

# Business Ethics

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“Business ethics” is a concise, but in many ways misleading, label for an interdisciplinary field covering a vast range of normative issues in the world of commerce. The label lends itself most directly to a core set of questions about how individuals in the business world ought to behave, or what principles they might appeal to in order to negotiate moral dilemmas at work. But if we consider the array of topics covered in the leading business ethics journals or textbooks, we see that these core issues about *individual* virtues and ethical decision-making are surrounded by layers of issues involving *organizations* and *institutions*. In other words, business ethics in the broadest sense also inquires about the most appropriate or just designs for firms, markets, market regulations, and political oversight in a democratic society and a globalized economy.

Since this *Encyclopedia* contains dozens of essays on topics in business ethics (*see* from ACCOUNTING ETHICS and ADVERTISING, ETHICS OF, to WHISTLEBLOWING, WHITE-COLLAR CRIME, and the WORLD TRADE ORGANIZATION) we will focus here more on questions about *the nature of the field*, and less on debates about *how to justify particular practices or rules* within the world of business.

## An Institutional History of the Field, and an Intellectual Agenda

Within some of the earliest writings in the history of Western and non-Western traditions of thought we find philosophers evaluating practices, virtues, and vices in commerce and money-lending (*see* USURY). These classical thinkers were also worried, as we are today, about the potentially corrupting influence of wealth in communal and political life. Until the industrial revolution in the late eighteenth century, commercial wealth and power came mostly from land ownership. So normative analyses related to trade, wealth, or what we might anachronistically call the rights and duties of employee–employer relationships (*see* EMPLOYERS AND EMPLOYEES) took place within discussions about property rights, colonialism, and the legitimacy of a rigid class system. Slavery was obviously a “business ethics” issue (*see* SLAVERY) – just as the violation of human rights within international supply chains is today (*see* GLOBAL BUSINESS ETHICS) – but it would not have been framed that way in the nineteenth century. Throughout the development of industrial economies from the eighteenth to the early twentieth centuries, philosophers (*see* SMITH, ADAM; MILL, JOHN STUART; and MARX, KARL; to name but three titans) routinely tackled fundamental questions of political economy, from the rights of workers and the ethics of lobbying, to the justifications and critiques of capitalist and socialist models of ownership. These issues remain relevant to what we are

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calling “business ethics in the broadest sense” today, even if most scholars of business ethics could be said to assume as a starting point the basic legitimacy of private-sector markets for goods, services, labor, and capital, along with the legitimacy of government regulation of such markets.

Although American business schools in the early twentieth century did in fact teach business ethics (Abend 2011), we cannot really identify a scholarly community of self-described *business ethicists* until the 1970s or 1980s. The massive *Encyclopedia of Philosophy* edited by Paul Edwards, which was the standard reference work in philosophy for two decades after its publication in 1967, had neither an article nor even an index entry on business ethics. By the mid twentieth century, political philosophers were paying much less attention to political economy and focused almost exclusively on issues of justice in *public*-sector rather than *private*-sector institutions. Or to put it another way, they were much more preoccupied with the justice of *redistributing* wealth than they were with issues of justice arising in the *creation* of wealth (e.g., Rawls 1971; see RAWLS, JOHN). Meanwhile the number and size of business schools grew rapidly in the last decades of the twentieth century, and they were well positioned to respond to demands, often after major business scandals, for universities to “teach ethics” to future corporate leaders. In many cases the first professors of business ethics in business schools in this era were established moral philosophers like Tom Beauchamp, Norman Bowie, George Brenkert, John Boatright, and Patricia Werhane. And their names are still to be found on the spines of the most widely used business ethics textbooks, some now in their seventh edition or beyond, having all been originally published after 1979. It is noteworthy that several recent textbooks by a younger generation of scholars are framed by normative concepts like *corporate social responsibility*, *sustainability*, *corporate citizenship*, the so-called *triple bottom line*, or *stakeholder management*. These concepts were coined not by moral philosophers, but by consultants, activists, or corporate public-relations departments (see CORPORATE SOCIAL RESPONSIBILITY; SUSTAINABILITY; STAKEHOLDER THEORY). The leading scholarly organizations – the Society for Business Ethics and the Association for Practical and Professional Ethics in the US, and the European Business Ethics Network – were established in 1980, 1991, and 1987, respectively. The *Journal of Business Ethics* began in 1982 publishing semi-annual issues. In 2010 it published seven volumes (volumes 91 to 97) and 39 separate issues, each containing several articles. Other leading journals also date from this period, with *Business Ethics Quarterly* appearing in 1991, and *Business Ethics: A European Review* in 1992.

