Business Ethics

Some terms:

Bank bailout

Bonus culture

Consumer sovereignty

Corporate responsibility

Fraud

Insider dealing

Profit motive

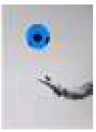
Externality

Tax avoidance

Whistleblowing

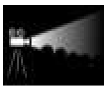
Introduction

1. Thinking about ethics statements



Hands on: in the computer lab do the toolbox self-assessment at:

http://www.ethicsandbusiness.org/toolbox.htm



Film Clip: The Constant Gardener (Pfizer drugs company, Nigeria and drug trials) Independent April 6th 2009

Three ethical issues in the Pfizer case:
1.

2.

3.

Research: what goes in a business ethics statement?

http://www.ethics.org/resource/common-ethic-code-provisions

Activity: choose six values from this list and write your own corporate statement.

My corporate values
1.
2.
3.
4.
5.
6.

http://www.ethics.org/resource/definitions-values

My value statement:

2. Is business ethics a contradiction in terms?

Powerpoint: Basic Business Ethics
http://www.andygustafson.net/business/powerpoint_presentations.htm

There is one way, after all, that "business" and "ethics" do *not* necessarily go together. Succeeding in business is largely about advancing private interests - aggressively competing against other people, beating them out for the same prize, and having unlimited ambition for money, position, and power. The moral life, by contrast, focuses on our duties to others (deontology) or the consequences (teleology). For example, Kantian ethics teaches us not to hurt anyone (deliberately or accidentally), to place other people's interests ahead of our own when necessary, and always to treat others with the dignity and respect they deserve. Yet being scrupulously honest and caring in our business dealings with others can sometimes cost us sales, deals, money, and promotions. Refusing to go along with other people's unethical behaviour can even cost us our jobs. When taken too far in business, even healthy self-interest, competitiveness, and ambition can go turn into selfishness, aggression, and greed - traits that are clearly at odds with the moral life.

http://www.ethicsandbusiness.org/toolbox.htm

Activity: do you agree that business life and the moral life are separate things?

Construct an argument from your ethics toolkit from a deontological and teleological perspective that business decisions need to be ethical decisions.

Ethical Egoism

Issue: is market economics really a theory of ethical egoism?

Friedrich Nietsche wrote:

"What is strong wins. That is the universal law. To speak of right and wrong per se makes no sense at all. No act of violence, rape, exploitation, destruction is intrinsically 'unjust', since life itself is violent, exploitative, and destructive and cannot be conceived otherwise". (Genealogy of Morals 1966 pg 208)

Ayn Rand has argued in the *Virtue of Selfishness* that we seek our own good first regardless of how it affects others. The highest goal is our own self-preservation, and so this is our first duty. Louis Pojman criticises Rand:

> Rand ambiguously slides back and forth between selfishness and self-interest. But these are different concepts. Self-interest means we are concerned to promote our own good, although not necessarily at any cost. I want to succeed, but recognise that I will sometimes justly fail to do so. I accept the just outcome even though it is frustrating. But selfishness entails that I sacrifice the good of others for my own good, even when it is unjust to do so. Self-interest is a legitimate part of our nature, whereas selfishness is an aberration. A failure to accept the moral point of view.

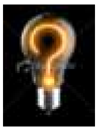
Pojman 2004 pg 296

- Explain the difference between selfishness and self-interest.

According to market economics, rational consumers try to maximise their own satisfaction. Where there are external costs, such as pollution, noise, congestion, it is up to the Government to make good the deficiency. Business cannot be expected to perform this social role. Professor Milton Friedman has argued something similar.

> Economist Milton Friedman articulates this view in an essay that is quite popular with business students, "The Social Responsibility of Business Is to Increase its Profits."[1] According to Friedman, corporate officers have no obligation to support such social causes as hiring the hard-core unemployed to reduce poverty, or reducing pollution beyond that mandated by law.
>
> Their sole task is to maximize profit for the company, subject to the limits of law and "rules of the game" that ensure "open and free competition without deception or fraud." Friedman advances two main arguments for this position. First, corporate executives and directors are not *qualified* to do anything other than maximize profit. Business people are expert at making money, not at making social policy. They lack the perspective and training to address social issues.

Second, and more fundamentally, corporate officers have no *right* to do anything other than maximize profit. If they invest company funds to train the chronically unemployed or reduce emissions below legal limits, they in effect levy a “tax” on the company’s owners, employees and customers in order to accomplish a social purpose. But they have no right to spend other people’s money on social welfare projects. At best, only elected representatives of the people have such authority. Sole proprietors can spend the company’s money any way they want, since it is their money, but fiduciaries and hired managers have no such privilege. If they contribute corporate money to arts or community development, it must be with an eye to increasing profit, perhaps by attracting better employees or improving the company’s image. If they want to contribute to other social causes, they are free to join civic organizations and donate as much of their own money as they please. *John Hooker*
http://web.tepper.cmu.edu/ethics/whybizethics.pdf



- **Evaluate** Friedman’s argument. Note – Bentham’s hedonic utilitarianism is a form of ethical egoism.

