to do wasn't always in vogue. In ancient Greece Aristotle thought that ethics was needed to guide us toward happiness. Oddly, it was Adam Smith who made this point most explicitly. In *The Wealth of Nations* Smith says:

> Ancient moral philosophy proposed to investigate wherein consisted the happiness and perfection of a man, considered not only as an individual, but as the member of a family, or a state, and of the great society of mankind. In that philosophy, the duties of human life were treated of as subservient to the happiness and perfection of human life. But, when moral as well as natural philosophy came to be taught only as subservient to theology, the duties of human life were treated of as chiefly subservient to the happiness of a life to come. In the ancient philosophy, the perfection of virtue was represented as necessarily productive to the person who possessed it, of the most perfect happiness in this life. In the modern philosophy, it was frequently represented as almost always inconsistent with any degree of happiness in this life, and heaven was to be earned by penance and mortification, not by the liberal, generous, and spirited conduct of a man. By far the most important of all the different branches of philosophy became in this manner by far the most corrupted.[1]

Now the ethics of Aristotle didn't quite include striving for prosperity as a major ingredient of striving for happiness because Aristotle was an intellectual elitist. For him ultimately only pure abstract thinkers could become happy.

Yet this seemed to me a serious improvement on the ethics of Immanuel Kant who denied that happiness was the goal of ethics. Once we revise Aristotle's ethics in light of a humanistic, naturalistic view of our lives and add that not just the intellectual life but human life, with all its attributes - including its economic dimension - needs to be part of happiness, it is not difficult to appreciate that productive professions such as business could also have moral standing. After all, what do people in business do but strive to achieve prosperity? While prosperity may not be all there is to human happiness, it certainly is clear that it is a part of it - just ask the poor!

So it is now fairly clear that we have two very different ideas of what it is to be ethical: the first says we must be indifferent to good, earthly things for ourselves, even for our intimates, and worry only about following impartial rules. Egalitarianism is the result of this for politics and law - as the work of John Rawls shows. Since business is competitive - so that some do very well, some a bit less so, some not so well at all and others outright badly - business does not fit this view of human morality at all. The only way business can redeem itself is if it engages in pro bono activities, philanthropy, "socially responsible" projects, etc.

The second view, however, implies that business is an honourable profession, no less so than medicine or art or science: it aims for some ends that contribute to human happiness. But this second view is out of vogue today, especially among many academic philosophers, including many of those who teach business ethics. Instead they embrace the Kantian view and regard prudence, caring for oneself, including economically, as at best amoral, but more likely greedy and callous - as depicted in the movie Wall Street, for instance.

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[1] Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, New York: Modern Library, 1937, p. 726.

The Assumptions of Business Ethics

Suppose we reject the Kantian idea and contend that business is indeed an honorable profession? Does this mean that people in business can do no wrong?

Clearly not, but they would normally be quite worthy of respect and even admiration when they carry out their professional tasks conscientiously and successfully. Even without any extracurricular deeds of charity or generosity, those in business, as those in education or science, could be seen as embarking upon morally worthwhile tasks.

There are, however, pitfalls in business, as in any other profession, which is why business ethics is an important field of study, a sub-field of professional ethics (which is itself a sub-field of role ethics). Under the Kantian view, though, business ethics is what so often is said about it, an oxymoron. For anything so directly concerned with self-promotion couldn't possible be justified as being motivated impartially.

If business is treated as an honourable profession, it can still be appreciated that the field is characterised by temptations to do wrong, to become corrupted, although no more or less so than in medicine, art, science and education. Yet that is not the view of most teachers.

Business ethics is taught mostly by those who turn it into a kind of business bashing. The courses and books teach that business needs taming because it is a kind of wild beast driven by motives of self-regard and profit. It is amoral so it needs to be civilised and socialised.

Thus, much of so-called business ethics focuses on public policy - law and government regulation. What in other fields may be taken to be ethical pitfalls are, in business, addressed by some government regulatory agency. This isn't so, evidently, with religion or journalism, at least in the USA, because our system of law prohibits the regimentation of professionals in these fields. But then those fields do not face the obstacle of having prudence as their main justification.

If, however, we acknowledge that business is honourable - a genuine profession that can be practiced with honour - and does not require constant paternalistic government intervention, we run afoul of a lot of political thinking loose in the halls of Ivy. The reason is not difficult to see.

Ethics assumes that people have free will and that the choice between right and wrong conduct must itself be free, not coerced, compelled by others. That precludes a great deal of government intervention - that is tantamount to prior restraint - now on the books. Even more controversially (and here many in business join the skeptics) there would have to be firm, stable standards by

which business conduct can be guided and evaluated. Some choices might well be wrong, even though they could not be subject to prohibition.

One could argue, for example, that racial prejudice in business is really morally wrong, not just unlawful. Sexism, bigotry, unfairness, callous management, ripping off employers, stereotyping customers in advertising, peddling risky stuff to children, taking advantage of political favouritism, exploiting tyrannical systems abroad so as to get low cost labour etc., could all be seen as ethically objectionable, yet many people in business might not wish to give up these activities because they gain some temporary benefits from them. (That many in business actually do not wish to take all such short cuts is evident from the fact that 26% of the 544 largest US firms do not even give money to political candidates - for example, IBM, Campbell Soup and Gillette).

If, however, one regards business as lacking moral standing, incapable of being carried out honourably, then ethics is irrelevant and everyone in business looks only to what is legally permitted, never mind any other standard of conduct. If China has favorite nation status, then dealing with it is OK, never mind any slave labour being used in its manufacturing plants. If South Africa is not under official sanctions, then just take advantage of the cheap black labour there. If the law permits lobbying for protectionism, then William F. Farley, CEO of Fruit of the Loom, can exclaim “I make no apology for fighting for the interest of Fruit of the Loom’s shareholders and the American workers we employ” as he asks the government to deploy restraint of trade against foreign importers, never mind that this is really nothing else than sending extortionists to “level the playing field.”

The Bottom Line and Other Goals

Let’s take a brief look at what business ethics actually involve if we look at the field from the neo-Aristotelian perspective I sketched earlier, wherein ethics is a life-enhancing system of principles, guidelines.

To start with, the professional task of people in business is first and foremost to make the enterprise prosper. To do that well is itself morally commendable and praiseworthy, not simply shrewd and clever. If one judges policies in terms of irrelevant concerns - such as suiting one’s racial or sexual prejudices, nepotism, etc. - one violates business ethics because this undermines the objective of the job. Keeping the bottom line in focus becomes a moral responsibility, not just a “natural drive” in business. Losing sight of the bottom line is itself a kind of moral negligence and betraying it is outright malice.

Business ethics are not, however, the only ethics people in business need to be concerned about. This holds for any other professional ethics because we are not just professionals but human beings who ought to live morally whatever we

do, wherever we do it. In business the bottom line is first but even there it is not all there is. People in business, as in other fields, aren't always on the job, nor should they be (for example, if they have family obligations, citizenship responsibilities, fraternal duties, etc.). So while business ethics is important to follow, it is not all that matters for those in business. However, in the Kantian perspective, wherein people in business are already condemned to doing something at most amoral but probably morally shady, people in business are morally tainted and not much can be expected of them.

Still, in business it is proper and commendable to focus first on the bottom line and let no one teach the contrary for that betrays moral contempt for the field, not a concern for its ethics!

Entrepreneurship and Ethics

It is not my task here to elaborate everything about business ethics. But let me just hint at how this ethical perspective would view some of what plagues the field.

Very generally put, a serious temptation of those in business arises because they are often out there striving. Entrepreneurial initiative requires assertiveness, hustle-bustle, chutzpah, all of which are ethically proper. Yet, these traits can get corrupted from lack of care and trail off into aggressiveness and reckless disregard for other objectives human beings need to be concerned about. Again, this is true of artists who aside from being tempted by plagiarism or repetition can also neglect their families, or of scientists who fudge evidence and also become so absorbed that they neglect politics and friendship, or of politicians who serve special interests rather than the true public interest that has the security of every citizen's rights in focus.

What might be termed "excessive eagerness" in business, however, is very visible, so it is easy to focus on it unfairly. When artists cheat by swiping the styles and ideas of fellow artists, hardly anyone knows. Even scientific fraud is very tough to spot, let alone the misconduct of educators who exploit their captive and vulnerable young audiences so as to pitch to them their favourite doctrines rather than remaining an even handed guide to the thinking in their disciplines.

Business Ethics Confusions

So why is business approached so hypocritically? People place it under a moral cloud but fervently wish for its fruits: Praise Mother Teresa and then hit the shopping mall?