Reflecting on the contingent institutional history of business ethics invites us to think about how we might more ideally map out and connect its issues if freed from the pressing pedagogical needs of professional schools. There is, of course, no uncontroversial way of mapping out and linking the issues of any branch of ethics or political philosophy. Different traditions will do this in different ways. Deontological and consequentialist political philosophers, for example, disagree about whether the theory of the *right* or the theory of the *good* has priority; and virtue ethicists reject the priority of either of these types of abstract principles (see DEONTOLOGY; CONSEQUENTIALISM; VIRTUE ETHICS). If it makes sense to think of *business* ethics as

a distinct field, then we want to pay special attention to the ways norms in the world of business are, or ought to be, different from those in other realms. A strong case could be made that “business ethics in the broadest sense” should include and make sense of the following four features:

- 1 There should be discussions of issues and principles (theories, virtues, etc.) at three general “levels”:
  - (a) A “micro-level” concerning the behavior of *individuals* working within or interacting with businesses. What rights and obligations do they have, what kinds of actions are permissible, what virtues and character traits should they cultivate, how should they resolve dilemmas, and so on?
  - (b) A “mid-level” concerning the activities, policies, and governance structures of *organizations* like firms, non-governmental organizations (NGOs), professional associations, industry associations, and regulatory agencies. How do we evaluate the activities of these entities? What rights, obligations, responsibilities, and permissions do they have? What internal structures, hierarchies, chains of authority, rules, cultures, and so on, are appropriate for such organizations; and how might they legitimately structure the obligations, rights, characters, and identities of the individuals working within or interacting with them?
  - (c) A “macro-level” concerning the structure of *markets* and their regulation within a democratic state and an international economy. How are free markets for goods, services, labor, capital, and externalities (like carbon) justified, and what justifies their regulation? Who has authority to regulate these markets (domestically and internationally), and what principles, standards, and procedures are appropriate for designing and enforcing regulation? What roles are appropriate for businesses and their stakeholders in political and regulatory processes?
- 2 Comprehensive discussion of *issues at each of these levels must be closely linked to those at the other levels*. It will be difficult to judge what individuals ought to do across a broad range of situations in business without taking into account the nature of the organizations they are engaging with; and the rules and norms within organizations depend upon more general justifications of the role of these organizations within the larger economic and political systems. The justifications of market designs and regulations must, in turn, take account of micro-level issues like fundamental individual rights, as well as mid-level issues concerning, for example, the dynamics of governance and individual or collective decision-making within firms and other organizations.
- 3 Given the range of empirical, legal, and institutional issues arising at each “level,” it is clear that the field of business ethics must be thought of as *interdisciplinary* and not merely as a “branch” of ethics conceived of as a purely philosophical discipline (*see* METHODS OF PRACTICAL ETHICS). Normative principles or judgments will typically rely on complex (and contested) empirical understandings

of how institutions like firms, markets, or regulatory agencies – not to mention human brains and minds – function in the world.

- 4 Finally, ethical theorizing for a system of firms and regulated markets must take seriously the *deliberately adversarial* or *competitive* nature of such a system. The system is designed to structure competitions that will produce benefits (such as innovation and efficiency, and value or wealth creation more generally) that would not have been generated in a merely administered or centrally planned system. So business ethics – like legal ethics within an adversarial legal system, political ethics within a democratic system, the ethics of war, or sports ethics (*see* ADVERSARIAL SYSTEM OF JUSTICE; ETHICS OF COMPETITIVE SPORT) – must try to understand the appropriate constraints or exemptions for agents and organizations that are being invited to “play to win” within a regulated contest. Deliberately adversarial institutions typically permit, and often require, individuals to do things in their *roles* that might be considered unethical in other contexts. Explaining and justifying such departures from “everyday” or traditional ethical norms is a central component of business ethics.

### **Dominant Trends in the Field**

An insistence on the features described above would not be controversial among most business ethics scholars, even if representatives of different schools of thought might emphasize some features more than others. Nevertheless, within the field there are still very few examples of *fully comprehensive* theories that integrate principles from the micro- to the macro-levels, and that do so in ways that are consistent with the best contemporary work in law and the human sciences. It is more typical for particular business ethicists to focus on principles and institutional design at only one or two of the levels, often taking for granted institutional or behavioral assumptions at the other levels.