- However, there is a problem here. Suppose we have not passed adequate laws to prevent pollution. Or suppose business can suppress the truth, so escaping justice, or move to another country with laxer laws. Is there a sense in which ethical requirements are more *universal*?

- **Whistleblowing** is never in the individual’s interest, but always in the interest of the wider community. Construct an ethical argument for whistleblowing which counter-acts the theory of ethical egoism above.

Evaluate: in 1971 Ford introduced the Pinto and soon realised that a design fault meant the fuel tank would rupture in the event of a rear end collision. A cost-benefit analysis revealed it would cost $11 per car to rectify the fault. Assuming 2,100 burnt vehicles, 180 burn deaths and 180 injuries over the model's life, they valued the amount of benefit at $49.5 million of putting the fault right , and a cost of $137m involved in the recall for modification.

So it was rational on cost-benefit analysis to do nothing (Ford would save itself $87m).

What would a) a Kantian and b) a utilitarian say to the Ford management?

Is the example a serious challenge to cost-benefit analysis?

Critical Responses:

1. Certain decisions might be right even though its benefits do not outweigh its costs.
2. There are good reasons to oppose efforts to put monetary values on non-marketed benefits and costs
3. Since there are many situations where one would not wish to use cost-benefit analysis, and given that many non-market values should not be commodified and given a market value, it is best not to use this sort of analysis.

Pricing something decreases its perceived value:

a. Non-market exchange is non-market because it is not supposed to be able to be bought. It is thought to have a priceless value - not for sale.
b. When we try to price non-market 'goods' such as clean air, peace and quiet, or views, we run into two key problems:
a. People usually want more to give up what they have than they are willing to pay for what they don't have.
b. Lots of factors go into price fluctuations, and to artificially single out one factor is misleading:

"*To use the property value discount of homes near airports as a measure of people's willingness to pay for quiet means to accept as a proxy for the rest of us the behaviour of those least sensitive to noise, of airport employees or of others who are susceptible to an agents assurances that "it's not so bad*."

<u>**Mark Sagoff's Questions**</u>**:** (Price, Principle and the Environment, CUP 2004)

1. Is it wrong to cause the extinction of a species which has no economic benefit? (A bird in Chile? A type of dog? A type of mosquito?)

2. Do we have a responsibility to maintain certain pristine environmental sites, such as the Grand Canyon or the ocean?

Traditionally when people talk about why to be environmentally conscientious, they talk about 'moral values' or judgments. "I just think this is wrong, so we shouldn't do it" But some have tried to translate these judgments into an **economic formula**, specifically, the preferences people have for which they are willing to pay. ('I would pay £1 per day to avoid the traffic delays on the A303, and so would probably 8,000 other people who use that route daily, so its worth it to build an overpass/bypass for £64 million') When stated simply as values, we have no way to calculate or determine a course of action. When considered in terms of how much someone is willing to pay to, for example, preserve Gettysburg, then we can figure out more specifically what people want, by seeing how much they will pay. But some (Mark Sagoff, "Beliefs and Benefits—Gettysburg and Dollywood") find this economic analysis flawed when it comes to environmental issues.

Sagoff's point is that "**Beliefs are not economic benefits.** If economists believe that society should allocate resources to maximize welfare, they do not necessarily think this because <u>they</u> will be better off as a result. They are not simply trying to increase demand for their services. . . . people who believe that society should protect endangered species, old-growth forests, and other places with intrinsic value do not necessarily think that this will improve their well-being."

Conclusion: doing cost-benefit utilitarian calculus based on <u>financial considerations alone</u> is superficial and does not capture all the relevant facts or reasons involved in our decisions.

What would your answers be to Mark Sagoff's two questions above?

Accountancy measures and the Environment

John Elkington: What is the Triple Bottom Line?
(*Cannibals with Forks*, Capstone, 1999)

Triple Bottom Line: Business concerns cannot be divorced from the environment and social concerns. Rather than be concerned only with profit, business should be concerned with a 'triple bottom line': **a. Economic b. Social c. Environmental**

A. ***Economic Bottom Line***

Traditionally the economic bottom line is measured in terms of

i. Physical capital (e.g., plant, machinery, real estate)
ii. Financial capital (e.g., investments, cash in hand)

Elkington thinks that as we move to a knowledge economy we need to include

iii. Human capital (skills and knowledge-based assets)
iv. Intellectual capital (Brainpower of workers, value of relationships developed by workers and agents)

Typical economic issues for business people are:

∗Are we competitive?
∗Is the demand for our products sustainable?
∗Is our rate of innovation competitive for the future?
∗How can we retain our human capital?
∗Are our profit margins sustainable?