We haven't come to terms with the fact that ethics must guide our lives to success as human beings here on earth. Thereafter is something that's pretty much out of our hands, a matter of mystery and perhaps God's grace. What we are responsible for is to achieve our human form of happiness here on earth, and the various professions, including business, can be instrumental for that purpose. Thus business must be given its due, as must science, art, medicine, education and so forth.

Once this is understood, then a bona fide ethical perspective on business will become possible. Just as journalists, who are free of government meddling and regimentation, can be evaluated ethically, so should business be free and then be evaluated on the basis of whether it does the right or wrong thing. Only when business violates people's rights should it face the burden of legal sanctions, not before, exactly as everyone else is treated in the criminal law, without prior restraint.

More on the Assumptions Underlying Ethics

Ethics has two assumptions: first that we have free will and second that there are moral standards. Both are controversial. The first is doubted because it looks like science rules out free will; because the law of causality makes everything predictable, because we cannot detect the free will with our senses; because if God knows all, He surely know what we will do; and because free will seems odd compared with the rest of nature.

In response to the first set of doubts:

(1) Science, contrary to the skeptic's view, may not impose requirements on what exists in the world. Science has the task to discover and identify what exists and if it turns out that free will exists, science may not say "That cannot be?" Metaphysics can - "no contradictions can exist" - but science should report and examine, not rule out.

(2) The law of causality is universal, that is true (just as metaphysics would hold), but what kind of causes can exist depends upon what kind of beings there are. And if a being can cause its own behaviour or conduct that would mean there can be agent causality (not simply mechanical causality). There is prima facie evidence of agent causality - one knows about oneself that one causes things to happen or not happen. And even in the animal world, there appears to be causation by animal agents - beavers build dams, for example.

(3) As to whether free will can be observed, here the problem is that not everything known to exist is known by observation - an example is black holes, which absorb all light that would make them observable, yet we know they exist by inferring their existence from surrounding evidence. This is how we know

about people's intentions, motives, feelings, pains, etc., not by direct observation, and this is how free will might be known (its existence is inferred from other things we know, such as the immense human diversity we see around the world and in history).

(4) God's knowledge, in turn, isn't like yours and mine, so when one says "God knows what you will do" the meaning is not clear and straightforward. It is, rather, very likely to be mysterious and thus not much can be inferred from it about free will.

(5) There is also the fact that there are myriads of things and types of things in nature, a great variety of them, so something with free will would not be all that strange, given that moving from the simplest to the more complex entities there emerge things with quite unusual attributes. Free will would just be one more in the vast variety of them.

This shows that free will may be possible but why believe it exists?

(A) Knowledge seems impossible without free will - without the human mind being unconstrained, unprejudiced, independent. This is why juries and scientific researchers, among others, can be trusted yet there is no guarantee they will be right.

(B) There is, also, the determinist's dilemma: In advocating determinism, the determinist assumes others have free will and so can change their minds based on thinking through his argument.

(C) Also, introspection is often trusted, so when one introspects - recalls by self-examination or memory - one having made decisions, choices, and so forth, this supports the idea that one has free will enabling one to do such things.

(D) Finally, scientists - psychophysicists, for example - have argued that the higher brain enables one to exercise self-control and self-governance (sovereignty), which accounts for why we can restrain and discipline ourselves in the face of objectionable inclinations, desires, impulses, etc.

So free will seems quite plausible.

The second assumption is doubted because ethical claims seem not to be verifiable, provable; because one cannot deduce a moral claim from factual claims; because there seem to be endless different ethical systems; and because, again, it seems odd that human beings would be the only ones with a moral nature.

The responses to these skeptical objections are as follows:

(1) As to moral standards, knowing what's right and wrong isn't exactly like knowing things like there is a tree there or a car just turned the corner; it is like medicine - it requires a theory of what is the human good (as in what is good health) and then inferring what are good actions and what are bad ones.

(2) When we reach moral conclusions via reasoning, we are not engaged in deduction but induction or inferences, so the same rules do not apply - in fact in all practical fields we do this – reach conclusions on the basis of theories - as in medicine or engineering.

(3) The great variety of moral opinions concern details, specific ways of acting in different circumstances, but there could well be basic principles that apply to all human beings just because they are human (like "pay attention").

(4) Finally, as with free will, morality may well be unique to human life - and, after all, there are many institutions that only apply to human beings, like government, marriage, criminal procedures, etc.

The Assumptions of Business Ethics and Ethical Theories

As noted before, two assumptions underlie business and business ethics: the right to private property and the moral virtue of prudence (of looking out for oneself and one's loved ones).

- *The right to private property*. For business to exist as a practice or institution in a society, individuals in that society have to be free to own things, to acquire things, part with them, exchange them, give them away, etc., including their time, skills and labour. If this were not the case, no business or commerce could take place. This is controversial because many object to ownership by individuals and believe that only the public or government can own things - communists and socialists hold this view. Commerce or business, to the extent there is any of it in such societies, amounts to a 'permission' from the people or government to feign a market process, a permission that may be revoked at any time. In a commercial or business society, however, one takes part in the exchange system as a matter of right - the right to own things.

- *The virtue of prudence*. Prudence is the moral or ethical virtue that requires one to take decent care of oneself. Insofar as one is a natural, living being, this means one ought to prosper to some extent. Commerce or business (the professional arm of commerce) is an ethically decent undertaking because it is prudent to make good deals when the opportunity for them arises. That is how one has the chance to prosper. This, too, is controversial because many object that attempting to prosper distracts from more lofty (important or noble) undertakings, such as

preparing for the afterlife with prayer and penance. If these people are right, seeking prosperity is sinful, morally wrong. (As we know, there are those who renounce commerce or business to the point of physically attacking those who are engaged in it, for example, those who worked in the World Trade Center, on the grounds that they were being materialistic.)

Before proceeding to the discussion of business ethics topics, here is a brief outline of prominent and contending ethical systems.

- *Ethical hedonism* is the view that everyone ought to seek to obtain as much physical pleasure in life as possible. This has appeal because physical pleasure is an easily recognised value, something that we can all accept as good, so it is easily verified and that, in turn, makes it appeal to the scientific mentality that is so widespread in our age. (Jeremy Bentham is a most prominent ethical hedonist.)

- *Utilitarianism* is the view that everyone ought to seek to promote the greatest happiness of the greatest number of (that is, most) mainly people but perhaps animals, too. Two types of utilitarianism have been advocated - act and rule - but only rule utilitarianism is popular. It requires that one identifies a set of rules or principles to guide one's conduct, with the goal of promoting the greatest happiness of the greatest number (which is often referred to as the public or common or humanity's interest or welfare). (John Stuart Mill is the most prominent defender of utilitarianism.)

- *Altruism* holds that we ought to advance the well being of others first and foremost - mainly other people but perhaps also animals. Two versions have been advocated - subjective and objective altruism. The first identifies what will benefit someone by reference to that person's desires or preferences, the second by reference to various facts about the person. (Auguste Comte is a famous advocate of altruism.)

- *Ethical egoism* is the view that we ought all to promote our own well being, first and foremost. Some egoists are subjectivists, others objectivists - the first, as with altruism, identify what is good for oneself by reference to one's desires or preferences, the second by reference to one's thorough knowledge of oneself, one's needs, talents and anything else important. (Max Stirner is a famous subjective ethical egoist and Ayn Rand is well known as an objective ethical egoist.)

Some less prominent schools of ethics include Stoicism, asceticism, various religious schools of ethics and so on. Stoics promote detachment as the way to live, ascetics self-denial, etc.

The Ethical Elements of Employment

The employment relationship exhibits the assumptions on which business ethics are based since: (a) every prospective employee owns his or her own labour (skill and time) and every prospective employer owns the resource from which to pay employees; and (b) each normally strives to enhance his or her own lot through the relationship. The first shows the right to private property, the second the motivation of prudence.

How can employment go wrong? Remember it is undertaken and involves a commitment or promise to achieve a purpose, namely, to enhance the value of the enterprise (to make it profitable, to have it prosper) through some craft, profession, or service (making cars, selling real estate, fixing tyres, helping someone with psychological problems, curing a disease, etc.). Thus the call for applicants is for these purposes – to make a profit by way of a skill. And the acceptance of a job also involves this.

If this call is betrayed by the invocation of some irrelevant criteria on either side - race, national background, gender, sexual orientation, age, height, etc. - the relationship is corrupted. Nepotism, for example, is trade that aims to enhance family members' welfare because they are family members, not because they are likely to do the job well, so it is (usually) a violation of business ethics. Sexism, racism and other kinds of discrimination qualify as well.[2]

There can be reasons, however, why some normally irrelevant considerations would be justified - as when a family obligation overrides business goals (usually in privately owned firms, not in publicly held companies, since the discretionary authority doesn't ordinarily, unless called for in a stockholders' election, exist in the latter).

