JOSEPH W. WEISS

BUSINESS ETHICS

A Stakeholder and Issues Management Approach

- Cases
- Principles
- Practices

SIXTH EDITION

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Joseph W. Weiss

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Brief Contents

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Preface

The sixth edition of *Business Ethics: A Stakeholder and Issues Management Approach* continues the mission of providing a practical, easy-to-read, engaging and contemporary text with detailed real-time contemporary and classic cases for students. This text updates the previous edition, adding fourteen new cases in addition to other new features discussed below.

We continue our quest to assist colleagues and students in understanding the changing environment from combined stakeholder and issues management approaches, based on the theory and practice that firms depend on stakeholders as well as stockholders for their survival and success. Acting morally while doing business is no longer a joking or even questionable topic of discussion. With the near shutdowns of the U.S. government, the subprime lending crisis, global climate changes, the fading middle class in America and other countries, China's continuing economic expansion, and India's inroads into the global economy, the stakes for the global economy are not trivial. Ethical behaviors are required, not optional, for this and future generations. Learning to think and reason ethically is the first step.

Business ethics is concerned with doing what is right over what is wrong, while acting in helpful over harmful ways, and with seeking the common good as well as our own welfare. This text addresses this foundational way of thinking by asking why does the modern corporation exist in the first place? What is its raison d'être? How does it treat its stakeholders? Business ethics engages these essential questions, and it is also about the purpose, values, and transactions of and between individuals, groups, and companies and their global alliances. Stakeholder theory and management, in particular, are what concern nonfinancial as well as the financial aspects of business behavior, policies, and actions. A stakeholder view of the firm complements the stockholder view and includes all parties and participants who have an interest—a stake—in the environment and society in which business operates.

Students and professionals need straightforward frameworks to thoughtfully and objectively analyze and then sort through complex issues in order to make decisions that matter—ethically, economically, socially, legally, and spiritually. The United States and indeed the whole world are different after the 9/11 attacks. Terrorism is a threat to everyone, everywhere, as the Boston bombings showed. Also threatening are the ongoing corporate scandals, the consequences of the Arab Spring, security issues worldwide, immigration problems, the inequalities in income distribution and wealth, the decay of the middle classes—all of these affect graduating students and those who wish to attend a university or college but cannot afford to. Business ethics affects our professional and personal relationships, careers, and lives, and this text attempts to identify and help analyze many of these issues and opportunities for change, using relevant ethical frameworks and reasoning.

The New Revised Sixth Edition: Why and How This Text Is Different

This edition builds on previous success factors to provide:

1. A competent, contemporary text grounded in factual and detailed research, while being easy to read and applying concepts and methods to real-time business-related situations.
2. Interesting and contemporary news stories, exercises, and examples.
3. In-depth, real-time customized cases (twenty-three in this edition) specifically designed for this book.
4. Ethical dilemmas experienced by real individuals, not hypothetical stories.
5. A detailed chapter on both stakeholder and issues management methods, with step-by-step explanations, not summarized or theoretical abstractions.
6. A straightforward business and managerial perspective supported by the latest research—not only a philosophical approach.
7. One of the most comprehensive texts on the topics of workforce and workplace demographics, generational trends, and issues relating to ethical issues.
8. Comprehensive coverage of the Sarbanes-Oxley Act, federal sentencing guidelines, and codes of conduct.
9. Personal, professional, organizational, and global perspectives, and information and strategies for addressing ethical dilemmas.
10. A decision-maker role for students in exercises and examples.

This edition adds features that enhance your ethical understanding and interest in contemporary issues in the business world. It also aligns even more closely with international Association to Advance Collegiate Schools of Business (AACSB) requirements to help students, managers, and leaders achieve in their respective fields. Additions and changes include:

- A Point/CounterPoint exercise has been added to several chapters to challenge students' thinking and arguments on contemporary issues. Topics include "too big to fail" (TBTF) institutions; advertising on the Boston bomber; student loan debt; and file sharing and other forms of online sharing.
- Twenty-three cases, of which fourteen are new and three updated, dealing with national and international issues.
- Updated national ethics survey data is included throughout the text.
- New perspectives on generational differences and ethical workplace issues have been added.
- Each chapter has new and updated lead-off cases and scenarios to attract students' attention.
- Updated data on global and international issues.
- Updated research and business press findings and stories have been added to each chapter to explain concepts and perspectives.

- Chapter 1 includes a section on personal ethics with Covey's maturity continuum and cases on cyberbullying and Madoff's Ponzi scheme.
- Chapter 2 now covers more material on personal ethics and has a section explaining the foundations of ethics with cases on Jerome Kerviel, rogue trader, Sam Waksal (ImClone), and the Ford Pinto.
- Chapter 3 is now the stakeholder and issues management chapter with a section explaining stakeholder theory in more depth with a lead-in case on the BP oil spill and aftermath in the Gulf of Mexico. Cases include genetic discrimination and the Mattel toy recalls.
- Chapter 4 has updated research throughout with new Ethical Insight inserts and cases on conscious capitalism, Goldman Sachs, and Google Books.
- Chapter 5 includes cases on fracking, for-profit education, neuromarketing, and gender discrimination.
- Chapter 6 includes new cases on Kaiser Permanente, and social networking and social responsibility.
- Chapter 7 remains a leader in the field on depth and coverage of current trends on generational differences, gender, and population changes. Cases include Facebook and Preemployment, and women on Wall Street.
- Chapter 8 features new research on skills and ethical capacities in international/global management and leadership. The "dark side" of globalization is updated with research on ethical issues in developing and underdeveloped countries. Cases include sweatshops and the U.S. industrial food system.

An Action Approach

The sixth edition puts the students in the decision-maker role when identifying and addressing ethical dilemmas with thought-provoking cases and discussion questions that ask, "What would you do if you had to decide a course of action?" Readers are encouraged to articulate and share their decision-making rationales and strategies. Readers will also learn how to examine changing ethical issues and business problems with a critical eye. We take a close look at the business reporting of the online editions of the *Wall Street Journal*, *60 Minutes*, the *New York Times*, *Businessweek*, the *Economist*, and other sources.

Stakeholder and Issues Management Analysis

Stakeholder analysis is one of the most comprehensive approaches for identifying issues, groups, strategies, and outcomes. In the sixth edition, these methods are presented in an updated and more integrative Chapter 3. This chapter offers a useful starting point for mapping the who, what, when, where, why, and how of ethical problems relating to organizations and their stakeholders. Issues and crisis management frameworks are explained and integrated into approaches that complement the stakeholder analysis. Quick tests and negotiation techniques are presented in Chapters 2 and 8.

- A new instructor's manual and PowerPoints.
- Streamlined case teaching notes.
- Suggested videos and web sites for each chapter.