B. Environmental bottom line

Natural capital comes in two forms:

a. 'Critical natural capital' essential to the integrity of ecosystems
b. 'Substitutable natural capital' which can be renewed or replaced.

Elkington thinks that businesses should ask:

∗Which forms of natural capital will be affected by current operations and planned activities?
∗Are these forms of natural capital given the likely pressures?
∗Is the overall level of stress properly understood?
∗Is the 'balance of nature' or 'web of life' likely to be affected?

C. ***Social Bottom Line***

Social capital is "*the measure of the ability of people to work together for common purposes in groups and organizations. A key element of social capital is a sense of mutual trust*." (From John Elkington's glossary in *Cannibals with Forks*)

Social capital also includes the human capital in terms of public health, skills and education. It is a measure of loyalty, honesty and dependability (i.e., the moral qualities).

Thus businesses will need to ask:

∗What are the crucial forms of social capital to become a sustainable corporation?
∗What are the underlying trends in terms of creation, maintenance or erosion of social capital?
∗What is the role of business in sustaining human capital?
∗To what extent are concepts such as environmental justice and intra- and inter-generational equity likely to change the ways in which we define and measure social capital?

What's Wrong With the "Triple Bottom Line"?

Chris MacDonald and Wayne Norman argue that Triple Bottom line accounting compares apples to oranges, because you can't do the comparison or value-translation necessary for the accounting to take place.

www.businessethics.ca/3bl

Attempts to do the right thing in business go by many different names: "Sustainability," "Business Ethics," "Corporate Social Responsibility," "Socially Responsible Business," "Corporate Citizenship" and so on. Each of these means something slightly different, or has a different 'spin,' but they're all aimed at the same rough idea, namely the idea that businesses can, and should, behave better.

But to say that each of these names stands for roughly the same thing is not to say that each of them is equally good. Indeed, some of them may be downright misleading. We argue that that is the case with the so-called "Triple Bottom Line" (or "3BL") approach: it is misleading, and should be done away with.

The 3BL has quickly become one of the very most popular terms being applied to attempts by business to do the right thing. There are consulting firms offering 3BL accounting services; investment firms promising to screen with 3BL analysis; Fortune-500 companies bragging about their 3BL approach in their annual reports; and various non governmental organizations encouraging more companies to do so. Indeed, in the last three or four years the term has spread like wildfire. Back in March of 2003, the Internet search engine, Google, returned roughly 25,200 web pages that mention the term. Just over a year later (June, 2004) Google returns more than double that number: 61,200.

So what is the "Triple Bottom Line"? The basic idea is that corporations should (and can) manage not just the good old-fashioned bottom line (i.e., the financial bottom line), but also their social & environmental "bottom lines," too. On the face of it, this is an attractive idea: it is easy to agree with the idea that corporations have obligations that go beyond financial success. Unfortunately, we find that without exception the 3BL rhetoric fails to live up to its promises. Adding up the financial plusses and minuses is just a lot easier, as it turns out, than totting up, say, the ethical achievements and shortcomings of a firm. Any attempt to arrive at a calculation of a net social or environmental performance is likely to run head-on into just what it is that separates the management of finances from the management of social and environmental impacts. In the financial realm, money provides a common unit of measure that permits expenses to be subtracted from revenues. So while it makes perfect sense to take the costs of labour and materials and subtract those from sales revenues, it makes little sense to talk about (for example) taking a social "minus" such as a sexual harassment lawsuit and subtracting that from a social "plus", like having engaged in corporate philanthropy. How big a charitable donation do you think it takes to off-set the social "cost" of a sexual harassment suit? Of course there's no obviously uncontroversial way to make this sort of calculation. In other words, there's no real social "bottom line". The kinds of issues that arise in social and environmental domains can be (and regularly are) managed , but they will never be reducible to the kind of common unit of measure that would allow for straightforward bookkeeping.

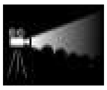
In practice, a commitment to the 3BL approach means one of two things. Either it means that social and environmental concerns are going to be assigned dollar values – a controversial (though sometimes useful) practice that in effect means managing, again, just a single (though admittedly now richer) good-old-fashioned bottom line. Or, it means simply paying attention to – without attempting to derive anything like a real "bottom line" for – the social and environmental impacts of your business. In that case, the concept of a Triple Bottom Line in fact turns out to be a "Good old-fashioned Single Bottom Line plus Vague Commitments to Social and Environmental Concerns."