Special workers' rights, a type of positive rights, are grounded on the belief that workers as a class are vulnerable to exploitation in the market place, that they lack bargaining power (see below, p. 34).

All human beings have basic, negative rights – for example, to life, liberty, the pursuit of happiness, property and so forth. These are what the US Declaration of Independence lists, as well as the Bill of Rights. They are negative in that they prohibit people from intruding upon others. Murder, robbery, kidnapping, assault and similar crimes involve violation of these basic negative individual rights. Government is supposed to secure or protect these rights for all citizens.

Positive rights are entitlements to being provided with resources or services, such as the right to education, health care, unemployment compensation, a minimum wage, health and safety provisions at work and so on. They rest on the

[2] These issues are addressed more fully later in the paper (p. 34).

view that all persons in need are owed some support from others and government must secure this support.

Because working people are supposed to lack bargaining power - they lack wealth that enables them to call the shots in dealing with employers - it is argued they need these positive special workers' rights.

It is often noted that negative and positive rights co-exist uneasily because to respect and protect the former the latter must be sacrificed, or vice versa. It is also argued that their co-existence undermines the rule of law because judges or bureaucrats must decide which of the two kinds of rights deserve more vigilant protection. The rule of law is the idea that some set of principles, not judges or bureaucrats, would help in deciding the law.

Advertising

The ethics of advertising are discussed in greater depth later in this paper (see p. 31). However, at this stage it is worthwhile summarising the main arguments.

To advertise is to promote goods and services in impersonal ways, with the aid of gimmicks and other attention-getting devices. The idea is that without such promotion one's works won't come to the attention of potential trading partners. So, it is prudent to advertise.

Ads contain but do not focus on disseminating or spreading information. So, it is wrong to criticise ads for failing to tell the whole truth - all the truth customers can use. It is the responsibility of customers themselves to obtain the information that will enable them to make prudent purchases.

Ads can go wrong by relying on stereotyping, being offensive, being tasteless, or simply failing to be effective. While ads aren't about providing information, if they contain factual claims, these must be true. But they can contain much embellishment, ornament, humour and the like so as to call attention to what one has to offer. Ads are, in essence, part of trying to make a living for those whose wares they promote. (Even junk mail or telemarketing should be so understood.)

A criticism of ads is that they create desires in us which we then must satisfy and doing so leads to dependence on the producers (J. K. Galbraith[3], Vance Packard[4]); they are instruments of exploitation and manipulation. This view calls into question the sovereignty of consumers; it treats impulse buying as the norm, not a consumer failing but something one cannot resist engaging in. In response it can be argued that ads do create desires but we are capable of governing our

[3] John Kenneth Galbraith, *The Affluent Society*, Boston: Houghton Mifflin, 1969.
[4] Vance Packard, *Hidden Persuaders*, New York: D. McKay Co., 1957.

desires; we can choose to resist them, channel them, etc. (FA Hayek[5]). This debate calls to mind the dispute between determinists and advocates of free will (see above).

Subjectivism, Relativism and Consistency

At the beginning of a discussion on the moral responsibility of business managers, some basic issues should be addressed. Can ethical subjectivism and relativism be compatible with ethical judgments about the conduct of business professionals? Why and why not? What implications are there from ethical subjectivism and relativism?

Also, why is being inconsistent or contradicting oneself a problem? Is there anything really wrong with it? Why or why not? How does this relate to a prominent issue of our time, multiculturalism? The discussion continues by examining the ethical responsibilities of business managers.

The Moral Responsibility of Corporate Managers

Two major theories about the moral responsibility of corporate managers dominate business ethics discussions - shareholder and stakeholder. The former states shareholders hire managers of the firms in which they own a share or have an investment and these managers owe it to them to manage the firm in a profitable way, to make it prosper. The latter states corporate managers are morally bound to advance the well being of all who may be affected by the management of the corporation.

Another version of this dispute involves three theories - that of Milton Friedman, of Ralph Nader and of Miller-Ahrens-Machan. Friedman advances the exclusivist position - company managers should focus solely on the bottom line, make the firm profitable, period, nothing else (within the rules of the game). Otherwise they get involved in matters that should be dealt with by the public authorities (which public projects to support, etc.). Nader holds that since corporations were originally created by government (the king or royal court), they are arms of public policy and now this means economic democracy, with managers doing what the voters what them to do. Miller-Ahrens-Machan argue that the primary obligation of managers is to make the firm profitable and then there can be other matters with which managers should also be concerned - the quality of the community, employee satisfaction, the arts and sciences etc. This is the view that profit should dominate but not be the exclusive concern.

[5] F. A. Hayek, "The Non Sequitur of the 'Dependence Effect'," *Southern Economic Journal*, Vol. 27, April 1961.

Depending on which of these views is right, different policies follow for various more particular issues, such as insider trading, hostile takeovers, outsourcing, and so forth.

Business Abroad

Doing business in cultures other than one's own poses the problem of whether the same basic ethical principles apply. Since, however, every culture, however different, is populated by human beings, some basic ethical principles would apply (if ethics is in fact an aspect of human life). Business ethics would derive from some such basic principles. If business is being conducted in any culture, ethics will require some forms of conduct and oppose others from all business professionals and those engaged in commerce. Yet there will also be special requirements based on the cultural characteristics that prevail.

Basically, then, in no case may people in business engage in the violation of human rights - especially the right of free association or freedom of trade (for example, something that would involve relying on conscripted labour, stolen property and other violations of individual rights). Less basic principles of business ethics may vary from culture to culture - based, for example, on the prevailing religious practices or economic conditions (for example, widespread veganism would cancel business in meat; poverty may make child labour permissible). If firms do business with other firms - or governments - that do violate basic human rights, they would escape guilt only by providing some kind of support for abolishing the institutions and practices (for example, slavery, apartheid, conscription) that violate these basic rights. (Each of the essays in *Business Ethics in the Global Market*[6] - by Sternberg, Sen, McGee and Paul - addresses these issues, as do Chapters 10 and 11 in *A Primer on Business Ethics*[7].)

Government Regulations

Two legal principles give federal government regulation of business legal justification in the USA. There are similar provisions in other Western legal systems. They are the interstate commerce clause and the police power of government.

There are four ethical arguments for government regulation: the creature of the state argument, advanced by Ralph Nader and his followers; two types of market

[6] Tibor R. Machan (ed.), *Business Ethics in the Global Market*, Stanford, CA: Hoover Institution Press, 1999.
[7] Tibor R. Machan and James E. Chesher, *A Primer on Business Ethics*, Lanham, MD: Rowman & Littlefield, 2003.

failure argument invoked by, among others, John Stuart Mill and John Kenneth Galbraith; the positive rights to provisions argument advanced by such political philosophers as Alan Gewirth and John Rawls, and the judicial inefficiency argument proposed by the Nobel Laureate economist Kenneth J. Arrow.

Creature of the State

The first argument states that corporate commerce is a creature of government itself - it was brought into existence by acts of the British mercantilist government so as to enhance the wealth of the country. Since government created them, it is authorised and indeed ought to regulate them to accord with the public purpose. Clearly, morally, if one has created something, one is responsible for it and may do with it what is reasonable and responsible.

Market Failures

Although the free market is generally a good provider of goods and services, sometimes it is inefficient. For example, this happens when public services such as the provision of electricity or water are involved. There competition involves duplication and thus inefficiency in the use of resources. So, it is argued, companies should be made into monopolies or taken over by the state. Throughout the world this view has led to the abolition of free markets in some industries and the institution of extensive government regulation of prices, wages and labour relations etc.

Others have gone further and said government must correct the unwillingness or inability of markets to provide certain goods (for example, public libraries), which the market will not furnish. Government regulation, then, is but the legitimate effort of a government to remedy the market's deficiencies. We know what these are through the vote. The underlying idea here is utilitarianism - the central obligation of the state is to secure the greatest happiness of the greatest number and when the market fails to achieve this, government must step in with its remedial regulatory policies.

The Positive Rights Argument

Some hold that we have basic human rights not only not to be killed, assaulted, or robbed (to life, liberty and property, that is) but also to be provided with various goods and services from other persons around us. The positive right to health care, social security, public education, unemployment compensation or safety and health protection at the workplace are examples. Government is established among us to secure all these rights and government regulation must be instituted so as to adjust private endeavours so that these provisions will be forthcoming. The argument is really dependent for its force on the theory of positive rights.

Judicial Inefficiency

There are some social problems that privatisation cannot solve, namely, some kinds of pollution. When A pollutes the air mass and B suffers as a result of this, A cannot find B so as to secure permission, nor can B find A to launch a lawsuit. So there is neither a market nor a judicial solution available to the parties. Ergo, government must take over and regulate the sphere of judicially inefficient human endeavours. (This is not so much an argument for government regulation of business as one for government administration of what some view as unavoidably public spheres.)