Objectives and Advantages of This Textbook

- To use an *action-oriented* stakeholder and issues management approach for understanding the ethical dimensions of business, organizational, and professional complex issues, crises, and events that are happening now.
- To introduce and *motivate students* about the relevance of ethical concepts, principles, and examples through actual moral dilemmas that are occurring in their own lives, as well as with known national and international people, companies, and groups.
- To present a *simple, straightforward* way of using stakeholder and issues management methods with ethical reasoning in the marketplace and in workplace relationships.
- To *engage and expand* readers' awareness of ethical and unethical practices in business at the individual, group, organizational, and multinational levels through *real-time*—not hypothetical—ethical dilemmas, stories, and cases.
- To instill *self-confidence and competence* in the readers' ability to think and act according to moral principles. The classroom becomes a lab for real-life decisions.

Structure of the Book

- Chapter 1 defines business ethics and familiarizes the reader with examples of ethics in business practices, levels of ethical analysis, and what can be expected from a course in business ethics. A Point/CounterPoint exercise engages students immediately.
- Chapter 2 has exchanged positions in the text with the former Chapter 3. This chapter engages students in a discussion of ethics at the personal, professional, organizational, and international levels. The foundations of ethical principles are presented in context with contemporary ethical decision-making approaches. Individual styles of moral decision making are also discussed in this section. Although the approach here is a micro-level one, these principles can be used to examine and explain corporate strategies and actions as well. (Executives, managers, employees, coalitions, government officials, and other external stakeholder groups are treated as individuals.)
- Chapter 3 introduces action-oriented methods for studying social responsibility relationships at the individual employee, group, and

organizational levels. These methods provide and encourage the incorporation of ethical principles and concepts from the entire book.

- Chapter 4 presents ethical issues and problems that firms face with external consumers, government, and environmental groups. How moral can and should corporations be and act in commercial dealings? Do corporations have a conscience? Classic and recent crises resulting from corporate and environmental problems are covered.
- Chapter 5 explains ethical problems that consumers face in the marketplace: product safety and liability, advertising, privacy, and the Internet. The following questions are addressed: How free is "free speech"? How much are you willing to pay for safety? Who owns the environment? Who regulates the regulators in an open society?
- Chapter 6 presents the corporation as internal stakeholder and discusses ethical leadership, strategy, structure, alliances, culture, and systems as dominant themes regarding how to lead, manage, and be a responsible follower in organizations today.
- Chapter 7 focuses on the individual employee stakeholder and examines the most recent, new and changing workforce/workplace trends, moral issues, and dilemmas employees and managers face and must respond to in order to survive and compete in national and global economies. This chapter has been described as a "must-read" for every human resource professional.
- Chapter 8 begins by asking students if they are ready for professional international assignments. Ethical and leadership competencies of new entrants into the global workforce are introduced, before moving the discussion to global and multinational enterprises (MNEs) and ethical issues between MNEs, host countries, and other groups. Issues resulting from globalization are presented along with stakeholders who monitor corporate responsibility internationally. Negotiation techniques for professionals responsibly doing business abroad are presented.

Cases

Twenty-three cases are included in this edition, fourteen of which are new and three thoroughly updated.

Chapter 1

1. Bernard L. Madoff Investment Securities LLC: Wall Street Trading Firm
2. Cyberbullying: Who's to Blame and What Can Be Done?

Chapter 2

3. Ford's Pinto Fires: The Retrospective View of Ford's Field Recall Coordinator

4. Jerome Kerviel: Rogue Trader or Misguided Employee? What Really Happened at the Société Générale?
5. Samuel Waksal at ImClone

Chapter 3

6. The BP *Deepwater Horizon* Explosion and Oil Spill: Crisis and Aftermath
7. Mattel Toy Recalls
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10. Goldman Sachs: Hedging a Bet and Defrauding Investors
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12. For-Profit Universities: Opportunities, Issues, and Promises
13. Fracking: Drilling for Disaster?
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16. Vioxx, Dodge Ball: Did Merck Try to Avoid the Truth?

Chapter 6

17. Kaiser Permanente: A Crisis of Communication, Values, and Systems Failure
18. Social Networking and Social Responsibility

Chapter 7

19. Preemployment Screening and Facebook: Ethical Considerations
20. Women on Wall Street: Fighting for Equality in a Male-Dominated Industry

Chapter 8

21. Google in China: Still "Doing No Evil"?
22. Sweatshops: Not Only a Global Issue
23. The U.S. Industrial Food System

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Joseph W. Weiss
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Case Authorship

Editing help was provided by Laura Gray, Lu Bai, and Matt Zamorski.

Case 1 Bernard L. Madoff Investment Securities LLC: Wall Street Trading Firm

Alba Skurti, Bentley University, under the direction of Professor Joseph W. Weiss, Bentley University.

Case 2 Cyberbullying: Who's to Blame and What Can Be Done?

Roseleen Dello Russo and Lauren Westling, Bentley University, under the direction of Professor Joseph W. Weiss, Bentley University.

Case 3 Ford's Pinto Fires: The Retrospective View of Ford's Field Recall Coordinator

Dennis A. Gioia, Professor of Organizational Behavior, Smeal College of Business, Pennsylvania State University, provided the personal reflections in this case. Michael K. McCuddy, Valparaiso University, provided background information and discussion questions.

Case 4 Jerome Kerviel: Rogue Trader or Misguided Employee? What Really Happened at the Société Générale?

Steve D'Aquila, Bentley University, under the direction of Professor Joseph W. Weiss, Bentley University.

Case 5 Samuel Waksal at ImClone

Amy Vensku, MBA Bentley student under the direction of Professor Joseph W. Weiss, and edited and adapted for this text by Michael K. McCuddy, Valparaiso University and Matt Zamorski, Bentley University.

Case 6 The BP *Deepwater Horizon* Explosion and Oil Spill: Crisis and Aftermath

Jill Stonehouse and Bianlbahen Patel, Bentley University, under the direction of Professor Joseph W. Weiss, Bentley University.

Case 7 Mattel Toy Recalls

Mike Ladd, Bentley University, under the direction of Professor Joseph W. Weiss, Bentley University.

Case 8 Genetic Discrimination

Jaclyn Publicover, Bentley University, under the direction of Professor Joseph W. Weiss, Bentley University.

Case 9 Conscious Capitalism: What Is It? Why Do We Need It? Does It Work?

John Warden, Bentley University, edited by Professor Joseph W. Weiss.

Case 10 Goldman Sachs: Hedging a Bet and Defrauding Investors

Dean Koutris and Jess Sheynman, Bentley University, under the direction of Professor Joseph W. Weiss, Bentley University.

Case 11 Google Books

Steve D'Aquila, Bentley University, under the direction of Professor Joseph W. Weiss, Bentley University.

Case 12 For-Profit Universities: Opportunities, Issues, and Promises

Alicia Cabrera and Nate Pullen, Bentley University, under the direction of Professor Joseph W. Weiss, Bentley University.

Case 13 Fracking: Drilling for Disaster?

Lauren Casas and Ned Coffee, MBA Bentley students, under the direction of Professor Joseph W. Weiss, Bentley University, with editorial revisions made by Laura Gray, Matt Zamorski, and Lu Bai.

Case 14 Neuromarketing

Eddy Fitzgerald and Jennifer Johnson, Bentley University, under the direction of Professor Joseph W. Weiss, Bentley University.

Case 15 Wal-Mart: Challenges with Gender Discrimination

Michael K. McCuddy, the Louis S. and Mary L. Morgal Chair of Christian Business Ethics and Professor of Management, College of Business Administration, Valparaiso University.