### **Micro-Level Focus on the Individual**

Scholars and textbook authors focusing on individuals in business have tended to cluster around an emphasis on character (*see* CHARACTER) and virtue ethics, on the one hand, or on attempts to apply ethical principles to difficult dilemmas that face businesspeople, on the other. Aristotelian models of virtue, character, and judgment have been very well represented in the field from its inception (*see* ARISTOTLE). But non-Aristotelian accounts of the virtuous businessperson abound as well. One suspects there is no major living tradition of religious or secular ethics in the world today that has not had its implications for business ethics teased out in scholarly articles with titles like “The Relevance and Value of Confucianism in Contemporary Business Ethics” (Chan 2008) or “Business Ethics and Existentialism” (Ashman and Winstanley 2006). And because most traditional and religious ethical traditions emphasize basic virtues and character, most attempts to “apply” these traditions to the world of business focus on individuals and their virtues. But various modern

theories of virtue come into play as well, from attempts to recuperate Adam Smith's theory of moral sentiments and his account of bourgeois "commercial" virtues like prudence, temperance, industriousness, and honesty, on the one hand (see Wells and Graafland forthcoming), to various contemporary feminist approaches, on the other (Liedtka 1996; Wicks 1996; *see* FEMINIST ETHICS; GLASS CEILING).

By and large, virtue ethicists paint a picture of a prudent, fair-minded, morally courageous, and empathetic manager that fits well with the models of effective leadership developed by their more empirically minded colleagues in organizational behavior departments (see, e.g., Hartman 2001; Sitkin et al. 2010). There seems to be an irresistible tendency to explain how virtuous management is also likely to be more successful – a view proudly reflected in the title of a book by the late philosopher Robert Solomon, *A Better Way to Think about Business: How Personal Integrity leads to Corporate Success* (1999). The virtuous manager will be viewed by employees and other stakeholders as a person of integrity, who is credible, "walks the talk," and inspires trust. This, in turn, lowers transaction costs and motivates employees so that they will be less likely to break rules or take shortcuts that expose the firm to risks (Paine 2003: Ch. 2).

Such an approach to business ethics has met with resistance in both the academy and the larger culture of business. While few want to assume that "business ethics" is an oxymoron – whereby it would be virtually impossible to be both ethical and successful in business – it is very common for people with a strong academic or practical understanding of the demands of management in highly competitive sectors to be skeptical that "nice guys will finish first," even in the long run. They might, for example, point to individuals throughout the financial services sector, from mortgage brokers to investment bankers, who took home seven- and eight-figure bonuses during the bubble years of the US housing market in the first decade of the twenty-first century. We know now that dishonesty, deception, conflicts of interest, and the like were rampant in many segments of this industry. But for the most part, these people lost none of their accrued bonuses, and faced no criminal charges, after the market inevitably collapsed. It is hard to avoid the conclusion that they, and in some cases their companies, profited in the long run from unethical behavior.

One response by virtue ethicists to the existence of real-world pressures to do things that would normally be unethical is to counsel against taking career paths that will place one in such positions of moral peril. This may be good advice for some MBA students, but it cannot be an adequate response to negotiating the "moral mazes" in our world of business (see Jackall 1989).

Another approach is to look beyond the ethics of individual character or decision-making, and to inquire instead about how, for example, corporate boards or senior executives might reshape the incentives and culture of the firm to promote more ethical behavior (*see* CORPORATE GOVERNANCE; CORPORATE CULTURE; CODES OF ETHICS); or to show how sharp business practices might be adequately regulated and monitored by the state or other agencies (Paine 2003: Ch. 3). We will turn to proposals for the ethical design of firms and market regulations at the "mid-level" and "macro-level" in a moment. But for now it is worth noting that after considering

reforms at these other levels, it will still be necessary to think about how individual managers ought to behave in a highly competitive business environment in which many sharp practices cannot be outlawed. In particular, we will have to consider the possibility that norms, principles, and virtues appropriate for individuals working within institutions that have been designed to be adversarial may differ significantly from those we use in “everyday” morality. Individuals working in the modern business system are often expected to act competitively and aggressively within a set of written and unwritten rules. The basic idea here was most famously articulated by Adam Smith (1976 [1776]), if only in passing, when he noted that individuals pursuing their own self-interest, or the interest of their firm, can be led by an “invisible hand” to advance social interests that were no part of their intention. Adapting the contractualist ethical model of Tim Scanlon (1998), Arthur Applbaum (1999) has argued that deliberately adversarial institutions like business, law, and politics can justify systematic departures from everyday morality (deception, for example) only if it would be *unreasonable* for those who are harmed by these institutions to reject them (*see CONTRACTUALISM*). In general, business ethicists have focused much less on justifying the departures from everyday ethics which may be required by optimizing institutions than have their colleagues who theorize about legal ethics (Markovits 2008).