Replies to Arguments for Government Regulation

Ralph Nader is right that governments established corporate commerce - but that was when governments ruled instead of served societies. After the American Revolution, governments could no longer pretend to have the moral authority to rule and so they no longer established religions or commercial firms. These arose from individuals voluntarily uniting. So government lost its authority to regulate them.

Market failures may exist - sometimes people do not do what they should or do what they should not in free markets. Some good things go neglected and some bad things get produced. To remedy this by government regulation, however, brings up the problem that governments are also highly corruptible and with the monopoly power can do much more harm than free market firms can. In short, to try to remedy market failures by means of politics overlooks the hazards of political failures.

Positive rights do support government regulation but negative rights would suffer, so the basic issue is what kind of rights human beings have, positive or negative rights. If the answer is that they have basic negative rights, this invalidates positive rights and the support they provide for government regulation.

Judicial inefficiencies exist but instead of government regulation, which permits some people being unjustly imposed upon, the best way to handle them may well be prohibition and quarantine. If a production process leads to serious negative externalities, that is, measurable degradation or harm to third parties – for example, by injuring persons and/or property - it must be curtailed or stopped in terms of standards of reasonableness as established in tort or personal injury law.

Friendship and Commercial Life

In many academic institutions you will find professors of this and that proclaiming that commerce is a dehumanising institution. It makes people treat one another as objects or, at most, as means to various ends, not as full persons.

The doctrine is called “commodification” - making people into commodities, things for nothing other than to be purchased. The charge is that in a fully capitalist, free market society, the system would encourage everyone to treat all others as a mere useful product, like one’s chair or automotive tyres. For this reason, the argument goes - and it had got its biggest boost from Karl Marx, in the 19th Century when he took capitalism to task very influentially for doing all kinds of nasty things to people - the free market, with its capitalist economic system, is not really good for human beings at all. This is something conservative critics also maintain – for example, Richard Weaver[8].

At first sight this may sound like a credible point to make against capitalism. When you go to the grocery store, for example, you tend to treat the cashier or the manager as no more than a means to your ends of walking out of the place with what you need at home. You don’t socialise much with these people, at least initially. They are just functionaries to you. If they were machines and could do what you needed from them, that would be perfectly fine. Or so it can seem, from a superficial examination of what happens in markets. Your broker, doctor, auto-mechanic, shoe repairer and the rest, they aren’t your personal friends. They are instruments used to satisfy important needs of yours but they could easily be replaced with someone else or some tool. (Nowadays you can even check out by using auto-scanners, with no need for a person at all.)

The trouble is that to focus on this element of the market - that it is mostly impersonal on a certain level - betrays a narrow vision. As if people would leave it at that, except in the most unusual circumstances - for example, when they are in a hurry and need to get their shopping done as quickly as possible. But normally that isn’t how it is at all. Professor Neera K. Badhwar argues, instead, that commerce is actually the institution where much of our intimate social life gets its start.[9] And anyone can check this out easily enough.

Just consider that wherever you work, you have colleagues with whom you have perfectly human relationships, good or bad or in between. In fact, sometimes places of work become nearly homes away from home, where people not only meet and talk and grow close (to enjoy or be annoyed by each other), but get involved quite seriously in each other’s lives. Children are discussed, as are spouses. Close friendships, or at least palships, develop frequently. Some colleagues become lovers, even marry in time. (Contrast this with what it is like to go to the DMV!)[10]

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[8] Richard Weaver, *Visions of Order, the Cultural Crises of Our Time*, Baton Rouge: Louisiana University Press, 1964.

[9] Neera K. Badhwar, ‘Friendship and Commercial Societies’, in Bernard Schumacher (ed.) *L’amitie*, Paris: Presses Universitaires de France, 2005.

[10] Department of Motor Vehicles.

The myth that market transactions are impersonal is just that, a myth, and it comes from shallow, superficial reflections on what goes on in markets. It may be no accident that the idea is so popular in the academy, where there is often a kind of isolation among faculty, with few becoming close to one another, although there are enough exceptions to this that should raise doubts in the minds of those who spread the myth around about the market.

Even down at the grocery store - or the pet shop or car dealer - customers and vendors frequently depart from their initial reason for coming together and start talking about sports, ethnic food, music or family troubles. And from that, now and then, full blown, genuine friendships emerge.

What the critics don't appreciate is how well people can multitask in life, that while they do business they can also do arts, sciences, education, family affairs and the rest on the side. Karl Marx was wrong - the free market is by no means only a cash nexus, where everyone thinks only of the bottom line. That's because it would be entirely unnatural for human beings to be that way.

Political Economies in Brief

An exploration of issues in business ethics should be informed by larger debates about what sort of political economy is best suited for human community life. The next section therefore briefly describes the main alternatives and examines those aspects most relevant to the topics under discussion.

Feudalism

The feudal system involves a hierarchical social structure, usually with a monarch or other supreme ruler or family in charge and various layers of nobility in gradually descending order of importance, with the serfs comprising the bottom. It was the predominant type of order of Europe and, indeed, much of the world, and many of the legal features of contemporary societies can be traced back to it. This system of government derives largely from historical events and certain prominent ideas advanced in various philosophical and theological systems, including the notion that some people are naturally or by divine edict superior in moral and other respects to the rest and ought, therefore, to have a paternalistic relationship to them. A form of elitism - the entrenched superiority and often rule of the select few - is usually at the bottom of the feudal ideal, including aristocracy (although since this means the rule of the best, there is some ambiguity about whether it can support anything that is entrenched and static, since who the best are could change drastically over time).

In a feudal system, also, major social institutions - commerce, religion, property holdings and professional positions - are usually assigned from above, by the designates of the royal family. Accordingly, the economic system of mercantilism

is closely linked to feudalism, as is the institution of a state church. (Although, often the prevailing church authorities can be separated from the state and this can give rise to complex dilemmas of spiritual and political leadership.)

It is fair to say that the idea of a constitution arose, in part, in opposition to feudal rule, so we will consider it next.

Constitutionalism

The term "constitution" derives from "to constitute." This means to be the basic structure for something.

Constitutionalism could be connected with a monarchy or with a democracy. (A parliamentary system is also a form of partly decentralised rule by council via the participation of political representatives from various regions of a country.) Usually constitutions will list basic principles of decision making and of the limits of power or authority of the governing administration. In the USA, for example, the federal constitution has within it a Bill of Rights that provides a list of limits on the government's authority and scope.

Such a system is usually recommended because of the predictability of the rules that govern the lives of people within a given geographical area. Yet, since there is no way to predict for the long range what problems will face people, the constitution usually needs to be interpreted to apply to topics that were not in evidence when it was originally drafted. A great deal of controversy surrounds just how this process should be implemented. The USA has the system of judicial review. If the legislatures or other law making bodies proposed policies that some see to be in conflict with the constitution, the matter can be brought to the attention, ultimately, of the US Supreme Court and a judgment could then be forthcoming as to whether this measure accords with or violates the constitution - whether it is legal.

Another source of controversy about constitutionalism is whether it is ultimately democratic, whether it does justice to the idea that government must be by the people. A constitution stretches the ideas and ideals of the drafters or framers way into the future, past their own lives and citizenship.

Socialism

Socialism is actually a system focused on the nature of human life as a whole. Socialists see the human being as part of a large whole - society or even humanity. As Marx claimed, "the human essence is the true collectivity of man," meaning that a human being is a specie-being, the kind that is fully aware of belonging to "the organic body" of humanity.

The stress in socialism is laid on the health of society or humanity as a whole, although this cannot be separated from the well being of the constituent parts, namely the individual human beings who compose society or the species.

In particular, a good or just human community is characterised by cooperation, as opposed to competition or rivalry, in all realms of life - economic, scientific, political and athletic. In that most important realm, the economic, socialism proposes the collectivisation of the administration of all production and distribution of value (although such administration does not preclude subjecting some spheres of economic life to limited competition, a policy that is dubbed "market socialism"). So while socialists do not necessarily embrace the idea of central micro-economic management and planning, they do favour the supervision of society's economic affairs from the viewpoint of the public at large with private initiative taking a subservient role.

Socialism can take several forms. Some claim that at least at the beginning of a socialist society there must be central planning by those who understand the need for socialism, helping thereby to upgrade those who are lagging behind in their awareness of this need. Some would want a more democratic socialism whereby members of the community set priorities for the whole, in a kind of ongoing conversation about the priorities. Some others, as already suggested, see only a limited need for the socialisation of economic and other matters, albeit one that is vital (mostly as far as the satisfaction of basic human needs are concerned).