Case 16 Vioxx, Dodge Ball: Did Merck Try to Avoid the Truth?

Sean Downey, Bentley University, under the direction of Professor Joseph W. Weiss, Bentley University.

Case 17 Kaiser Permanente: A Crisis of Communication, Values, and Systems Failure

Sarah O'Neill, Bentley University, under the direction of Professor Joseph W. Weiss, Bentley University.

Case 18 Social Networking and Social Responsibility

Adam Schilke, Kimberly Benevides, and Eden Kyne, Bentley University, under the direction of Professor Joseph W. Weiss, Bentley University.

Case 19 Preemployment Screening and Facebook: Ethical Considerations

Carl Forziati, Bentley University, under the direction of Professor Joseph W. Weiss, Bentley University.

Case 20 Women on Wall Street: Fighting for Equality in a Male-Dominated Industry

Monica Meunier, under the direction of Professor Joseph W. Weiss, and adapted and edited for this text by Michael K. McCuddy, Valparaiso University.

Case 21 Google in China: Still "Doing No Evil"?

Professor Joseph W. Weiss, Bentley University, edited by Lu Bai.

Case 22 Sweatshops: Not Only a Global Issue

Michael K. McCuddy, the Louis S. and Mary L. Morgal Chair of Christian Business Ethics and Professor of Management, College of Business Administration, Valparaiso University.

Case 23 The U.S. Industrial Food System

Brenda Pasquarello, Bentley University, under the direction of Professor Joseph W. Weiss, Bentley University.

1

BUSINESS ETHICS, THE CHANGING ENVIRONMENT, AND STAKEHOLDER MANAGEMENT

OPENING CASE

> Blogger: "Hi. i download music and movies, limewire and torrent. is it illegal for me to download or is it just illegal for the person uploading it. does anyone know someone who was caught and got into trouble for it, what happened them. Personally I dont see a difference between downloading a song or taping it on a cassette from a radio!!"[1]

The Recording Industry Association of America (RIAA), on behalf of its member companies and copyright owners, has sued more than 30,000 people for unlawful downloading. RIAA detectives log on to peer-to-peer networks where they easily identify illegal activity since users' shared folders are visible to all. The majority of these cases have been settled out of court for $1,000–$3,000, but fines per music track can go up to $150,000 under the Copyright Act.

The nation's first file-sharing defendant to challenge an RIAA lawsuit, Jammie Thomas-Rasset, reached the end of the appeals process to overturn a jury-determined $222,000 fine in 2013. She was ordered to pay this amount, which she argued was unconstitutionally excessive, for downloading and sharing 24 copyrighted songs using the now-defunct file-sharing service Kazaa. The Supreme Court has not yet heard a file-sharing case, having also declined without comment to review the only other appeal following Thomas-Rasset's. (In that case, the Court let stand a federal jury-imposed fine of $675,000 against Joel Tenenbaum for downloading and sharing 30 songs.) "As I've said from the beginning, I do not have now, nor do I anticipate in the future, having $220,000 to pay this," Thomas-Rasset said. "If they do decide to try and collect, I will file for bankruptcy as I have no other option."[2]

Students often use university networks to illegally distribute copyrighted sound recordings on unauthorized peer-to-peer services. The RIAA has issued subpoenas to universities nationwide, including networks in Connecticut, Georgia, Kansas, Michigan, Minnesota, New Jersey, Pennsylvania, Rhode Island, Texas, Virginia, and Washington. Most universities give up students' identities only after offering an opportunity to stop the subpoena with their own funds. As in earlier rounds of lawsuits, the RIAA is utilizing the "John Doe" litigation process, which is used to sue defendants whose names are not known.

RIAA president Cary Sherman has discussed the ongoing effort to reach out to the university community with proactive solutions to the problem of illegal file-sharing on college campuses: "It remains as important as ever that we continue to work with the university community in a way that is respectful of the law as well as university values. That is one of our top priorities, and we believe our constructive outreach has been enormously productive so far. Along with offering students legitimate music services, campus-wide educational and technological initiatives are playing a critical role. But there is also a complementary need for enforcement by copyright owners against the serious offenders—to remind people that this activity is illegal."

He added: "Illegally downloading music from the Internet costs everyone—the musicians not getting compensated for their craft, the owners and employees of the thousands of record stores that have been forced to close, legitimate online music services building their businesses, and consumers who play by the rules and purchase their music legally."

On the other hand, once the well-funded RIAA initiates a lawsuit, many defendants are pressured to settle out of court in order to avoid oppressive legal expenses. Others simply can't take the risk of large fines that juries have shown themselves willing to impose.

New technologies and the trend toward digital consumption have made intellectual property both more critical to businesses' bottom lines and more difficult to protect. No company, big or small, is immune to the intellectual property protection challenge. Illegal downloads of music are not the only concern. A new wave of lawsuits is being filed against individuals who illegally download movies through sites like Napster and BitTorrent. In 2011, the U.S. Copyright Group initiated "the largest illegal downloading case in US history" at the time, suing over 23,000 file sharers who illegally downloaded Sylvester Stallone's movie *The Expendables.* This case was expanded to include the 25,000 users who also downloaded Voltage Pictures' *The Hurt Locker,* which increased the total number of defendants to approximately 50,000, all of whom used peer-to-peer downloading through BitTorrent. The lawsuits were filed based on the illegal downloads made from an Internet Protocol (IP) address. The use of an IP address as identifier presents ethical issues—for example, should a parent be responsible for a child downloading a movie through the family's IP address? What about a landlord who supplied Internet to a tenant?

Digital books are also now in play. In 2012, a lawsuit was filed in China against technology giant Apple for sales of illegal book downloads through its App Store. Nine Chinese authors are demanding payment of $1.88 million for unauthorized versions of their books that were submitted to the App Store and sold to consumers for a profit. Again, the individual IP addresses are the primary way of determining who performed the illegal download. Telecom providers and their customers face privacy concerns, as companies are being asked for the names of customers associated with IP addresses identified with certain downloads.

Privacy activists argue that an IP address (which identifies the subscriber but not the person operating the computer) is private, protected information that can be shown during criminal but not civil investigations. Fred von Lohmann, senior staff attorney with the Electronic Frontier Foundation, has suggested on his organization's blog that "courts are not prepared to simply award default judgments worth tens of thousands of dollars against individuals based on a piece of paper backed by no evidence."[3]

1.1 Business Ethics and the Changing Environment

The Internet is changing everything: the way we communicate, relate, read, shop, bank, study, listen to music, get news and "TV," and participate in politics. Of course the last "third billion" of people in undeveloped countries are not participating on broadband as is the rest of the world,[4] but they predictably will, first through mobile phones. Businesses and governments operate in and are disrupted by changing technological, legal, economic, social, and political environments with competing stakeholders and power claims, as many Middle Eastern countries in particular are experiencing. Also, as this chapter's opening case shows, there is more than one side to every complex issue and debate involving businesses, consumers, families, other institutions, and professionals.

When stakeholders and companies cannot agree or negotiate competing claims among themselves, the issues generally go to the courts.