As noted earlier, not all business ethicists who have focused on the ethics of the individual businessperson have worked within the *virtue-ethics* tradition. It is also natural to think that an ethical businessperson will have to be adept at decision-making when faced with difficult and constrained options. Managers, for example, will often have to choose among courses of action that will benefit some individuals but harm others (e.g., when they have to decide who to promote, or who to lay off). They may also find that they have several *prima facie* duties (e.g., to be open and honest, to keep secrets, to be loyal to their employers, to be loyal to those they supervise or to their profession, to maximize returns, to be fair [*see PRIMA FACIE AND PRO TANTO OUGHTS*]) that inevitably conflict in certain situations. When philosophers entered the field of business ethics, as either teachers or scholars, they were often drawn to the question of how to resolve these kinds of dilemmas. Early textbooks in the field introduced students to the principal schools of normative ethical theory, especially utilitarianism and deontology (*see UTILITARIANISM; KANT, IMMANUEL*), and students were invited to apply these theories to examples and case studies. But in both pedagogical and scholarly contexts this approach – that we first settle upon the best ethical theory or decision procedure and then simply *apply* it to real-world dilemmas – has largely disappeared. This is in part because we no longer expect to find consensus about the best normative ethical theory. But it is also because actual actors in the world of business must pay attention to the rules and procedures in their organizations, their professions, and the law. These rules and codes may be consistent with the guidance given by different ethical traditions, but they may also conflict. When they do conflict (say, where you are required to do something that is legal and will help your firm but will not maximize social welfare or satisfy the categorical imperative: *see CATEGORICAL IMPERATIVE*), it is not obvious that the option favored by the careful application of

an ethical theory will always trump an organizational duty. We cannot conceive of a large hierarchical organization functioning in a stable way if all of its members or agents are entitled to make decisions about everything based on their own personal convictions. If institutions and organizations are to enable human societies to solve collective-action problems and to achieve things that individuals could not do on their own, they will have to have their own decision procedures, chains of authority, and an ethos. So discussions of ethical decision-making by individuals in the world of business will soon have to move from the micro-level to the mid-level and macro-level, where we must justify the way organizations are structured, governed, and regulated.

In recent years there has been a growing interest in understanding the actual mechanisms of human decision-making. This trend has involved researchers in philosophy, cognitive psychology, social psychology, behavioral economics, neuroscience, and organizational behavior, and it too casts doubt on the naïve philosopher's belief that business ethics involves little more than applying the best normative ethical theories to business dilemmas. Current empirical research suggests that, despite the best of intentions, individual decision-making involves unconscious processes that are heavily influenced by situational factors, mental heuristics, and cognitive biases. Framing effects, groupthink, and path dependency, for example, make it difficult for individuals even to *recognize* the existence of looming ethical problems that have to be addressed, let alone to solve them (see Bazerman and Tenbrunsel 2011).

The emergence of the modern concept of a “conflict of interest” (*see* CONFLICT OF INTEREST) is a clear example of how concerns about micro-level individual ethics quickly lead us to mid-level and macro-level questions concerning how large organizations ought to be designed and regulated (Norman and MacDonald 2010). The concept as we know it did not appear in US law or court rulings until the 1940s. To have a conflict of interest in this sense is not necessarily to be corrupt or to have done anything wrong. Under standard definitions developed by philosophers and business ethicists over the last two decades or so, a conflict of interest is a *type of situation* that an expert, professional, bureaucrat, or employee can find herself or himself in. Roughly, this person P has a conflict of interest if and only if (1) P is in a relationship with another, R, requiring P to exercise judgment on the other's, R's, behalf; and (2) P has a (special) interest of a sort that tends to interfere with the proper exercise of judgment in that relationship (*see* Davis 2001). The novel point behind this concept is that P has a conflict of interest even if P earnestly vows to ignore her own interest and tries only to serve R's interest. At the level of cognitive psychology we now recognize that the mere existence of this personal interest may unconsciously corrupt P's ability to make an unbiased judgment. Michael Davis illustrates this with a simple example of how he would perform if forced to referee his son's soccer game:

I would find it harder than a stranger to judge accurately when my son had committed a foul. (After all, part of being a good father is having a *tendency* to favor one's own

child.) I do not know whether I would be harder on him than an impartial referee would be, easier, or just the same. What I do know is that, like a dirty gauge, I could not be as reliable as a (equally competent) “clean gauge” would be. (2001: 16)

So you can't safely “deal with” a conflict of interest simply by committing yourself to rising above it. In addition, at an organizational or institutional level, we recognize that even if P does manage to perform her professional role admirably in a conflicted situation, knowledge or suspicion of this conflict of interest may undermine trust in the larger organization, and thereby make it less effective in carrying out its mission. (To extend Davis' example, a parent of a child on the opposing team – even if she had not witnessed the game – might blame her son's team's loss in the match on biased refereeing, and she might then question the integrity of the league.) For both of these reasons, it is appropriate for there to be organizational rules (say, by P's professional body or employer), and in some cases state laws, that mandate certain ways of “managing” conflicts of interest – say, by requiring full disclosure or recusal.