Why should advocates of responsible business be worried about perpetuating the 3BL rhetoric? Because it allows just about any business to claim to believe in the Triple Bottom Line, and even the best forensic accountant will not be able to prove that they are morally bankrupt.

Activity: explain in your own words triple bottom line accounting. What objections do the authors make of this?

Case study 1: Enron, people management and fraud

Enron was one of America's leading companies prior to its spectacular collapse in 2001. It was frequently named as one of America's top 10 most admired corporations and best places to work, and its board was acclaimed one of the US' best five, according to *Fortune* magazine. As America's seventh largest company, Enron experienced explosive growth through the 1990s. It had revenues of US$139 ($184) billion, US$62 ($82) billion in assets and employed more than 30,000 people across 20 countries.



Film clip: US documentary Enron

Activity: list three moral issues raised by Enron's activities (think of customers, employees, managers).

Summary:

Background: Energy Deregulation in the US in late 1970s

1985 Ken Lay (Enron chairman) former US Interior Dept energy economist Houston Natural Gas Merges with InterNorth to form Enron
1987 Enron's Debt was 75% of its market Capitalization
1989 Jeff Skilling hired, with Harvard MBA
1992 3.5 billion deal for Nat Gas with Sithe in New York
1990 Andrew Fastow Hired
1991 DEC granted exceptional permission for mark-to-market accounting
1990's International activities grow under Rebecca Mark, including vast project in India to generate energy for non-existent Indian market

2001 Blackouts in state of California cause energy prices to rise. Executives and traders profit from this manipulation of consumers and markets.

- Mark to Market Accounting: anticipated future profits stated on balance sheet.

- Off Balance Sheet transactions: Multiple subsidiaries to take debt or loans while Enron posted profit.

- Auditor Arthur Andersen captured by Enron (subsequently went out of business).

- Rank or yank policy: put pressure on employees to make up deals (15% fired every year).

- Wall Street expectations: put pressure on managers to fulfil the legend.

- Political links: Ken Lay (chairman) personal friend and contributor to George Bush's presidential campaign.

Powers Committee Report - criticisms:

1. Board of Directors
2. Poor controls (Fastow's activities never curbed; he was never disciplined)
3. CEO Jeff Skilling failed to guide Enron
4. Auditor Arthur Andersen failed to be watchdog and protect consumer interests
5. Creative accounting with ill intent (inflating profit figures)
6. Inadequate disclosure (continued optimistic PR to the end)
7. Lack of understanding of transactions, consequences, and risks
8. Insider trading (profiting from inside knowledge in share deals/ director stock options)

Federal Sentencing Guidelines

1. Having Standards
2. Assigned Responsibility - Adequate Resources
3. Due diligence in Hiring
4. Communications and Training
5. Monitoring, Auditing, Reporting
6. Promotion and Enforcement of Ethical Conduct
7. Reasonable Steps to Prevent Misconduct—Punishment clear and enforced

Ken Lay died in 2006 before sentencing; Jeff Skilling received 24 years; Andrew Fastow received 10 years reduced sentence in return for testifying against Lay and Skilling.

How the Fraud Happened

The Enron fraud case is extremely complex. Some say Enron's demise is rooted in the fact that in 1992, Jeff Skilling, then president of Enron's trading operations, convinced federal regulators to permit Enron to use an accounting method known as "mark to market." This was a technique that was previously only used by brokerage and trading companies. With mark to market accounting, the price or value of a security is recorded on a daily basis to calculate profits and losses. Using this method allowed Enron to count projected earnings from long-term energy contracts as current income. This was money that might not be collected for many years. It is thought that this technique was used to inflate revenue numbers by manipulating projections for future revenue.

Use of this technique (as well as some of Enron's other questionable practices) made it difficult to see how Enron was really making money. The numbers were on the books so the stock prices remained high, but Enron wasn't paying high taxes. Robert Hermann, the company's general tax counsel at the time, was told by Skilling that their accounting method allowed Enron to make money and grow without bringing in a lot of taxable cash.

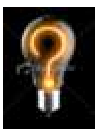
Enron had been buying any new venture that looked promising as a new profit center. Their acquisitions were growing exponentially. Enron had also been forming off balance sheet entities (LJM, LJM2, and others) to move debt off of the balance sheet and transfer risk for their other business ventures. These SPEs were also established to keep Enron's credit rating high, which was very important in their fields of business. Because the executives believed Enron's long-term stock values would remain high, they looked for ways to use the company's stock to hedge its investments in these other entities. They did this through a complex arrangement of special purpose entities they called the Raptors. The Raptors were established to cover their losses if the stocks in their start-up businesses fell.