The RIAA, in the opening case, does not wish to alienate too many college students because they are also the music industry's best customers. At the same time, the association believes it must protect those groups it represents. Not all stakeholders in this controversy agree on goals and strategies. For example, not all music artists oppose students downloading or even sharing some of their copyrighted songs. Offering free access to some songs is a good advertising tactic. On the other hand, shouldn't those songwriters and recording companies who spend their time and money creating, marketing, distributing, and selling their intellectual property protect that property? Is file sharing, without limits or boundaries, stealing other people's property? If not, what is this practice to be called? If file sharing continues in some form, and ends up helping sales for many artists, will it become legitimate? Should it? Is this just the new way business models are being changed by 15–26 year olds? While the debate continues, individuals (15 year olds and younger in many cases) who still illegally share files have rights as private citizens under the law, and recording companies have rights of property protection. Who is right and who is wrong, especially when two rights collide? Who stands to lose and who to gain? Who gets hurt by these transactions? Which group's ethical positions are most defensible?

Stakeholders are individuals, companies, groups, and even governments and their subsystems that cause and respond to external issues, opportunities, and threats. Corporate scandals, globalization, deregulation, mergers, technology, and global terrorism have accelerated the rate of change and brought about a climate of uncertainty in which stakeholders must make business and moral decisions. Issues concerning questionable ethical and illegal business practices confront everyone, as the following examples illustrate:

- The subprime lending crisis in 2008 involved stakeholders as varied as consumers, banks, mortgage companies, real estate firms, and homeowners. Many companies that sold mortgages to unqualified buyers lied about low-risk, high-return products. Wall Street companies, while thriving, are also settling lawsuits stemming from the 2008 crisis. In 2013, "Hundreds of thousands of subprime borrowers are still struggling. Subprime securities still pose a significant legal risk to the firms that packaged them, and they use up capital that could be deployed elsewhere in the economy."[5] In 2011, Bank of America announced that it would "take a whopping $20 billion hit to put the fallout from the subprime bust behind it and satisfy claims from angry investors."[6] The ethics and decisions precipitating the crisis contributed to tilting the U.S. economy toward recession, with long-lasting effects.

- The corporate scandals in the 1990s through 2001 at Enron, Adelphia, Halliburton, MCI WorldCom, Tyco, Arthur Andersen, Global Crossing, Dynegy, Qwest, Merrill Lynch, and other firms that once jarred shareholder and public confidence in Wall Street and corporate governance may now seem like ancient history to those with short-term memories. Enron's bankruptcy with assets of $63.4 billion defies imagination, but WorldCom's bankruptcy set the record for the largest corporate bankruptcy in U.S. history (Benston, 2003). Only 22% of Americans express a great deal or quite a lot of confidence in big business, compared to 65% who express confidence in small business.[7] Confidence in big business reached its highest point in 1974 at 34%, and even during the dot-com boom in the late 1990s it hovered at 30%. The lowest rating of 16% was polled in 2009 after the subprime lending crisis, and although public confidence has slightly increased, the significant differential in American confidence between big and small business belies a public mistrust of big business that may not be easily repaired.[8]

- The debate continues over excessive pay to those chief executive officers (CEOs) who posted poor corporate performance. Large bonuses paid out during the financial crisis made executive pay a controversial topic, yet investors did little to solve the issue. "Investors had the opportunity to provide advisory votes on executive pay at financial firms that received TARP funds in 2009, and they gave thumbs up to pay packages at every single one of those institutions. This proxy season, with advisory votes now widely available (thanks to the Dodd-Frank Act), only five companies' executive compensation packages have received a thumbs down from shareholders."[9] The Bureau of Labor Statistics noted that while median CEO salaries grew at 27% in 2010, overall worker pay only increased by 2.1%. "It's been almost three years since Congress directed the Securities and Exchange Commission to require public companies to disclose the ratio of their chief executive officers' compensation to the median of the rest of their employees'. The agency has yet to produce a rule."[10] An independent 2013 analysis by Bloomberg showed that "Across the Standard & Poor's 500 Index of companies, the average multiple of CEO compensation to that of rank-and-file workers is 204, up 20 percent since 2009."[11]

- Some critics on the right of the political spectrum argue that companies are becoming overregulated since the scandals. Others argue there is not sufficient regulation of the largest financial companies. The Sarbanes-Oxley Act of 2002 is one response to those scandals. This act states that corporate officers will serve prison time and pay large fines if they are found guilty of fraudulent financial reporting and of deceiving shareholders. Implementing this legislation requires companies to create accounting oversight boards, establish ethics codes, show financial reports in greater detail to investors, and have the CEO and chief financial officer (CFO) personally sign off on and take responsibility for all financial statements and internal controls. Implementing these provisions is costly for corporations. Some claim their profits and global competitiveness are negatively affected and the regulations are "unenforceable."[12]

- U.S. firms are outsourcing work to other countries to cut costs and improve profits, work that some argue could be accomplished in the United States. Estimates of U.S. jobs outsourced range from 104,000 in 2000 to

400,000 in 2004, and to a projected 3.3 million by 2015. "Forrester Research estimated that 3.3 million U.S. jobs and about $136 billion in wages would be moved to overseas countries such as India, China, and Russia by 2015. Deloitte Consulting reported that 2 million jobs would move from the United States and Europe to overseas destinations within the financial services business. Across all industries the emigration of service jobs can be as high as 4 million."[13] Do U.S. employees who are laid off and displaced need protection, or is this practice part of another societal business transformation? Is the United States becoming part of a global supply chain in which outsourcing is "business as usual" in a "flat world," or is the working middle class in the United States and elsewhere at risk of predatory industrial practices and ineffective government polices?[14]

- Will robots, robotics, and artificial intelligence (AI) applications replace humans in the workplace? This interesting but disruptive development poses concerns. "The outsourcing of human jobs as a side effect of globalization has arguably contributed to the current unemployment crisis. However, a growing trend sees humans done away with altogether, even in the low-wage countries where many American jobs have landed".[15] What will be the ethical implications of the next wave of AI development, "where full-blown autonomous self-learning systems take us into the realm of science fiction—delivery systems and self-driving vehicles alone could change day-to-day life as we know it, not to mention the social implications."[16] AI also extends into electronic warfare (drones), education (robot assisted or led), and manufacturing (a Taiwanese company replaced a "human force of 1.2 million people with 1 million robots to make laptops, mobile devices and other electronics hardware for Apple, Hewlett-Packard, Dell and Sony").[17] One futurist predicted that as many as 50 million jobs could be lost to machines by 2030, and even 50% of all human jobs by 2040.

These large macro-level issues underlie many ethical dilemmas that affect business and individual decisions among stakeholders in organizations, professions, as well as individual lives. Before discussing stakeholder theory, and the management approach that it is based on, and how these perspectives and methods can help individuals and companies better understand how to make more socially responsible decisions, we take a brief look at the broader environmental forces that affect industries, organizations, and individuals.