Just like human language, so human life in general is to be seen as a social process and the idea that we can make a significant difference to our lives as individuals is just as much of a mistake as the idea that we can invent our own language. That is perhaps one of the key reasons for claiming that socialism is the proper form of human social life.

Communism

In general communism is a system of sharing whatever is of value among members of human communities, with no individual ownership in play. In Karl Marx’s version communism is the final, mature stage of humanity’s development, when all will have been fully emancipated. (History is the process of humanity’s development toward its maturity, with earlier systems, such as tribalism, feudalism, capitalism, socialism as development stages.)

In communism there will have emerged a “new man,” one that has overcome the drive of selfishness and has embraced a full public spiritedness whereby love of all is the norm and work is always for the love of it, never for private gain. Government will have become moot, unnecessary, other than for minor administrative purposes.

Capitalism

This is the economic system in which the institution of the right to private property - that is, for any individual or any group of them, to own anything of value (not, of course, other human beings, who are themselves owners) - is officially protected.

There is dispute about the label, mostly because its definition is often a precondition of having either a favourable or unfavourable view of the system. Put a bit differently, "capitalism" is the term used to mean that feature of a human community whereby citizens are understood to have the basic right to make their own (more or less wise or prudent) decisions concerning what they will do with their labour and property, whether they will engage in trade with one another involving nearly anything they may value. Thus capitalism includes freedom of trade and contract, the free movement of labour, protection of property rights against both criminal and foreign aggression as well as government intervention.

Communitarianism

Communitarianism is a house between the collectivist system of socialism and the individualist one of capitalism. Roughly it rests on the view that human beings are necessarily or essentially parts of distinct human groups, communities, with their diverse values, histories, priorities, practices, laws, cultures, etc.

Some communities can be Spartan, others Stoic, yet others bohemian and so forth. Each can have its peculiar way of life without implying any objective condemnation of some alternative form. Yet participation in the community's form of life is not a matter of individual consent.

Communitarians often unite in their criticism of bourgeois society or liberal capitalism because of the emphasis in these latter on individuality, privacy, personal freedom, consent, competition, etc. Communitarians believe that the view of human nature underlying such liberal capitalist views is seriously flawed. They are convinced, also, that the central idea of liberal capitalism is what has come to be known as *homo economicus* or "economic man." That idea figures heavily in economic analysis and views individuals as autonomous entities who enter the world fully formed, self-sufficient and ready to make choices in the market. While there are other conceptions of the human individual that might support liberal capitalism, it is this that has occupied the attention of communitarians and it is in contrast to this view that they have advanced their position.

2. Further Reflections and Elaborations on Business Ethics

Business and the Virtue of Prudence

Business ethics is not possible in theory without the virtue of prudence; it is not possible in practice without the institution of property rights.

If our life is a value worth sustaining, it is a moral requirement to take care that we live well and prosper. Although it is possible to prosper in many different ways, a prominent one is to attain some level of economic success. (And even those of us not so concerned about economic success depend in many ways on the efforts of those who do concern themselves with it.) Achieving economic success means engaging in commerce and developing the profession of business.

There is not too much room for debate that everyone ought to look out for his material welfare; economic preparedness is a necessity of survival. Business specialises in producing prosperity. It has moral standing because it institutionalises the virtue of prudence.

Success as commercial agents may not be our primary responsibility in life, but it is one of them. Just as the profession of medicine emerges from the need to tend to one's physical well-being, or the profession of science from the need to understand the nature of our world, so the profession of business emerges from the efforts of those who earn their living by attending to prudential concerns: brokers, advertisers, bankers, consultants, executive troubleshooters. These people specialise in making businesses grow and develop. In so doing they help themselves and others to flourish.

Even seemingly non-prudential values, like art and literature, are abetted on a wide scale thanks to the efforts of various profit-seeking businessmen - printers, bookstore owners, the manufacturers of dyes and paints, and so forth. A kind of activity that nurtures and sustains every other kind of beneficial and praiseworthy human activity is surely proper and worthy of praise itself.

The Principle of Private Property Rights

Business ethics is possible only in relatively free societies.

Ethics is a discipline that seeks to answer the question "How should I act?" or "What standards ought to guide my conduct as a human being?" Business ethics seeks to answer the question: "How ought I to act in my capacity as a commercial agent or professional merchant, manager, executive?" or "What standards ought to guide my conduct as a businessman?"

But, to reiterate, "ought" implies "can." If one's will is tyrannised, regimented or regulated in the bulk of one's life, the capacity to choose between fundamental alternatives is drastically curtailed; one often can act only as one is permitted to act, not as one chooses. Under such paternalistic conditions the idea that one ought to act according to some standard is rendered irrelevant. Behaviour is determined more by law and public policy than by one’s choice between right and wrong conduct, that is, by ethics.

The concrete expression of individual liberty in a community is the right to private property.

One reason that the societies formerly under the jurisdiction of the Soviet Union are so sluggish in the development of business is that their legal infrastructure does not substantially protect private property rights and the integrity of contracts. Legal instability discourages investment. With most economic matters still the province of government policy, business cannot flourish and business ethics cannot be applied. A savvy investor isn't going to take money to an illiberal country of the former Soviet Union, such as Russia, and funnel it into a venture that the authorities can disassemble the next day. No matter how prudent and honourable his business decisions may be, his choices won't have "staying power."

Without a legal framework that identifies and protects the right to private property and the integrity of contracts, it is not possible to do business in any straightforward and reliable fashion. Instead what prevails is economic chaos. In a communist society, where all property is collectivised, doing business may even be illegal. Then one must trade on the black market, relying solely on trust - or violence - with no legal framework to certify agreements and resolve conflicting claims in an orderly, civilised fashion. Under such circumstances, transactions can be conducted only in an amateurish, helter-skelter fashion.

In a collectivist system everything is like the road in front of your house: public property that you cannot sell or dispose of. Public properties can't be traded unless one has the authorisation of "the public," via either the edict of a dictator or the democratic process or some blend of both.[11] Privately, nothing major can be traded.

By contrast, the United States is the one society in human history in which the right to private property has been widely and diligently protected. But it isn’t uniformly and universally protected. Many criticise the legal order in the United States for too much regulation, too much arbitrary taking (as understood in the "takings" clause of the 5th Amendment, arguably violated whenever property is expropriated in the name of eminent domain and the like).

[11] Actually, in most cases public stuff is traded at the behest of public authorities who effectively own these properties, with some restrictions in place (usually pertaining to accountability).

Still, even though there is a lot of interference - greater and lesser violations of private property rights - Americans enjoy a relatively hospitable business environment in that private property rights and the integrity of contracts are relatively well protected. You can go into the market and say, "Here's my $5, I want that cigar." And the guy who has the cigar can then provide it to you for the $5. In other words, you each have authority over the property. That's what it means to have private property.

And that also means that business thrives and considerations of its ethics are both possible and relevant. Honesty in laying out terms of trade, fulfilling one's promises, and dealing with business associates with integrity can all be relevant in market transactions precisely because such transactions are protected in law. Such protections mean that the promises you make, for example, can in fact be fulfilled (as opposed to being arbitrarily confounded by some bureaucrat). Not only that: when you receive a promise from a trading partner and you want to certify and protect that promise so it can't be abrogated with impunity, you can do so with reasonable assurance that future upheavals will not void the deal. The legal system, via property and contract law, preserves the arena of business conduct wherein business ethics is applicable.

So, in order for there to be business, as well as business ethics, there must be private property. Only when individuals have the right to the use and disposal of goods they honestly obtain, and to direct their own labour, can they make authoritative decisions about economic matters. And only when individuals can make authoritative decisions about economic matters, can their conduct be evaluated from the point of view of ethics or morality.

We have seen that there is something morally right - prudent - about commerce and business. Since that requires the private property system, there must be something right about the private property system as well.

Some Glitches in the System

Business ethics is possible in the Anglo-American context because business itself is possible here. But this claim needs to be qualified. Nowadays, because of various government regulations and other restrictions, Americans do lack full sovereignty. Congress prohibits you from buying or selling labour at a price cheaper than the minimum wage, even if your upstart company requires cheap labour to enter the market at all. A third party has thus forcibly constricted the terms of trade between willing parties. The government has imposed restraint of trade.

There are lots of impediments to free enterprise even in the United States, arguably the freest of all the countries in the world. In Europe, by contrast, once one is hired, the employer becomes legally obligated to take care of one's

security for just about the rest of one's life. That is one reason unemployment is so high in Germany, France and Spain. It is much more expensive for entrepreneurs to hire people under the burden of such an open-ended liability; they know they will be unable to lay off employees legally, even when economic pressures would rationally require doing so. One cannot make a rational business decision in such a situation. Given people's changing preferences, innovations and all sorts of factors that can influence business, a firm must have flexibility, must have the freedom to act. It must be able to say, "Look, we can no longer do business, so we must part."