When the telecom industry suffered its first downturn, Enron suffered as well. Business analysts began trying to unravel the source of Enron's money. The Raptors would collapse if Enron stock fell below a certain point, because they were ultimately backed only by Enron stock. Accounting rules required an independent investor in order for a hedge to work, but Enron used one of their SPEs.

The deals were so complex that no one could really determine what was legal and what wasn't. Eventually, the house of cards began falling. When Enron's stock began to decline, the Raptors began to decline as well. On August 14, 2001, Enron's CEO, Jeff Skilling, resigned due to "family issues." This shocked both the industry and Enron employees. Enron chairman Ken Lay stepped in as CEO.

http://www.scu.edu/ethics/publications/ethicalperspectives/enronpanel.html

Activity: outline the major ethical issues in the Enron collapse.



Discuss: Business ethics is about strong and open regulation and regulatory authorities like the Federal Trade Commission. Enron’s failure was really a failure of regulation.

Character ethics

Read the extract below arguing for a return to character-based virtue ethics in business.

The culture of Enron played a role in its downfall, with an "unbelievably aggressive" approach to doing business – particularly in its trading operations. "Senior management was adamant was about sustaining a too-good-to-be-true performance, and there was a tremendous lack of focus, clarity and accountability. They were promoting that this was all a big mistake and convinced themselves that they couldn't lose money. There's an enormous amount of danger in believing your own press releases," Cooper says.

Add to this...a tendency toward cronyism. Managers at Enron's divisions grew arrogant, thinking themselves invincible. We see this insular tendency of the company to seal itself off from forces on the outside. They had something called a rank-and-yank performance appraisal system, which eliminated anyone who fell behind-a real Darwinist system that took care of anyone who might potentially disagree. All of the internal whistleblowers were rebuffed, humiliated, or treated in an intimidating way by the various players. And finally, one of my favorites-their 1999 annual report in which all of the members of the board of directors are listed by their nicknames, again suggesting that tendency towards cronyism....

In terms of fixing the system from a character viewpoint..., we need reforms that discourage cronyism-this insular tendency in too many American corporations to seal themselves off from the realities beyond themselves. Jeffrey Skilling, Andrew Fastow, and Kenneth Lay all live in the same gated community in Houston, which I think is a great metaphor for what happened at Enron.

It may be that we have here an example of the so-called "separation thesis": an incident where individuals, for reasons tied to corporate culture and societal expectations, adopted as their own an ethic associated with their role as manager that was distinct (separate) from their individual ethics. In other words, these may be good people who acted wrongly because they thought their managerial roles demanded they act in a certain unethical manner

Deontological explanations

In the Enron case, we see the result of a growing and pervasive winking at the letter of the law. This winking didn't come out of nowhere. It built up in our society during the 1990s and culminated in 1995 in the Private Securities Litigation Reform Act—a law that eased some of the restrictions put in place after the Great Depression to prevent the sort of behavior we see with Enron. Both the behavior and the rules and laws to prevent it have been around for years. The laws were simply circumvented in the Enron case.

Corporate culture

One of my friends, a former executive at Enron who resigned in 2000, described what the recruiting process was like.... They recruited just at the major business schools. They wined and dined the prospects. They promised them huge bonuses and fed those young egos as much as they would take.

Once people were hired, it was an up-or-out culture. Those who survived began to think they were gods. And Jeffrey Skilling used to pit them against each other. He knew that as long as he could keep them scared of one another and competing, he would have control. When you create an environment in which, if you want to be among the best and the brightest, you've got to play the game the way the boss has set it up, that's not a culture where people are going to challenge top management.

Source: Kirk Hanson

- Is virtue ethics the best way of solving problems of business ethics?

Research: ten ways to stop having the next Enron.

http://www.ethics.org/resource/common-ethic-code-provisions

CASE STUDY 2 Trafigura (David Leigh, Guardian 26th September 2009)

In 2006 Trafigura dumped thousands of tonnes of toxic waste in the Ivory Coast, one of the most corrupt countries in the world. They then tried to cover-up the human tragedy with libel writs, even suggesting the House of Commons question time should be muzzled. In November 2009 the poor of the Ivory Coast were awarded £30m damages.

To clean up the dirty fuel, which they described as "crap" or "shit", the traders planned to add caustic soda to absorb sulphur contaminants, despite being told this process was banned in the west.

The "most difficult" problem, as they recorded, was how to dispose of the resultant stinking toxic waste.

In December 2005, McNicol promised the company head, Claude Dauphin: "We will make it happen". He told colleagues: "We should be talking to specialist chemical clean-up companies." He wrote: "Claude owns a waste disposal company and wants us to be creative."