Seeing the "Big Picture"

Pulitzer Prize-winning journalist Thomas Friedman, continues to track megachanges on a global scale. His 2011 book, *That Used to Be Us: How America Fell Behind in the World It Invented and How We Can Come Back,* suggests an agenda for change to meet larger challenges. His books, *The World Is Flat 3.0*, and *The Lexus and the Olive Tree*, vividly illustrate a macroenvironmental perspective that provides helpful insights into stakeholder and issues management mind-sets and approaches.[18] Friedman notes, "Like everyone else trying to adjust to this new globalization system and bring it into focus, I had to retrain myself and develop new lenses to see it. Today, more than ever, the traditional boundaries between politics, culture, technology, finance, national security, and ecology are disappearing. You often cannot explain one without referring to the others, and you cannot explain the whole without reference to them all. I wish I could say I understood all this when I began my career, but I didn't. I came to this approach entirely by accident, as successive changes in my career kept forcing me to add one more lens on top of another, just to survive."[19]

After quoting Murray Gell-Mann, the Nobel laureate and former professor of theoretical physics at Caltech, Friedman continues, "We need a corpus of people who consider that it is important to take a serious and professional look at the whole system. It has to be a crude look, because you will never master every part or every interconnection. Unfortunately, in a great many places in our society, including academia and most bureaucracies, prestige accrues principally to those who study carefully some [narrow] aspect of a problem, a trade, a technology, or a culture, while discussion of the big picture is relegated to cocktail party conversation. That is crazy. We have to learn not only to have specialists but also people whose specialty is to spot the strong interactions and entanglements of the different dimensions, and then take a crude look at the whole."[20]

POINT/COUNTERPOINT

File Sharing: Harmful Theft or Sign of the Times?

This exercise provides a more complete case with student interaction.

> "I watch some of my favorite shows on hulu.com for free and I buy others on Amazon or iTunes. I pay a fee to use Pandora for ad-free internet radio, or Spotify for specific music playlists. But like many of my friends, I don't own a TV, so when there is no other way to access a show, I will download it from a torrent [file-sharing] site."
> —*Interview with a Generation Y "Millennial"*

The Recording Industry Association of America (RIAA), on behalf of its member companies and copyright owners, has sued more than 30,000 people for unlawful downloading. RIAA detectives log on to peer-to-peer networks where they easily identify illegal activity since users' shared folders are visible to all. The majority of these cases have been settled out of court for $1,000–$3,000, but fines per music track can go up to $150,000 under the Copyright Act.

The nation's first file-sharing defendant to challenge an RIAA lawsuit, Jammie Thomas-Rasset, in 2013 reached the end of the appeals process to overturn a jury-determined $222,000 fine. She was ordered to pay this amount, which she argued was unconstitutionally excessive, for downloading and sharing 24 copyrighted songs using the now-defunct file-sharing service Kazaa. The Supreme Court has not yet heard a file-sharing case, having also declined without comment to review the only other appeal following Thomas-Rasset's.

Students often use university networks to illegally distribute copyrighted sound recordings on unauthorized peer-to-peer services. The RIAA issues subpoenas to universities nationwide, including networks in Connecticut, Georgia, Kansas, Michigan, Minnesota, New Jersey, Pennsylvania, Rhode Island, Texas, Virginia, and Washington. Most universities give up students' identities only after offering an opportunity to stop the subpoena with their own funds. As in earlier rounds of lawsuits, the RIAA is utilizing the "John Doe" litigation process, which is used to sue defendants whose names are not known.

RIAA President Cary Sherman cites the ongoing effort to reach out to the university community with proactive solutions to the problem of illegal file sharing on college campuses, saying, "It remains as important as ever that we continue to work with the university community in a way that is respectful of the law as well as university values. . . . Along with offering students legitimate music services, campus-wide educational and technological initiatives are playing a critical role. But there is also a complementary need for enforcement by copyright owners against the serious offenders—to remind people that this activity is illegal and . . . costs everyone."

On the other hand, once the well-funded RIAA initiates a lawsuit, many defendants are pressured to settle out of court in order to avoid oppressive legal expenses. Others simply can't take the risk of large fines that juries have shown themselves willing to impose.

New technologies and the trend toward digital consumption have made intellectual property both more critical to businesses' bottom line and more difficult to protect. No company, big or small, is immune to the IP protection challenge. Illegal downloads of music are not the only concern. A new wave of lawsuits is being filed against individuals who illegally download movies through sites like Napster and BitTorrent.

In 2011, the U.S. Copyright Group initiated "the largest illegal downloading case in U.S. history" at the time, suing over 23,000 file sharers who illegally downloaded Sylvester Stallone's movie, *The Expendables.* This case was expanded to include the 25,000 users who also downloaded Voltage Pictures' *The Hurt Locker,* which increased the total number of defendants to approximately 50,000 who used peer-to-peer downloading through BitTorrent. The lawsuits are filed based on the illegal downloads made from an IP address.

Digital books are also now in play. In 2012, a lawsuit was filed in China against technology giant Apple for sales of illegal book downloads through the App Store. Nine Chinese authors are demanding payment of $1.88 million for unauthorized versions of their books that were submitted to the App Store and sold to consumers for a profit. Again, the individual IP addresses are the primary way of determining who performed the illegal download. Telecom providers and their customers face privacy concerns, as companies are being asked for the names of customers associated with IP addresses identified with certain downloads.

Privacy activists argue that an IP address (which identifies the subscriber but not the person operating the computer) is private, protected information that can be shown during criminal but not civil investigations. Fred von Lohmann, senior staff attorney with the Electronic Frontier Foundation, has suggested on his organization's blog that "courts are not prepared to simply award default judgments worth tens of thousands of dollars against individuals based on a piece of paper backed by no evidence."

Instructions: (1) Each student team individually adopts *either* the Point *or* CounterPoint argument and justifies their reasons (arguments using this case and other evidence/opinions). (2) Then, either in teams or designated arrangements, each shares their reasons. (3) The class is debriefed and insights shared.

POINT: File sharing is theft, and endangers the entire structure of incentives that allows the creation of digital media. Downloading even one song illegally has severe costs for the musicians and the owners and employees of the companies that produce songs, and legitimate online music services, not to mention consumers who purchase music legally. Those responsible, even peripherally, for illegal file sharing should be tracked down by any means possible and held accountable for these costs and damages.

COUNTERPOINT: The generation that grew up with the advent of digital media has a well-cultivated expectation of ease and freedom when it comes to accessing music, television, and books using the Internet. Companies are willing to capitalize on that ease to boost their profits. It is unethical to use technology and the legal system to "make examples" of those (possibly innocent bystanders whose IP addresses were used by others) who are simply showing the flaws and gaps in distribution strategies.

SOURCES

The exercise was authored by Taya Weiss and draws on the following sources:

Brian, M. (January 7, 2012). Apple facing $1.88 million lawsuit in China over sales of illegal book downloads. http://thenextweb.com/apple/2012/01/07/apple-facing-1-88-million-lawsuit-in-china-over-sales-of-illegal-book-downloads/, accessed March 7, 2012.