Of course such a situation is also quite unjust for another reason, insofar as the European employee is not bound to the firm in the way the firm is to the employee. This is not to suggest that a "fair" solution would be to shackle both parties equally! In a fully capitalist system employees and employers would each be free to trade with each other either directly or through representatives. Without that flexibility - which private property rights make possible, giving you as much freedom to remove your labour as to provide it - the dynamism of the marketplace is stifled. At the very least, it is unnecessarily difficult to look for the best investment opportunities, take best advantage of them, bargain and trade.

So the institution of private property rights is one of the fundamental prerequisites of business and of business ethics. In order to pursue your economic well-being, you have to own stuff, including your own time, resources, and labour. You can then trade them. Free trade means that nobody can dictate the terms under which you trade what is yours. Nobody puts a limit on it. (The only prohibition would be against theft and fraud - which are not cases of bona fide trade to begin with. You have not obtained the consent of someone from whom you steal, and thus you are violating the sine qua non of free trade.)

Even if business as such is morally justified, as a form of life-serving, prudential action, does that mean that every particular aspect of business deserves our acceptance and moral support? What about, for example, all those annoying ads?

Applying Business Ethics I: Talking About Products and Services

Advertising is perhaps the most morally vulnerable aspect of doing business. It is certainly one of the most maligned. Hardly anybody admits to liking advertising. Even those who are in advertising say nasty things about the profession, judging by all the exposes published by former advertising executives. And no one seems to like junk mail. Most of it is thrown away. No one likes telemarketers, either, who call at 6:00 p.m. during dinner time.

But what is advertising? It is a form of promotion, plain and simple, every bit as necessary and defensible as other kinds of promotion. We ought to understand

advertising as a sort of plea, akin to a job application. Junk mail comes to us from people who are trying to make a living. They're hoping that our and their interests can coincide at some point, and to find out they are shouting at everyone, as it were, with their message that they can do this or that for us. Much of the mail gets tossed, but some of it does hit the target.

Advertisements are often chastised for revealing less than the whole truth. But this is no moral lapse: not only do advertisers not tell the whole truth about their products, but no one who has any sense expects to be told that whole truth within the span of 15-second TV commercial or a single glossy magazine ad. (Just as a resume is neither intended nor expected to tell the whole truth.) One does not list faults on promotional literature but leaves it to buyers to discover them, perhaps through their own research or the employment of business firms specialising in gathering such information. In any case, gaining that knowledge is the buyers' responsibility. The seller's responsibility is to call attention to what is for sale.

Advertising is not primarily a means for conveying the whole story about products or services but for calling attention to their availability for sale. Any means of doing so is legitimate barring lies about what the product can do. Common sense is important here. When the Toyota guy jumps into the air and hangs there suspended, we are not being told, "Hey, we here at Toyota can levitate," so that if in fact they can't, they may be sued for misrepresentation. That's a misconception. Instead, advertising is best understood as a means, sometimes colourful, sometimes silly, of catching the attention of potential customers.

Consider what personal endorsements try to accomplish: an Elizabeth Taylor or a Tom Selleck endorses something and we recognise the face; our attention is engaged. Or perhaps gimmicks are deployed that have nothing to do with the product or service for sale. The gimmicks snag the attention of those who aren't thinking of buying anything, but might be persuaded to consider a purchase if only they could be at all engaged. Hence the romantic tales, adventures and skits that segue into pitches for beer, batteries and bras. Some of these commercials are masterpieces of misdirection, but nobody with a bit of whit misconstrues the nature of the product once the true point of the ad is revealed.

Like make-up or shoulder padding, advertising aims to enhance the image of a product or service. In doing so it neither lies nor tells the whole truth. Rather it parades the possible advantages that a seller may have to offer, with a little bit of ornamentation. Most of us know that the goal of advertising isn't primarily the dissemination of information. And in point of fact, of course, it is always possible to gather more information about a product before going ahead with a purchase. At the very least, the initial purchase of an inexpensive product gives one plenty of information to help the customer decide whether to buy it again.

Do Ads Create Desires?

One source of the hostility toward advertising is the notion that ads manipulate us as if we were puppets on strings. Some people believe that human beings are completely malleable - clay that can be molded by psychological techniques, gimmicks and so on. When somebody is charged with a crime, defense attorneys will often argue not that the accused didn't do it but just that the accused couldn't help himself: if somebody cannot help doing what he does, he can't be guilty. Nor can he be praised, however. And if that's the case, we're all just preprogrammed robots.

Yet, underlying the whole ethical framework of human life is our awareness that people ordinarily can choose. This would be evident even in your taking me to task for making such a claim: if you criticize me for something I do, you are assuming that I could have done otherwise.

One famous critic of advertising was John Kenneth Galbraith, a retired Harvard University economist who was an ambassador to India under the Kennedy administration. As he put it, "An even more direct link between production and wants is provided by the institutions of modern advertising and salesmanship. These cannot be reconciled with the notion of independently determined desires, for their central function is to create desires - to bring into being wants that previously did not exist."[12]

This idea has had an impact on how many academics think about advertising. They treat it as a weapon directed at people who are helpless to resist. But it isn't, and they aren't. Indeed, one of the reasons advertising has to be cleverly designed is that people can ignore it. They can walk away from commercials in a jiffy, even from the best of them. That's also why advertisers target their audience. They try to reach the people who are already disposed to buy the kind of thing they have to sell.

In the real world as we normally perceive it, we can tell very easily that advertising is not at the root of our desires. If we disdain sports, it doesn't matter how many commercials for surfboards, jerseys, and Monday night football that we see. They just bounce off us. We go and buy a book instead.

F. A. Hayek argues as much when he points out that "Professor Galbraith's argument would be easily employed, without any change of the essential terms, to demonstrate the worthlessness of literature or any other form of art. Surely an individual's want for literature is not original with himself in the sense that he would experience it if literature were not produced."[13] Of course any response to the things of the world requires that those things first exist, prior to our response to them! There is an objective reality out there, but that is no bar to free will!

[12] John Kenneth Galbraith, op. cit.
[13] F. A. Hayek, op. cit.

Perhaps, for Galbraith, independent determination of desire means one must create all the products and services one might possibly want from scratch, ourselves; which would, paradoxically enough, vastly curtail the range of products and services from which we could select. (Society would at least be less affluent in that case.) But his attitude makes sense only if the whole of human action is a matter of stimulus provoking automatic response. And if that were so, there would be no additional onus of culpability that could be imputed to advertising and to the businesses that produce it. Advertising would be just as moral, or non-moral, as any other activity we engage in.

Fortunately the situation is otherwise. Far from regarding their prospects as sheep, most ads assume, at least implicitly, that the customer will do some serious examining to find out if the product or service really does suit his purposes.

The Benefits of Advertising

Advertising benefits both producers and consumers. It makes possible mutually beneficial exchanges that might not have taken place otherwise.

What do advertisers accomplish for themselves when they successfully pitch a product? They will have found a way to make a living.[14] Consider the poor benighted telemarketer, calling you up in the middle of dinner with a proposal to switch your telephone service.

Do I hang up on the guy, myself? No. Partly because I'm in business ethics and think about this all the time, I take a moment to say, "No, I've got a service I'm perfectly satisfied with. Thank you, bye-bye." (As opposed to: "Get off my phone, you …!") Even if I'm not willing to attend to a salesman's message, I at least extend some courtesy, because I appreciate what they are trying to do: earn a living. That is a bond between us. After all, I'm trying to earn a living too. If I pitch my latest book at a cocktail party I don't want to get bopped on the nose by the guy who is perfectly happy with the latest Stephen King novel and doesn't want to hear about anything else.

In this age of broadcasting, advertisements are often presented to many millions more than are in the market for the product or service being promoted. As one views a television or listens to a radio programme, an ad interrupts and this tends to annoy us (our annoyance is, incidentally, yet more evidence against the notion that advertisers can simply reconstitute our preferences at will). Most viewers, during most commercials, would rather continue watching the programme; the ads thwart this goal.

[14] A little compassion for junk ad mailers might be appropriate here, given what they are trying to do: make a living. They're trying to call out, "Hey! Here we are! Please, consider us as you embark on trade."

Once in a while, of course, an ad aimed squarely at one's own needs and wants comes up, and then the benefits of advertising for human beings qua consumers begin to be clear. So perhaps one can be tolerant of ads that miss the mark. (And are there no mute buttons?) In other contexts, when ads are more narrowly cast, they are not so annoying. Indeed, sometimes readers of specialised magazines will flip through looking only at the ads.