He reported to Dauphin: "Caustic washes are banned by most countries due to the hazardous nature of the waste (mercaptans, phenols, smell) … There are not many facilities remaining in the market. There is a company in Rotterdam that burns such waste in a high stack chimney and charges are approximately $200/kg." That was considered too expensive.

Trafigura's London head of gasoline trading, Leon Christophilopoulos, suggested a desperate remedy: a floating refinery: "I don't know how we dispose of the slops and I don't imply we would dump them, but for sure, there must be some way to pay someone to take them."

A chartered tanker, the Probo Koala, was anchored off Gibraltar. Between April and June, it took three cargoes, each of 28,000 tonnes of contaminated gasoline, and mixed them with caustic soda and a catalyst. Company emails show a highly concentrated 33% caustic solution had been used on board. This may have produced an even higher proportion of toxic compounds than in conventional refinery waste.

Ahmed booked a disposal firm, claiming the waste was simply routine "slops" from rinsing out petrol tanks. The plan failed. After uproar over the stench Trafigura reloaded the waste and sailed to Africa. Ahmed and Trafigura currently face prosecution in the Netherlands where they deny telling lies.

What followed was an environmental and human catastrophe.

The waste ended up being tipped all around Abidjan. Those living and working nearby risked burns, nausea, diarrhoea, loss of consciousness and death from contact with such compounds.

The most sombre allegations concern the killer gas hydrogen sulphide. Sulphur compounds can break down in the environment and release it. The thousands of reports of casualties followed a pattern which appears consistent with an escape of hydrogen sulphide.

Inhabitants near the dump sites reported respiratory and eye problems, while further away, people reported nauseating smells.

Trafigura yesterday said that "there is no evidence to suggest that the slops would generate hydrogen sulphide at levels that could have caused the deaths and serious injuries alleged".

As 31,000 Africans, many desperately poor, joined in an unprecedented group action for compensation organised by London lawyer Martyn Day, Trafigura tried repeatedly to give the impression that its ship had only pumped out ordinary slops from tank-cleaning: a completely different type of activity.

Trafigura maintained this position as long as it could, muzzling the media with aggressive statements from the expensive lobbying firm Bell Pottinger and the equally expensive libel lawyers Carter-Ruck.

It was only yesterday afternoon, facing likely publication of their internal emails, that the firm announced it was suing for peace with the 31,000 Ivorians who have been trying to get compensation. After three years, the cover-up had collapsed.

David Leigh, Guardian 26.11.09

- What ethical issues are raised by this case?

- Using your ethics toolkit, assess the moral wrongs committed by Trafigura.

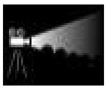
Research: what happened to the £30m paid in compensation?
http://www.guardian.co.uk/world/2009/nov/04/trafigura-ivory-coast-payout

CASE STUDY 3 Erin Brockovich: Pacific Gas and Electricity

The case alleged contamination of drinking water by Pacific Gas and Electricity Corporation (PG & E) with hexavalent chromium, also known as chromium(VI), in the southern California town of Hinkley.

At the center of the case was a facility called the Hinkley Compressor Station, part of a natural gas pipeline connecting to the San Francisco Bay Area constructed in 1952. Between 1952 and 1966, PG&E used hexavalent chromium to fight corrosion in the cooling tower. The wastewater dissolved the hexavalent chromium from the cooling towers and was discharged to unlined ponds at the site. Some of the wastewater percolated into the groundwater, affecting an area near the plant approximately two miles long and nearly a mile wide.- In 1987 a report showed levels of chromium VI ten times the recommended safety level.

Erin Brokovitch was working for a law firm and became suspicious when the title deeds of house purchases had medical records attached.   Eventually 638 plaintiffs joined the case ina colllective action.The case was settled in 1996 for $333 million, the largest settlement ever paid in a direct action lawsuit in U.S. history.



Film Clip: Erin Brokovitch

- What ethical issues are raised by this case?

Research: look at some of the details of the case and consider the company’s behaviour from different ethical perspectives.

http://www.lawbuzz.com/famous_trials/erin_brockovich/erin_brockovich_ch11.htm

CASE STUDY 4: Collapse of RBS, a study in greed

Plato in the Gorgias records a conversation between Socrates and Callicles. Socrates argument is that greed, deception, avoidance of responsibility and any other vice actually harms the doer. So the reason for avoiding these things is that they will ultimately destroy us.