### **Mid-Level Focus on the Firm and Its Stakeholders**

What is a business or firm, and what is its aim or purpose? What does it mean to *own* a firm, and what rights ought owners have to control the firm or to claim its residual earnings (profits)? To whom do the leaders of a firm (its board members or its senior executives) owe obligations, and when do those obligations extend above and beyond what is required by laws and regulations? Mid-level conceptual and ethical questions like these have generated the liveliest and most voluminous debates among business ethics scholars over the past quarter century. And in the broader political culture, they are at the heart of discussions about corporate social responsibility, property rights, and human rights (especially in international business). They are also the issues raised after some of the biggest business scandals, and in debates about how to regulate or deregulate business to avoid such scandals in the future.

To answer most of these very abstract questions, business ethicists have generally turned first not to traditional theories of individual virtue or obligation, but rather to so-called “theories of the firm” developed by economists and lawyers in the last decades of the twentieth century (e.g., Coase 1937; Alchian and Demsetz 1972; Hansmann 1996; Jensen 2000). And without doubt the most prominent debate in the field of business ethics, from the late 1980s through the first decade of the twenty-first century, was between so-called “stakeholder” and “stockholder” theories of the modern corporation. This debate is treated at length in a separate essay (*see* STAKEHOLDER THEORY). Each of these two theories combines conceptual, descriptive, and normative elements to provide answers to most of the mid-level questions in the previous paragraph. They make claims about what a firm is, and what its purpose is, and then draw implications about the

fundamental duties of corporate leaders and the rights of various stakeholders. The concept “stakeholder” has sometimes been defined broadly to include “any group or individual who can affect or is affected by the achievement of the organization’s purpose” (Freeman 1984: 53). But for most purposes stakeholder theorists tend to focus on the major constituencies that have a direct stake in the firm, such as employees, investors, customers, creditors, suppliers, and local communities. Stakeholder theory was developed originally by the philosophically trained management theorist Edward Freeman in the mid 1980s as a direct response to what he perceived to be the prevailing view in business schools at the time. He called that view “stockholder theory” and found its clearest expression in the work of the economist Milton Friedman (1962; 1970): that the firm is owned by its investors; that its purpose is to serve the owners’ interests; and that the managers of the firm are obligated, primarily or solely, to advance the interests of the owners in whatever ways are permitted by law. In contrast, stakeholder theorists think of the firm as a vehicle to advance the interests of *all* stakeholder groups, with investors or shareholders being *but one* of many such groups, and having no inherent priority over the others. According to stakeholder theory, senior managers have a duty to *balance* the interests of all stakeholders, even if this requires reducing shareholder value in order to address the legitimate interests of some other group of stakeholders. The most radical versions of stakeholder theory argue for senior managers having a *fiduciary* duty to *all* major stakeholders (where prevailing theories involve a fiduciary duty only to shareholders, or to the corporation itself), and for the right of all major stakeholder groups to representation on the board of directors. Freeman himself, in a famous article he co-wrote with William Evan (1988), thought of this as a kind of “Kantian capitalism” that treated all stakeholders as ends in themselves and not merely as means to enriching shareholders.

Over the course of three decades of debate, leading stakeholder theorists have now dropped the most radical proposals from the theory, and stress instead its convergence with best management practices in value-creating and profit-maximizing firms (see, e.g., Freeman et al. 2010: 9–11). Few stakeholder theorists actually developed or defended *specific normative principles or decision procedures* that could be used to justify a particular decision to, say, sacrifice shareholders’ interests in favor of those of workers or the local community. (See Phillips 2003 for an attempt to flesh out stakeholder decision procedures; and for important critiques of the theory, see, e.g., Marcoux 2003; Boatright 2006; Heath 2006; Orts and Strudler 2010.) In short, stakeholder theory has not come to incorporate the kind of normative ethical theorizing that moral philosophers would want in order to ground claims about the specific rights of stakeholders or the obligations of corporate leaders. And by shying away from radical institutional proposals – such as changing corporate law to require multi-stakeholder boards, or to protect “stakeholder-friendly” executives from having their firm taken over by new “stockholder-friendly” owners (see Heath and Norman 2004) – some of the latest versions of stakeholder theory no longer seem distinctive as principles

for institutional design. To the extent that such criticisms stand up against the most prominent trends in stakeholder theory, then, we might conclude that more heat than light was generated by almost three decades of the so-called “stockholder–stakeholder” debate – at least from the point of view of those trying to cast light on normative theorizing in business ethics. Freeman himself concedes as much in a candid article entitled “Ending the So-called ‘Friedman–Freeman’ Debate,” where he expresses some embarrassment about a debate that he helped to launch and which he now thinks doesn’t “do much to create value” (2008: 162–3).