Advertising also benefits us in cases where we never buy any of the products being advertised. Thanks to TV ads, we don't have to pay for network television - and the cost of cable television is less than it might be. Without ads, we would not enjoy access to so much free information on the internet. Internet access itself is now available at no charge, as long as you're willing to put up with some pop-up ads. Advertising is thus one modern method for spreading the benefits of new products and services from the few to the many.

Advertising and Prudence

Once both parties have done their level best to find out what will be prudent for them to do, but not before, they may properly unite in trade.

Not everyone is always prudent, it's true. Some people just see ads and without further ado yield to the desire to get what is being offered; they buy on impulse. Impulse buying most closely resembles the phenomenon that Galbraith and others think advertising engenders all the time. But people who buy on impulse don't have to buy; they merely have chosen to do so carelessly. (And even then, the impulse buyer's imprudent purchases are confined to the realm of his already chosen values and interests - clothing, lottery tickets, food, or books.)

Just as having the capacity to reason does not mean that one will always reason, so having the capacity to be prudent does not mean that one will always be prudent. Participants in the market can fail to be alert, fail to pay attention to their own responsibility in a trade. They may place all the responsibility in the hands of the other party to a trade and then, afterwards, when they are eating the losses, blame that other party, not themselves. But they are complicit in so far as they neglected to pay sufficient attention to what was happening.

What is a Good Ad?

The primary responsibility of an ad is to call attention to a product in such an effective way that people will have difficulty overlooking it.

Why is it morally acceptable to try to capture people's attention this way? Because it's important for us to prosper. That means it's important for us to

promote the services or wares that we have to offer for sale. If human life is a value, advertising is a value. It is a positive good.

Advertising is not selfish in any cruel, nasty, or brutal sense of the word; rather, it is self-responsible. People in business must make this effort to take care of themselves, to do justice to the prospect of succeeding and prospering in their lives. Everybody benefits thereby - the customers, the people who own and run the business, and the employees whom businesses are able to hire when the advertising does its work.

Applying Business Ethics II: Voluntary Cooperation in the Business Enterprise

Employment is a situation in which a person with skills, time, or other value-producing resources cooperates with a person in business to make a profit, to prosper. They agree to terms - typically, labour in exchange for salary or wages - and produce something for the market. All parties are looking out for their own advantage; they discover mutually beneficial terms of trade.

Prudence should be the guiding principle of all trade; the focus of all parties ought to be on what does in fact contribute to their economic advantage. This is one reason that hiring or firing people primarily because of their looks or sexual orientation is morally objectionable. Such conduct fails to heed the objective of business. It violates, as it were, the oath of the profession.

Such "discriminatory" conduct - that is, conduct that takes irrelevant factors as the basis for choosing to hire or fire people - may meet some other objective, which in some other context is perfectly appropriate. If you make friends because you are a golfer and so are they, there can be no objection; but if you hire people as employees for no other reason than that they are your golfing partner, if your business has nothing to do with golf, there is an objection from the standpoint of business ethics. That doesn't mean incidental considerations can never enter the decision of whom to hire for a job. Obviously, if you have two equally qualified people and one is more personable than the other, it is not unreasonable to choose the one that is more personable, provided that for purposes of the business, both of them are equally well qualified. (To be sure, being personable may well be a substantive qualification itself, when it comes to customer service and other "people-related" functions.)

Bargaining Power

Ever since workers or wage labourers emerged from the feudal status of commoners or serfs - i.e., from being practically owned by the upper classes and

the king - they have had a somewhat confusing standing in political economic theory. At first, many were in dire straits and enjoyed little bargaining power. They had to take whatever job was offered to them. Lacking property of their own, they were, as Karl Marx and others pointed out, exploitable. Their vulnerability could be taken advantage of by those who did own property - mostly land, forests, mines and such. Property owners didn't need the workers as much as the workers needed them; workers did not own capital that they could consume while waiting for a good deal or job. The impermissibility of organising labour - which had existed in the USA until about the 1850s, when Judge Shaw of Massachusetts overturned the common law view that strikes constituted a harmful restraint of trade which could be stopped with the police power of the government - represented an obstacle to workers in their bargaining efforts.[15]

However, this view of the worker as a downtrodden object of exploitation is inconsistent with the new relationship that was soon to obtain among people, namely, respect for each person's basic rights to life, liberty and property. Once workers could legally combine with each other, their bargaining power became equal to that of owners. After all, workers owned their skill and time and in sufficient numbers could paralyse any employer's enterprise, be it a factory, farm or fleet of merchant marine ships. Furthermore, there is nothing in principle to stop workers from forming their own professional corporations, just as doctors, attorneys and others do in a free economy.

Unfortunately, the plethora of laws enacted to cope with the initial inequality of bargaining power - not to mention engendered by large doses of envy toward capitalists - has bequeathed a legacy of seemingly unavoidable conflict between labour and capital. The conflict is artificial in that nothing in the nature of work requires it. Yet conceptions of the relationships by political economists and other theorists can be very influential. They can lead to the enactment of laws and regulations. So the law can produce and sustain this artificial conflict, just as the law can make women or Indian untouchables vulnerable and even facilitate their oppression.

The Stakeholder Theory

There is an old idea returning in new guise that challenges the whole idea of private corporate commerce.

According to the stakeholder theory, a company does not really belong to individual, specific shareholders, investors or families, but to all those who have

[15] I agree with Jim Sadowsky here who suggests that when workers who had been serfs before came into the city, they had a disadvantage compared with capitalists who often inherited their royal holdings rather than earned them through entrepreneurial effort. See, James Sadowsky, “Private Property and Collective Ownership,” in Tibor R. Machan (ed.), *The Libertarian Alternative*, Chicago: Nelson Hall Publishing Company Inc., 1973.

"a stake" in the firm. This includes all the people who may have an interest in the firm doing one thing rather than another - for example, staying put rather than moving to another town. On this view, if business, education, religious, charitable and other local establishments would be adversely affected by the proposed move, the company has no right to do it. The stakeholder theory is set forth mostly by critics of capitalism and private property rights, who are suspicious of autonomous and self-interested action to begin with.[16]

Some even advance the notion that company employees gain a proprietary stake in their jobs once they have worked at a company long enough. In other words, they "own the job" they hold. The assumption is one reason that many who have worked for 15 or 20 years at a large company like GM or Ford get extremely upset with downsizing, that is, when they are laid off, especially when the company goes abroad to hire replacement workers at a far lower wage. They believe the job is theirs by right rather than by mutual assent.

Critics of free trade agreements, which uphold the right of companies to move if that is what they deem to be profitable, fret that "our jobs would be taken by Mexicans or Koreans or Chinese" if such agreements are upheld; that "American jobs will be lost." Far from viewing a job as an ongoing relationship - i.e., a form of mutually advantageous trade between employer and employee that may be severed by either party (provided the terms of the trade have been fulfilled) - such critics view it as a kind of permanent acquisition. So when employees are let go, they've supposedly been robbed of something.

Of course, although critics regard employers as if they were bound to the workers, they don't regard workers as if they were bound to the employers. They realise that that would amount to championing involuntary servitude. Workers, in other words, are seen as owning their jobs, but the employer is not understood as owning the worker's labour. So when workers want to leave "their jobs," this theory does not consider it wrong for them to do so if they see better opportunities elsewhere. It is okay to enslave the employer but not to enslave the employees.

The Moral Responsibility of Corporations

In discussions of business ethics, you hear a lot about "corporate social responsibility" in connection with environmental issues. Big companies in particular - chemical, manufacturing, logging firms and so on - are constantly

[16] See, for example, Allan A. Kennedy, *The End of Shareholder Value*, Cambridge, MA: Perseus Books, 2000. See, also, the many articles promoting the stakeholder idea in publications such as the magazine *Business Ethics*.

being implored to pay attention to their social responsibilities. It's an interesting, even important idea.[17]

Notice, however, the selectivity of the admonitions, directed almost exclusively to business. Teachers, for example, are rarely enjoined to fulfill their social responsibilities. As long as teachers do their work competently, conscientiously, they are acceptable in this regard (i.e. already perceived as doing something socially worthwhile and responsible).

Why is this concern about social responsibility focused particularly on business? Part of the reason is that business is highly engaged with the world - with customers, neighbourhoods, government officials and so on. So a lot of people who work in the field of business ethics believe that it is a part of a company's responsibility to improve the community.

Some go so far as to say the companies ought to be legally compelled to serve society. This is a notion inherited from the feudal era, when the king established corporations. Corporations were not formed as a result of people simply getting together on their own and starting a company, as they are now. They were a franchise from the crown.

Because corporations received this franchise as an exclusive domain it came with certain limitations of liability. That's where the concept of limited liability comes from and why in England companies are called "Ltd." Their liability was limited so that they did not have to pay the full cost of damages they may have suffered at sea, for example. Or if a company ran down a horse, it would not have to pay all of the damage because they had received a dispensation from the crown.