> Socrates argued that Callicles' personality has been damaged. Indeed, Socrates describes two characteristics of severe addiction: the inability ever to be satisfied,and the use of lies and rationalizations in order to get the object of our addiction. Callicles' vice has harmed him because he is losing control over his own life. Callicles' boundless desires now control him, and they have even taken his mind captive.
>
> What is especially interesting about Socrates' picture of how vice harms the doer, however, is that the philosopher might just as well be talking about any number of people who were arrested for unethical behaviour in business over the last two decades. What is striking about such cases is not how shockingly unethical the behaviour was, but what led to a wrongdoer's undoing. Invariably, these were very bright, talented, capable people who were brought down by carelessness, poor judgment, overreaching, and going to the well one time too often.
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> In particular, these individuals failed to assess accurately the risks they faced. Statistically, the more often you do something illegal, the more likely it is that you'll be caught. Hence, the *more* careful you should be. Yet in these cases, the people involved apparently came to see themselves either as bullet proof or as involved in something so inconsequential that being caught barely crossed their minds. So they got *less* careful.(The lesson of these cases is almost as though serious wrongdoing makes you stupid!)
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> Thomas White http://www.ethicsandbusiness.org/toolbox.htm

- What is Socrates' argument?

- Could this argument be applied to the UK banking sector?

- Which ethical theory seems to agree most with Callicles?

Dominic Lawson defends the bonus culture
http://www.timesonline.co.uk/tol/comment/columnists/dominic_lawson/article6888959.ece

APPENDIX 1 Thomas White http://www.ethicsandbusiness.org/toolbox.htm

The most frequently told joke about business in this country is probably that "business ethics" is an oxymoron. Few people who use this one-liner actually mean to say that business is a fundamentally unethical enterprise. But the remark does reveal major tensions between business and the moral life--tensions that are as disturbing as they are important.

There is one way, after all, that "business" and "ethics" do *not* necessarily go together. Succeeding in business is largely about advancing our own private interests--aggressively competing against other people, beating them out for the same prize, and having unlimited ambition for money, position, and power. The moral life, by contrast, focuses on our duties to others--not to hurt anyone (deliberately or accidentally), to place other people's interests ahead of our own when it's called for, and always to treat others with the dignity and respect they deserve. Yet being scrupulously honest and caring in our business dealings with others can sometimes cost us sales, deals, money, and promotions. Refusing to go along with other people's unethical behaviour can even cost us our jobs. When taken too far in business, even healthy self-interest, competitiveness, and ambition can go turn into selfishness, aggression, and greed -traits that are clearly at odds with the moral life.

It seems, then, that taking ethics seriously in business extracts a price and may make success more difficult to come by. But if this is true, why should any of us make the effort to do what's right? In particular, what would we say to someone who asks, "Why should I be ethical? *What's in it for me?*"

The demand for such a blatantly self-interested defence of ethics might seem surprising, even unsettling. As we noted above, the moral life traditionally focuses on our duties towards other people not on how we can get something for ourselves. But this is a perfectly reasonable request. After all, there's little question why someone might be drawn to master the arts of deceit: money, sex, the admiration of others, the power to control other people, freedom to do whatever you like.

Moreover, every day we cooperate in making this society one in which we as a people say: "What's 'good' is what's 'good for me.'" If the moral life cannot provide as strong a case for itself as vice, we have to be honest enough to admit that and reassess what ethics is all about. [Perhaps, as some thinkers have suggested, conventional morality is just the product of weak people making virtues out of their failings.]

But what would we say? How do we give a selfish defence for the moral life?

The best self-interested argument for the moral life is to be found in the claim that *there is a direct relationship between ethical behaviour and the strength and health of the human personality. In short, in some critical ways, unethical behaviour weakens the personality.*

The idea that there is a direct relationship between ethics and the human personality actually has a long history in ethics. It was first advanced by Socrates, who claimed in the dusty streets of ancient Athens that "vice harms the doer." Even if we know we can get away with doing something wrong, claims Socrates, even if no one ever discovers what we're up to, our vice harms us more than it hurts any of our victims.

Socrates' idea may seem rather odd. But Socrates was so convinced of its truth tha the not only lived by it, he died by it. Socrates spent his days in Athens exhorting his fellow citizens to a life of virtue, but at the end of his life he was falsely accused of two capital offences: impiety and corrupting the young. Tragically, Socrates was found guilty and sentenced to die. While he was in jail awaiting execution, however, his friends tried to persuade him to escape. He refused because he became convinced that escaping would be morally wrong. And even though Socrates was faced with dying for a crime he didn't commit, he chose death because he was convinced he would be harmed more by intentionally doing something wrong than he would by suffering an unjust death.

What could Socrates mean? How does vice harm us that badly that it could lead to Socrates' decision?

The most specific account of what Socrates has in mind is found in an encounter between the philosopher and the character Callicles in the Platonic dialogue, the *Gorgias*. Callicles is portrayed by Plato as a very talented and ambitious young Athenian who has decided that a conscience only gets in the way of success. He thinks that Socrates' idea that "vice harms the doer" is laughable. He sees no evidence of being harmed by his selfish and aggressive pursuit of money, power, and pleasure--quite the contrary. He sees himself as a truly strong individual, superior to the people who obey the rules of traditional morality. They do so, according to Callicles, only out of weakness and an inability to best other people in life's great competition. How does Socrates respond to the challenge?