Yet even if the “stakeholder theory” movement has not dislodged the prevailing theories of the firm or of governance, it has nevertheless succeeded in getting business ethicists to see the critical importance for mid-level ethical issues of these legal and economic models of the firm. The stakeholder debates have shown how much it matters which ownership and governance structures are in place, how they are justified, and what constraints or demands they place on individuals occupying various roles. A utilitarian business ethicist, for example, cannot simply advise a CEO to try to maximize utility – that is, the utility of everyone in the world, including future generations and sentient animals – with each decision she makes. Such a directive could well require her to allocate a much higher proportion of the firm’s earnings to charity or to raising the wages of the lowest paid workers well above market levels. And under anything like the current system of governance, she would soon be fired for not, in effect, being biased in favor of the interests of shareholders. A sophisticated utilitarian business ethicist would not be able to advise or evaluate a CEO’s decisions without first considering what role and discretion a CEO should have within a legally structured system of governance, corporate law, and business regulation. She might think of the *whole system* as aiming to maximize utility, and that the CEO’s indirect utilitarian duties would be dictated in large part by the duties charged to that role within the system – which will surely involve *not* weighing the utility gains or losses of all those affected by the decision equally. The utilitarian might well end up advising a CEO to, roughly, work to increase shareholder value – and to do this by paying careful attention to the legitimate claims and interests of other important stakeholders.

It is important to signal that a broad range of “mid-level” topics in business ethics have not come into view in this survey, which has concentrated on the “big debate” over shareholder and stakeholder primacy. Several of these topics are covered in specific essays within this *Encyclopedia* (see BRIBERY AND EXTORTION; LYING AND DECEIT; TRADE SECRETS; and ETHICAL INVESTMENT; to name but a few). Most of these concern company policies or attempts by firms’ leaders to control the activities of the firm and its employees. A few other rather philosophical topics include: the question of how to establish who is responsible or accountable (see COLLECTIVE RESPONSIBILITY) in a large hierarchical organization for unethical or risky activities carried out by lower-level employees (French 1984); the question of the justification and limits on managerial authority over employees (McMahon 1994); and the question of when it is appropriate to use conceptions of justice to

evaluate contractual and other arrangements within the firm (Moriarty 2005). Almost all of these mid-level normative issues are bound up with the institutional setting of firms in *competitive* markets. This setting taxes our everyday ethical toolkit, which, by and large, ties ethical behavior to cooperation, benevolence, and altruism. As the philosopher, lawyer, and Harvard Business School professor Lynn Sharp Paine put it:

Although children do learn important values at their parents' knees – and many of these do carry over into corporate life – the special responsibilities of executives or the challenges of dealing with the complex moral problems that often present themselves to managers are unlikely to be among those lessons. So far, I have yet to meet even one manager who learned at “mother's knee” about fiduciary duties, conflicts of interest, or product stewardship. (2003: 149)

### **Macro-Level Focus on the Market System in a Democratic Society**

There is, of course, a tremendous and growing body of academic research on the design and justification of economic markets, constitutional democracies, and both “hard” and “soft” international law. We have seen throughout this survey that many fundamental micro- and mid-level business ethics issues are directly linked to these macro-level theories and institutions. But a perusal of the contents of the main business ethics journals and textbooks suggests that business ethicists do not engage much with these fields.

One of the reasons Milton Friedman's brief writings on business ethics have been so widely cited and anthologized is that the so-called Chicago School with which he is identified *does*, in fact, tell a comprehensive story that links a set of answers to these macro-, mid-, and micro-level questions (see Friedman 1962, 1970). Very roughly: markets are justified by principles of liberty, which they link to property rights, and utility maximization; market regulations are justified in a limited number of cases to correct for market failures, especially the existence of negative externalities (such as pollution) and monopoly power; the state can enforce regulations, protect the sanctity of contracts, and undertake redistributive social policies financed by taxation; and employees working for private firms are expected to do what the owners of the firm hired them to do (generally, but not always, to maximize profits), as long as they don't violate the law or basic “ethical customs” such as telling the truth and keeping promises (for more detail see Friedman 1962, 1970; Heath et al. 2010).

There can be little doubt that, *were they* to turn their attention to business ethics, most leading contemporary academic political philosophers would reject key tenets of this Chicago School approach. One way to illustrate an agenda of issues for a macro-level theory of business ethics is to consider (1) which of the features of the Chicago School approach (call this the “standard model”) are or are not justified, and (2) how ethicists and political philosophers might best reform or replace various

parts of this comprehensive normative and empirical framework (to create what we might call a “progressive model”).

First off, a progressive theory might question the standard model’s mix of utilitarian and liberty-based foundations for markets and market regulations.