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Kirk, Jeremy. (2008). U.S. judge pokes hole in file-sharing lawsuit. Court ruling could force the music industry to provide more evidence against people accused of illegal file sharing, legal experts say. *InfoWorld.com.* http://www.infoworld.com/article/08/02/26/US-judge-pokes-hole-in-file-sharing-lawsuit_1.html, accessed March 7, 2012.

McMillan, G. (May 10, 2011). Are you one of 23,000 defendants in the U.S.' biggest illegal download lawsuit? *Time.com.* http://techland.time.com/2011/05/10/are-you-one-of-23000-defendants-in-the-us-biggest-illegal-download-lawsuit/, accessed March 7, 2012.

Pepitone, J. (June 10, 2011). 50,000 BitTorrent users sued for alleged illegal downloads. *CNNMoney.com.* http://money.cnn.com/2011/06/10/technology/bittorrent_lawsuits/index.htm, accessed March 7, 2012.

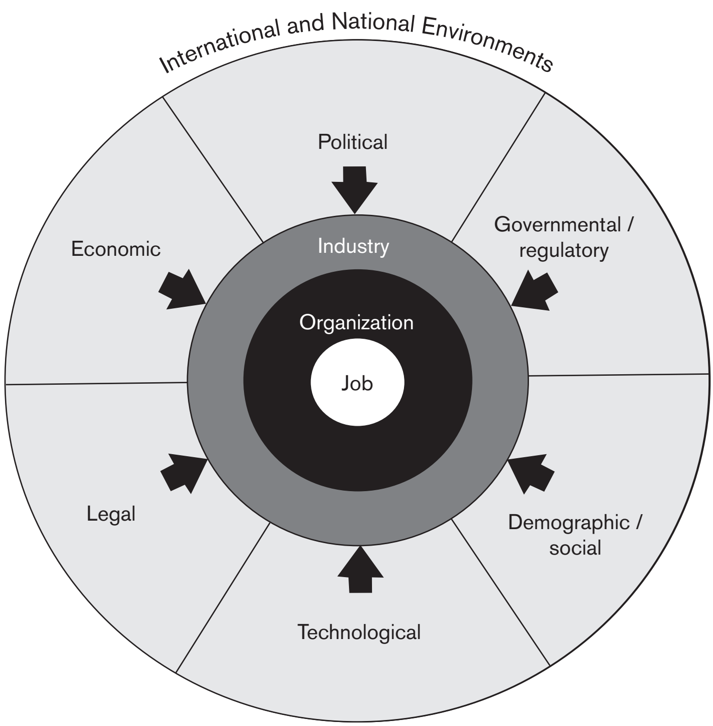
Recording Industry Association of America. (March 2008). New wave of illegal file sharing lawsuits brought by RIAA. RIAA.com. http://www.riaa.com/newsitem.php?news_year_filter=2004&resultpage=10&id=D119AD49-5C18-2513-AB36-A06ED24EB13D, accessed March 7, 2012.
von Lohmann, F. (February 25, 2008). RIAA File-Sharing Complaint Fails to Support Default Judgment. *Electronic Frontier Foundation*. https://www.eff.org/deeplinks/2008/02/riaa-file-sharing-complaint-fails-support-default-judgment, accessed February 19, 2014.

Environmental Forces and Stakeholders

Organizations and individuals are embedded in and interact with multiple changing local, national, and international environments, as the above discussion illustrates. These environments are increasingly merging into a global system of dynamically interrelated interactions among businesses and economies. We must "think globally before acting locally" in many situations. The macro-level environmental forces shown in Figure 1.1 affect the performance and operation of industries, organizations, and jobs. This framework can be

Figure 1.1

Environmental Dimensions Affecting Industries, Organizations, and Jobs



used as a starting point to identify trends, issues, opportunities, and ethical problems that affect people and stakes in different levels. A first step toward understanding stakeholder issues is to gain an understanding of environmental forces that influence stakes. As we present an overview of these environmental forces here, think of the effects and pressures each of the forces has on you.

The economic environment continues to evolve into a more global context of trade, markets, and resource flows. Large and small U.S. companies are expanding businesses and products overseas. Stock and bond market volatility and interdependencies across international regions are unprecedented, including the European market and the future of the euro, which is challenged by some defaulting economies. The rise of China and India presents new trade opportunities and business practices, if human rights problems can be solved in those countries. Do you see your career and next job being affected by this round of globalization?

The technological environment has ushered in the advent of electronic communication, online social networking, and near-constant connectivity to the Internet, all of which are changing economies, industries, companies, and jobs. U.S. jobs that are based on routine technologies and rules-oriented procedures are vulnerable to outsourcing. Online technologies facilitate changing corporate "best practices." Company supply chains are also becoming virtually and globally integrated online. Although speed, scope, economy of scale, and efficiency are transforming transactions through information technology, privacy and surveillance issues continue to emerge. The boundary between surveillance and convenience also continues to blur. Has the company or organization for which you work used surveillance to monitor Internet use?

Electronic democracy is changing the way individuals and groups think and act on political issues. Instant web surveys broadcast over interactive web sites have created a global chat room for political issues. Creation of online communities in the 2004, 2008, and 2012 presidential campaigns have proved an effective political strategy for both U.S. parties' fundraising programs and mobilizing of new voters. Have you used the Internet to participate in a national, local, or regional political process?

The government and legal environments continue to create regulatory laws and procedures to protect consumers and restrict unfair corporate practices. Since Enron and other corporate scandals, the Sarbanes-Oxley Act of 2002 and the revised 2004 Federal Sentencing Guidelines were created to audit and constrain corporate executives from blatant fraudulence on financial statements. The Dodd-Frank Act of 2010 established the Consumer Financial Protection Bureau, whose mission is to protect consumers by carrying out federal consumer financial laws, educating consumers, and hearing complaints from the public, and more recently that Bureau has been functioning to help citizens with credit card abuses in particular.[21]

Several federal agencies are also changing—or ignoring—standards for corporations. The U.S. Food and Drug Administration (FDA), for example, has sped up the required market approval time for new drugs sought by patients with life-threatening diseases, but lags behind in taking some unsafe drugs off the market.

Uneven regulation of fraudulent and anticompetitive practices affects competition, shareholders, and consumers. Executives from Enron and other large U.S. firms involved in scandals have been tried and sentenced. Should the banks that loaned them funds also be charged with wrongdoing? Should U.S. laws be enforced more evenly? Who regulates the regulators? The subprime lending crisis raises some of the same questions. Who can the public trust for advice about mortgages and substantial loans? Who is responsible and accountable for educating and constraining the public in such transactions in a democratic, capitalist society?

Legal questions and issues affect all of these environmental dimensions and every stakeholder and investor. How much power should the government have to administer laws to protect citizens and ensure that business transactions are fair? Also, who protects the consumer in a free-market system? These issues, which are exemplified in the file-sharing controversy as summarized in this chapter's opening case, question the nature and limits of consumer and corporate laws in a free-market economy.

The demographic and social environment continues to change as national boundaries experience the effects of globalization and the workforce becomes more diverse. Employers and employees are faced with aging and very young populations; minorities becoming majorities; generational differences; and the effects of downsizing and outsourcing on morale, productivity, and security. How can companies effectively integrate a workforce that is increasingly both younger and older, less educated and more educated, technologically sophisticated and technologically unskilled?