Socrates has no trouble pointing out how Callicles' unethical behaviour has hurt the young Athenian. Socrates points out two particular dimensions. First, by Callicles' own admission, his goal in life is to let his desires and ambitions grow without bounds. The truly strong person, in Callicles' mind, will find ways to satisfy them. To Socrates, however, Callicles is describing a scenario in which he will slowly but inevitably lose control of his own life as he is enslaved by his growing--and ultimately insatiable--desires. Second, Socrates observes that the young man will say anything he has to in order to get what he wants. But Socrates is claiming more than that Callicles is a clever liar. The philosopher's point is that the power of Callicles' unbridled hunger is so great that even the young man's mind has been brought into the service of his desires.

Now to Socrates--and, I hope, to us as well--there is little question that Callicles' personality has been damaged. Indeed, Socrates describes two characteristics of severe addiction: the inability ever to be satisfied,and the use of lies and rationalizations in order to get the object of our addiction. Callicles' vice has harmed him because he is losing control over his own life. Callicles' boundless desires now control him, and they have even taken his mind captive.

What s especially interesting about Socrates' picture of how vice harms the doer, however, is that the philosopher might just as well be talking about any number of people who were arrested for unethical behaviour in business over the last two decades. What is striking about such cases is not how shockingly unethical the behaviour was, but what led to a wrongdoer's undoing. Invariably, these were very bright, talented, capable people who were brought down by carelessness, poor judgment, overreaching, and going to the well one time too often.

In particular, these individuals failed to assess accurately the risks they faced. Statistically, the more often you do something illegal, the more likely it is that you'll be caught. Hence, the *more* careful you should be. Yet in these cases, the people involved apparently came to see themselves either as bullet proof or as involved in something so inconsequential that being caught barely crossed their minds. So they got *less* careful.(The lesson of these cases is almost as though serious wrongdoing makes you stupid!)

These very bright people got caught because they did something foolish—they couldn't restrain themselves when they should have, and they weren't careful enough. That is, they behaved *exactly* in line with what Socrates lays at Callicles' feet. Their appetites were out of control. And their minds fell into the service of their desires. These men and women couldn't even do basic risk assessment.

They stopped seeing the world the way it really is. And as harm goes, this is all very serious.

In fact, we even have agreement with Socrates from a twentieth-century businessman, Conrad Hilton. Hilton ends his autobiography, *Be My Guest*, with some recommendations for the "art of living" and reflections about the negative affect of dishonesty. In his exhortation that we should "be honest," Hilton writes,

> *Once you start it, there's no place that deception can stop--and of course it has to start with self-deception, even if it's only the self-deception of believing that we can get away with it. True, sometimes we are not "discovered." But all of modern psychology and psychiatry is based on the belief that our self-deceptions drive things into our subconscious where they make all kinds of trouble.*

The self-deception that Hilton points to is an example of how Socrates thinks that the mind is harmed by vice. A pattern of seriously unethical behaviour increases the extent to which we distort reality. If we get into the habit of lying, manipulating, ignoring the impact of our actions on others, and ignoring our duty to other people, we will start altering the way we look at the world. We will minimize the significance of what's at stake, or we'll rationalize the behaviour. And the more we distort reality, the more likely it is that we'll continue to act unethically, and the less likely it is that we will be happy.

Take the example of lying, for instance. Everybody's first lie is difficult to tell. But if we get away with it, we see that there are benefits to lying, and it subsequently gets easier. If we lie often enough, we start changing the way we see things. We become convinced that lying doesn't really hurt anyone. We wonder why we ever thought that there was something wrong with lying in the first place. We see ourselves as having gained an important skill in life (not as having lost an important allegiance to truth and honesty). We naturally assume that other people lie, and we act accordingly. We may even start believing our own lies--more than the people around us do. And all of this will surely make it harder for us to be happy. Our relationships will be founded on distrust, we will end up surrounded only by predators like ourselves, and our distortions will only increase the likelihood that we will be uncovered as the cads that we really are.

So in answer to someone who asks, "What's in it for me to be ethical?," we can reply, "Quite a bit -a more accurate perception of the world around you, greater control over your behaviour, a stronger personality, and greater likelihood of being happy in life."

Being careful not to hurt other people, accepting full responsibility for what we do, helping others, and always treating them with the dignity they deserve may indeed in business, as in life, cost us money, power, and the like. But that's considerably cheaper than costing us our hearts, souls, and happiness.