Utilitarian theories of justice have been out of favor in political philosophy for four decades; so it is striking that basic utilitarian presumptions for evaluating rival market designs are pervasive in welfare economics, political economy, public policy, and corporate law (Hansmann and Kraakman 2004: 18). If a proposed regulatory reform can be shown to make a market more efficient, or to generate more aggregate value or wealth, that is taken as a strong reason for enacting the reform (*see* COST-BENEFIT ANALYSIS). Yet it is not obvious that the rejection of utilitarianism by most moral and political philosophers implies that it is inappropriate to use utility maximization as a goal in the design of some institutions (like markets). Even John Rawls (2001) is willing to consider rules for markets and market regulations that would aim primarily at maximizing wealth creation within the limits of protected basic liberties. Although what he calls “the basic structure of major social institutions” must, *as a whole*, conform to his two egalitarian (and non-utilitarian) principles of justice, particular institutions *within* the basic structure – like the family, the university, or firms in a marketplace – need not be regulated by the two principles of justice directly (2001: 10). Other political philosophers, however, will want to make a case not merely that markets and regulations should be designed to increase the size of the economic pie (a pie that could be carved up and redistributed by other social institutions), but also that some regulations for business should properly be guided by principles of justice or fairness. Various kinds of laws forbidding discrimination in the workplace, or requiring a minimum wage and affirmative action (*see* AFFIRMATIVE ACTION), would seem to be good candidates for this kind of non-utilitarian regulation. Some rationales for trade-union rights are also based on intrinsic egalitarian considerations, as are some calls for curbs on executive compensation (*see* EXECUTIVE COMPENSATION).

A progressive business ethics might also call into question the way the standard model derives the most important duties and “social responsibilities” of managers from the property rights of owners. According to the so-called nexus-of-contracts theory of the firm, which is now broadly accepted by theorists of corporate law from Friedman’s Chicago School successors (*see* Easterbrook and Fischel 1996) to stakeholder theorists (Evan and Freeman 1988; Freeman et al. 2010), the “public corporation is the nexus for a complex set of voluntary contracts among customers, workers, managers, and the suppliers of materials, capital, and risk bearing. This means the parties contract, not between themselves bilaterally, but unilaterally with the legal fiction called the ‘corporation’” (Jensen 2000: 1). We may still call certain categories of investors “owners,” but they do not literally own any of the corporation’s assets, they don’t have the right to step on the corporation’s premises, and nobody in the corporation is actually working for them. Their rights as owners consist merely in very limited rights to vote for a slate of proposed

board members, to vote for or against major strategic decisions (e.g., mergers), and to stand at the end of the line if the corporation is dissolved and its assets are sold off to pay debts. Friedman was right to be worried about the separation of ownership and control – the fact that managers can use the corporation’s assets for their own personal good – but few now try to ground the obligations of all employees in the property rights of owners.

Progressive business ethicists will also worry about the myriad ways that routine business practices can promote or undermine freedom and autonomy. Friedman, of course, argued passionately for markets as the facilitators of individual freedom. But he was also concerned that too much market power for one firm could limit the freedom of choice for employees, customers, and others; and he permitted governments to foster competition by preventing the creation of monopolies. He was also willing to let the state regulate negative externalities like pollution, since these imposed costs on nonconsenting third parties, constraining their freedom and diminishing their well-being. But a more progressive approach would also pay attention to other market failures that are neglected in the standard model. Perfectly competitive markets presuppose perfect information and rationality among all buyers and sellers, but what is more typical in almost all product and service sectors is the market failure of “information asymmetries.” Sellers generally know much more about the product than buyers; and managers might know more about occupational health and safety hazards than do workers. All advanced economies now have a significant amount of regulation in place to protect consumers and employees from harm caused by their lack of information or lack of ability to make informed and rational choices on the basis of the information they have. We should also expect that one of the hallmarks of an ethical firm is that it does not attempt to perpetuate or exploit its customers’ ignorance or tendencies to make irrational choices.

The fact that businesses often try to resist the imposition of regulation on their profitable activities points to another issue for a more progressive macro-level ethics of commerce. Many unethical or otherwise undesirable business practices at the micro-level and mid-level can best be controlled not by relying on the independent ethical choices of individual agents in the economy, but by well-designed and enforced regulations that forbid these practices. One advantage of trying to take care of some business ethics issues through regulation is that this creates a “level playing field” for individuals and firms in a competitive marketplace: it tries to assure each firm that its competitors won’t be able to get ahead by taking the “low road.” This model is compelling when we think of regulators making wise, well-informed, rational, and *independent* decisions about the rules and how they will be monitored. But we begin to worry about the model when we consider the ways in which the “players” who are being regulated can selectively and strategically influence the “officials” and “referees” responsible for the rule-making and rule-enforcing. So a comprehensive theory of business ethics must devote considerable attention to the way in which businesses can interact with and influence political processes and regulatory agencies. There is a vast empirical literature by scholars in political

science and economics on public choice theory, campaign finance, regulatory capture, lobbying, and the like (Balleisen and Moss 2010). But this problem of evaluating appropriate and inappropriate forms of corporate influence over government policy has remained a surprisingly neglected topic in discussions of deliberative democratic theory, corporate social responsibility, and stakeholder theory (see, e.g., Vogel 2005; Crane et al. 2008; Néron and Norman 2008).