Indeed, state granted limited liability is not appropriate for corporations that are not creatures of the crown (i.e., corporations of today). The limited liability/monopoly had been given in exchange for performing certain duties for the crown/society. The stage was set historically for the current idea that corporations must serve society by the origin of corporations as royal charters.

As the American “consumer advocate” Ralph Nader is fond of pointing out, special privileges implied special duties, and a moral obligation to act on behalf of society or the king rather than, as prudence would counsel, on behalf of the company and its shareholders.[18] A further extension of this idea is the current argument advanced by some business ethics scholars, mentioned earlier, that shareholders should be deprived of their ownership rights and instead of this

[17] The just mentioned publication *Business Ethics*, now in its 14th year of publication, is subtitled, “Insider’s Report on Corporate Responsibility.”
[18] Ralph Nader, Mark Green and Joel Seligman, *Taming the Giant Corporations*, New York: W. W. Norton, 1976.

what are called stakeholders ought to have significant influence over corporate policy.

Corporations as an Arm of Government

Persons such as Ralph Nader maintain that companies do not really belong to the people who established them. It's not the entrepreneurs who have the primary sovereignty over the company's doings, but "the public." So they advocate that all major corporations have a representative of the public on their boards so as to ensure that companies are serving the public interest. Companies, according to this view, are just arms of the state. This is called the Creature of the State argument.

By this account, corporations are not private but public - not in the sense that they are sold on the public market, but in the sense that they are beholden to the authority of government that represents the public. Corporations, therefore, ought to be directed to serve certain social or political objectives rather than profit-making business objectives.

Now, this conceit doesn't usually affect small companies, but it does large ones: when they are told, for example, that they must engage in a certain amount of environmental clean-up - not necessarily because they have damaged anybody or created the mess themselves, but because they are a large entity in the community and possess the resources to do so. It is the philosophy of corporate social responsibility that enjoins them to devote their resources thus, and which invites us as citizens to support the laws that compel companies to do so. It is a philosophy that arguably stands in opposition to the very idea of private property rights and, thus, as argued above, against a fundamental principle of business and of business ethics.

Corporations as Just Profit Makers

A diametrically opposite position is put forth by the late Milton Friedman, the famous economist from the University of Chicago. Friedman held that when a company gets established, it makes a promise to its investors and owners to bring a return on the investment and that this is the only ethical responsibility they corporate managers have. The sole social responsibility of companies, according to Friedman, is to make a profit. Everything else is out of court:

> Few trends could so thoroughly undermine the very foundation of our free society as the acceptance by corporate officials of a social responsibility other than to make as much money for their stockholders as possible … If businessmen do have a social responsibility other than making maximum profits for stockholders, how are they to know what it is? Can self-selected private individuals decide what the social interest is? Can they decide how great a burden they are justified in placing on themselves or their stockholders to serve that social interest?[19]

Of course, Friedman did not hold that making a profit need not be constrained by basic rules of free trade and ordinary morality and law - of honesty and contractual integrity, the right to property and the like. But within this set of elementary rules that apply to us all, the sole responsibility of corporate executives or managers is to strive to turn a profit for the owners.

Humanising Corporations

Some people argue that, yes, the primary responsibility of business corporations is to make a profit, to heed the bottom line. That is what they're in business for and it is the right thing for them to do. But since they operate in human communities, it is appropriate for them to also make sure that the community is intact, maintained and preserved in good order. They ought not to neglect the quality of the society in which they exist. Here is how Miller/Ahrens illustrate their point:

Consider a case in which the manager of a corporation is trying to deal with the problem of alcoholism among his employees. The manager might be committed both to maximising the profits of the stockholders and to treating the employees fairly and humanely. In the course of considering whether the company should finance a rehabilitation programme for employees with an alcohol problem, he finds that it would be no more expensive to introduce such a programme than to fire the employees and retrain new ones. He may also have reason to think that such a program would enhance the prospect for better employees in the future. The manager may introduce the rehabilitation program on the grounds that it is morally correct in terms of both profitability and the welfare of his workers.[20]

The principle is akin to that followed by individuals who accept the responsibility to enhance not only their own lives but, to a more limited degree, those of their neighbours who may requests a cup of sugar or even more significant help at times. The morally healthy individual does not bark, "Hell, that's not my responsibility, go home!" Instead such a person would respond: "I've got some extra here, so I'll help out."[21]

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[19] Milton Friedman, "The Social Responsibility of Business", in *Capitalism and Freedom*, Chicago: University of Chicago Press, 1962.

[20] Fred D. Miller, Jr. and John Ahrens, "The Social Responsibility of Corporations," in Tibor R. Machan (ed.), *Commerce and Morality*, Lanham, MD: Rowman & Littlefield, 1988, pp. 156-57.

[21] For more on this see Tibor R. Machan, *Generosity: Virtue in Civil Society*, Washington DC: Cato Institute, 1998.

So, it is appropriate for companies to be socially engaged - not because they are instruments of the state, but because they are human organisations flourishing in a social context. Indeed, when any human organisation operates within a community, while its primary obligation is to fulfill its mission - which, in the case of business corporations is to facilitate prosperity for the owners - it should exercise appropriate concern for other moral tasks as well.

A major difference between this version of corporate responsibility (whereby companies ought, first, to strive for success but should also keep in mind other decent objectives) and the Nader version, is that no government coercion may be used to make it all happen. In this approach corporations must choose to do the deeds they ought to perform. And that is as it should be, given that no good deed can be regarded as morally responsible if it is done because it is coerced. The difference, in turn, between this last view and that of Milton Friedman is largely a matter of degree. Miller and Ahrens agree that business is primarily responsible to make the enterprise prosper. They deny, however, that this objective stands by itself, independently of and in necessary competition with other worthy ones related to the workplace. Neither of these views implies, however, as does Nader's and that of the stakeholder school, that the government must compel business to act properly!

Which View Makes the Most Sense?

The view championed by Ralph Nader is based on the conception of society as being owned and regulated or guided by the government, as it used to be owned and kept in line by the king, something that was rejected via the American Revolution. The fundamental thrust of that revolution is that it is not the king or government that owns us - we are not subjects like the people in England are (at least nominally). In America one is a citizen. One is not subject to the authority of the king or government; rather the government is instituted to serve citizens, to secure their rights.

In the USA and in most Western style societies the legacy is that one owns one's life. One has an unalienable right to it. And as a result, the notion that government ought to determine what a company set up by free citizens ought to do is anathema.

The idea of involuntary servitude has been philosophically and constitutionally rejected. So Ralph Nader's argument rests on a historical fact long ago disowned. His view of what corporate commerce is depends on an older conception of government as the ruler rather than the servant of the people. The creature of the state idea rests on a conception of human nature that is compatible with the divine rights of kings, inherited status and fundamental inequality of rights among people.

The view of Milton Friedman, that the sole responsibility of corporations is to make a profit, is closer to the truth. But it also lacks conviction in that companies are comprised, after all, of human beings and human beings have concerns beyond simply trying to make profit, even as they take part in fostering corporate commerce. In a human institution like the business corporation, it makes sense that in addition to pursuing the bottom line, one would have other concerns as well.

So, the perspective, advanced by philosophers Miller and Ahrens is the one that most people and companies can live with most fruitfully and most responsibly. They ought to pay attention to their primary purpose of making the company grow, but not so much so that they completely neglect where they operate, the people with whom they deal and so on. Moreover, as they argue, "the question of what will enhance a corporation's profitability is ambiguous, and, consequently, so is Friedman's theory that the manager's social responsibility requires maximizing profits of the corporation."[22]

One may ask, however, whether the added responsibilities corporations have should be seen as over and above whatever reasonable responsibilities they might have toward others as private individuals, and whether the moral dimensions Friedman would agree should govern corporate policy do not actually subsume the presumptively more encompassing considerations Fred Miller and John Ahrens discuss.

It should also be noted that the very existence of a productive, prosperous company does a lot to benefit a neighbourhood. The earlier comparison to teachers seems relevant here, as well. Do teachers, other professions, small businesses, etc., also have the same "social" responsibilities as the big corporations? Arguably, teachers fulfill a similar obligation when they stay late at school to help a particular student or when they take on special volunteer work based on their professional skills.

However, what is different is that many believe that businesses gain moral credit solely from such pro bono work, a perspective certainly not widely embraced about the moral worth of other professions such as medicine, education or science. The idea advanced here is that, on the contrary, business does something morally worthwhile when it pursues profit, when prosperity is taken to be its main objective. The additional moral concerns should never obliterate this primary one except in certain emergencies, exactly as applies in the case of individual persons.

[22] Miller and Ahrens, op. cit., p. 155.