In this book these environmental factors are incorporated into a stakeholder and issues management approach that also includes an ethical analysis of actors external and internal to organizations. The larger perspective underlying these analytical approaches is represented by the following question: How can the common good of all stakeholders in controversial situations be realized?

Stakeholder Management Approach

How do companies, the media, political groups, consumers, employees, competitors, and other groups respond in socially ethical and responsible ways when they effect and are affected by an issue, dilemma, threat, or opportunity from the environments just described? The stakeholder theory expands a narrow view of corporations from a stockholder-only perspective to include the many stakeholders who are also involved in how corporations envision the future, treat people and the environment, and serve the common good for the many. Implementing this view starts with understanding the ethical imperatives and moral understandings that corporations that use natural resources and the environment must serve, as well as providing for those who buy their products and services. This view and accompanying methods are explained in more detail in Chapters 2 and 3 especially and inform the whole text.

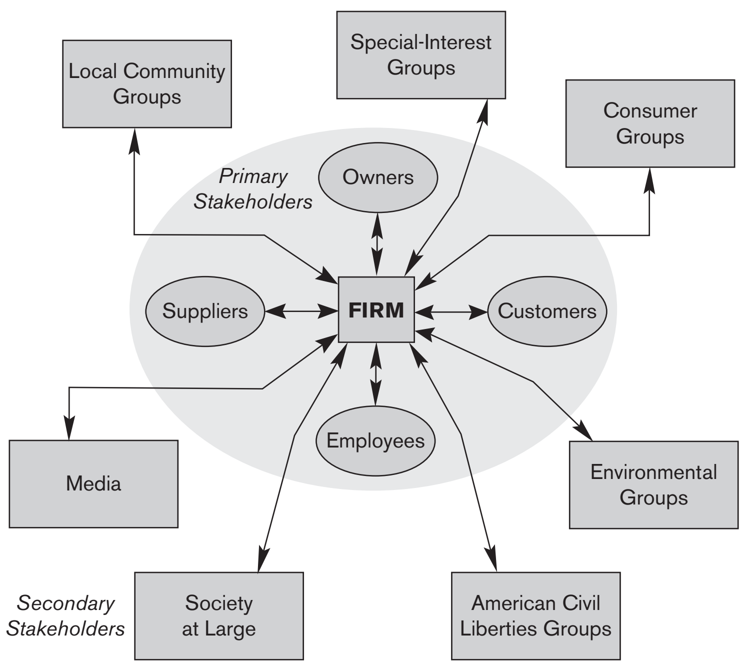
The stakeholder theory begins to address these questions by enabling individuals and groups to articulate collaborative, win–win strategies based on:

1. Identifying and prioritizing issues, threats, or opportunities.
2. Mapping who the stakeholders are.
3. Identifying their stakes, interests, and power sources.
4. Showing who the members of coalitions are or may become.
5. Showing what each stakeholder's ethics are (and should be).
6. Developing collaborative strategies and dialogue from a "higher ground" perspective to move plans and interactions to the desired closure for all parties.

Chapter 3 lays out specific steps and strategies for analyzing stakeholders. Here, our aim is to develop awareness of the ethical and social responsibilities of different stakeholders. As Figure 1.2 illustrates, there can be a wide range of stakeholders in any situation. We turn to a general discussion of "business ethics" in the following section to introduce the subject and motivate you to investigate ethical dimensions of organizational and professional behavior.

Figure 1.2

Primary vs. Secondary Stakeholder Groups



1.2 What Is Business Ethics? Why Does It Matter?

Business ethicists ask, "What is right and wrong, good and bad, harmful and beneficial regarding decisions and actions in organizational transactions?" Ethical reasoning and logic is explained in more detail in Chapter 2, but we note here that approaching problems using a moral frame of reference can influence solution paths as well as options and outcomes. Since "solutions" to business and organizational problems may have more than one alternative, and sometimes no right solution may seem available, using principled ethical thinking provides structured and systematic ways of decision making based on values, not only perceptions that may be distorted, pressures from others, or the quickest and easiest available options—that may prove more harmful.

What Is Ethics and What Are the Areas of Ethical Theory?

Ethics derives from the Greek word *ethos*—meaning "character"—and is also known as moral philosophy, which is a branch of philosophy that involves "systematizing, defending and recommending concepts of right and wrong conduct."[22] Ethics involves understanding the differences between right and wrong thinking and actions, and using principled decision making to choose actions that do not hurt others. Although intuition and creativity are often involved in having to decide between what seems like two "wrong" or less desirable choices in a dilemma where there are no easy alternatives, using ethical principles to inform our thinking before acting hastily may reduce the negative consequences of our actions. Classic ethical principles are presented in more detail in the next chapter, but by way of an introduction, the following three general areas constitute a framework for understanding ethical theories: metaethics, normative ethics, and descriptive ethics.[23]

Metaethics considers where one's ethical principles "come from, and what they mean." Do one's ethical beliefs come from what society has prescribed? Did our parents, family, religious institutions influence and shape our ethical beliefs? Are our principles part of our emotions and attitudes? Metaethical perspectives address these questions and focus on issues of universal truths, the will of God, the role of reason in ethical judgments, and the meaning of ethical terms themselves.[24] More practically, if we are studying a case or observing an event in the news, we can inquire about what and where a particular CEO's or professional's ethical principles (or lack thereof) are and where in his/her life and work history these beliefs were adopted.

Normative ethics is more practical; this type of ethics involves prescribing and evaluating ethical behaviors—what should be done in the future. We can inquire about specific moral standards that govern and influence right from wrong conduct and behaviors. Normative ethics also deals with what habits we need to develop, what duties and responsibilities we should follow, and the consequences of our behavior and its effects on others. Again, in a business or organizational context, we observe and address ethical problems and issues with individuals, teams, leaders and address ways of preventing and/or solving ethical dilemmas and problems.

Descriptive ethics involves the examination of other people's beliefs and principles. It also relates to presenting—describing but not interpreting or evaluating—facts, events, and ethical actions in specific situations and places. In any context—organizational, relationship, or business—our aim here is to understand, not predict, judge, or solve an ethical or unethical behavior or action.

Learning to think, reason, and act ethically helps us to become aware of and recognize potential ethical problems. Then we can evaluate values, assumptions, and judgments regarding the problem *before* we act. Ultimately, ethical principles alone cannot answer what the late theologian Paul Tillich called "the courage to be" in serious ethical dilemmas or crises. We can also learn from business case studies, role playing, and discussions on how our actions affect others in different situations. Acting accountably and responsibly is still a choice.