Finally, just as it is important to see that many issues in business ethics are best dealt with through institutions of government regulation (so our micro-level and mid-level problems are avoided or resolved by macro-level institutional design), we also recognize that regulation will never eliminate all unethical business practices. Some regulations could not be justified because they would require violating basic liberties (e.g., to privacy or free speech); some would impose more costs than benefits; some would be too difficult to monitor effectively; some problems raised by technological innovations cannot be dealt with quickly enough by slower-moving regulatory processes; some worthy regulations cannot be enacted because of a lack of political will; sometimes there is simply no consensus over whether a given practice is unethical; and so on. And this is before we consider how tenuous the regulatory solution is in the context of international business, especially in the developing world. *The fundamental problem in business ethics is how to justify self-regulation in the face of legal but dubious business opportunities. This kind of guidance seems to be missing from the Chicago School approach, at least in the straightforward way Milton Friedman framed it. If a CEO has an obligation to increase shareholder value in ways consistent with the existing laws and basic ethical customs, then she would have a duty to lobby against any new law (say, to lower toxic emissions or to disclose information) that would lead to a net gain for society but a net loss for the owners of her firm. But such “rent seeking” behavior seems unjustifiable across all three “levels”: it is not how we would expect responsible citizens, or corporate citizens, to participate in democratic governance; and it assumes naïvely that all of an individual executive’s many moral obligations are necessarily trumped by her obligation to shareholders (so long as she is not violating any laws or engaging in fraud). Indeed, it undercuts the standard model’s own most basic justification for markets, namely that they increase aggregate welfare and promote autonomy.*

## Conclusion

It is safe to assume that most business ethicists and political philosophers are unsatisfied to varying degrees with the way the standard model frames, integrates, and justifies normative issues across the micro-, mid-, and macro-levels. But at this stage in the development of the discipline, there are few robust “progressive” alternatives (for an ambitious attempt, see Donaldson and Dunfee 1999; for a concise and “progressive” extension of the standard model, see Heath 2006; and for a modest, but comprehensive, revamping of the standard model, see Boatright 2011). To date most theorizing about business ethics is very much anchored at one of the levels

(such as micro-level virtue ethics, mid-level stakeholder theories, or macro-level theories of corporate social responsibility) and focuses on fairly specific problems. The dozens of individual essays on topics in business ethics in this *Encyclopedia* attest to the tremendous progress by business ethicists over the past three decades on a wide variety of issues. But the field itself still lacks a widely admired comprehensive theory that satisfies the four desiderata (sketched earlier in this essay) for an integrated, interdisciplinary approach to ethics that takes business and adversarial markets seriously.

**See also:** ACCOUNTING ETHICS; ADVERSARIAL SYSTEM OF JUSTICE; ADVERTISING, ETHICS OF; AFFIRMATIVE ACTION; ARISTOTLE; BRIBERY AND EXTORTION; CATEGORICAL IMPERATIVE; CHARACTER; CODES OF ETHICS; COLLECTIVE RESPONSIBILITY; CONFLICT OF INTEREST; CONSEQUENTIALISM; CONTRACTUALISM; CORPORATE CULTURE; CORPORATE GOVERNANCE; CORPORATE SOCIAL RESPONSIBILITY; COST-BENEFIT ANALYSIS; DEONTOLOGY; EMPLOYERS AND EMPLOYEES; ETHICAL INVESTMENT; ETHICS OF COMPETITIVE SPORT; EXECUTIVE COMPENSATION; FEMINIST ETHICS; GLASS CEILING; GLOBAL BUSINESS ETHICS; KANT, IMMANUEL; LYING AND DECEIT; MARX, KARL; METHODS OF PRACTICAL ETHICS; MILL, JOHN STUART; *PRIMA FACIE* AND *PRO TANTO* OUGHTS; RAWLS, JOHN; SLAVERY; SMITH, ADAM; STAKEHOLDER THEORY; SUSTAINABILITY; TRADE SECRETS; USURY; UTILITARIANISM; VIRTUE ETHICS; WHISTLEBLOWING; WHITE-COLLAR CRIME; WORLD TRADE ORGANIZATION

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