Laura Nash defined business ethics as "the study of how personal moral norms apply to the activities and goals of commercial enterprise. It is not a separate moral standard, but the study of how the business context poses its own unique problems for the moral person who acts as an agent of this system." Nash stated that business ethics deals with three basic areas of managerial decision making: (1) choices about what the laws should be and whether to follow them; (2) choices about economic and social issues outside the domain of law; and (3) choices about the priority of self-interest over the company's interests.[25]

Unethical Business Practices and Employees

The seventh (2011) National Business Ethics Survey (NBES), which obtained 4,800 responses representative of the entire U.S. workforce,[26] reported an ethical environment unlike any we have seen before in America: "American employees are doing the right thing more than ever before, but in other ways employees' experiences are worse than in the past."[27] The survey findings are summarized below in terms of the "bad" and "good" news found in the workforce:

The "Bad" News

- Retaliation is on the rise against employee whistle-blowers, with 22% of employees who reported misconduct experiencing some form of retaliation.
- More employees (13%) feel pressure to compromise their ethical standards in order to do their jobs.
- The number of companies with weak ethical cultures has grown to near-record highs, now at 42%.

The "Good" News

- The workplace is experiencing the lowest levels of misconduct, with only 45% of employees witnessing misconduct.
- A record high (65%) of those employees now report misconduct.

- Management is improving its oversight and increasing efforts to raise awareness about ethics—34% of employees felt more closely watched by management, and 42% of employees recognized increased ethical awareness efforts.

The authors of the survey note that an ethical downturn is on the horizon. The economic decline and high unemployment have created a unique ethical environment fueled by other modern factors like social networking. "Research has revealed a significant ethics divide between those who are active on social networks and those who are not."[28]

Specific Types of Ethical Misconduct Reported

The top five most frequently observed types of misconduct were: misuse of company time (33%), abusive behavior (21%), lying to employees (20%), company resource abuse (20%), and violating company Internet use policies (16%). Types of misconduct with the largest increases included: sexual harassment, substance abuse, insider trading, illegal political contributions, stealing, and environmental violations.[29]

Many employees still do not report misconduct that they observe, and fear of retaliation is increasingly valid. "When all employees are asked whether they could question management without fear of retaliation, 19 percent said it was not safe to do so." The most common forms of retaliation include: exclusion by management from decision and work activity (64%), cold shoulder attitudes from other employees (62%), verbal abuse from management (62%), not given promotions or raises (55%), and cut pay or hours (46%). This retaliation can lead to instability in the workplace by driving away talented employees. "About seven of 10 employees who experienced retaliation plan to leave their current place of employment within five years."[30]

Ethics and Compliance Programs

Ethical components of company culture include: "management's trustworthiness, whether managers at all levels talk about ethics and model appropriate behavior, the extent to which employees value and support ethical conduct, accountability and transparency." Eleven percent of companies in 2011 had weak ethical cultures. Companies can reduce ethics risks by investing in a strong ethics and compliance program: "86% of companies with a well-implemented ethics and compliance program also have a strong ethics culture."[31]

The Retaliation Trust/Fear/Reality Disconnect

Of the 65% of employees who reported witnessing misconduct in the 2011 NBES, 22% (or approximately 9 million employees) experienced retaliation. These victims of retaliation are far more likely to report misconduct to an outside source, rather than to a member of management. This can have many negative consequences for stakeholders involved.[32]

Reporting rates are much higher in companies that have well-implemented ethics *and* compliance programs; only 6% of employees in companies with strong ethics and compliance programs did not report observed misconduct.

It is interesting to note the impact of social networking on the ethical environment of a company. According to the 2011 NBES:

- "Active social networkers report far more negative experiences of workplace ethics. As a group, they are almost four times more likely to experience pressure to compromise standards and about three times more likely to experience retaliation for reporting misconduct than co-workers who are less active with social networking. They also are far more likely to observe misconduct." Seventy-two percent of active social networkers surveyed observed misconduct; 42% felt pressure to compromise standards; and 56% experienced retaliation after reporting misconduct.
- Active social networkers, as discussed in this chapter's opening case, are also more likely to believe that questionable behaviors are acceptable. Forty-two percent of active social networkers felt that it was acceptable to blog or tweet negatively about their company or colleagues; 42% felt that it was acceptable to buy personal items on a company credit card as long as it was paid back; 51% felt it was acceptable to do less work as payback for cuts in pay or benefits; 50% felt it was acceptable to keep a copy of confidential work documents in case you need them in your next job; and 46% felt that it was acceptable to take a copy of work software home for use on their personal computer. Only about 10% of non-active social networkers felt that these activities were acceptable.[33] Are you an active social networker? Do these results resonate with you?

These findings suggest that any useful definition of business ethics must address a range of problems in the workplace, including relationships among professionals at all levels and among corporate executives and external groups.

Why Does Ethics Matter in Business?

"Doing the right thing" matters to firms, taxpayers, employees, and other stakeholders, as well as to society. To companies and employers, acting legally and ethically means saving billions of dollars each year in lawsuits, settlements, and theft. One study found that the annual business costs of internal fraud range between the annual gross domestic profit (GDP) of Bulgaria ($50 billion) and that of Taiwan ($400 billion). It has also been estimated that theft costs companies $600 billion annually, and that 79% of workers admit to or think about stealing from their employers. Other studies have shown that corporations have paid significant financial penalties for acting unethically.[34] The U.S. Department of Commerce noted that "as many as one-third of all business failures annually can be attributed to employee theft." Experts have estimated that approximately 40% of fraud and theft losses to American businesses are internal.[35]

Relationships, Reputation, Morale, and Productivity

Costs to businesses also include deterioration of relationships; damage to reputation; declining employee productivity, creativity, and loyalty; ineffective information flow throughout the organization; and absenteeism. Companies that have a reputation for unethical and uncaring behavior toward employees also have a difficult time recruiting and retaining valued professionals.

Integrity, Culture, Communication, and the Common Good

Strong ethical leadership goes hand in hand with strong integrity. Both ethics and integrity have a significant impact on a company's operations. " 'History has often shown the importance of ethics in business – even a single lapse in judgment by one employee can significantly affect a company's reputation and its bottom line.' Leaders who show a solid moral compass and set a forthright example for their employees foster a work environment where integrity becomes a core value."[36] A study of the 50 best companies to work for in Canada (based on survey responses from over 100,000 Canadian employees at 115 organizations, with input from 1,400 leaders and human resources professionals) found that integrity and ethics matter in the following ways: there is more flexibility and balance; values have changed; and organizations are valuing new employees more since the demographics have changed.[37] These changes are explained next.

Integrity/Ethics

What is the degree to which coworkers, managers, and senior leaders display integrity and ethical conduct? Eighty-eight percent of employees at the top 10 best employers agreed or strongly agreed that coworkers displayed integrity and ethical conduct at all times, whereas only 60% felt that way at the bottom 10 organizations. With respect to managers, the numbers were 90% at the top 10 and 63% at the bottom 10 organizations. A bigger difference existed with regard to whether senior leadership displayed integrity and ethical conduct at all times, with 89% of employees at the top 10 best employers agreeing or strongly agreeing, whereas less than half—48%—felt that way at the bottom 10 employers.[38]

The same study found that "engagement is higher at organizations where employees feel they share the same values as their employer" and that "sense of 'common purpose' can increase employee commitment, especially amongst older workers." The authors also noted that "a perceived lack of integrity on the part of co-workers, managers and leaders has, as expected, a detrimental effect on engagement. What was perhaps unanticipated in the study findings, however, was the really negative opinion of the ethics of senior leadership at low-engagement organizations."

Working for the Best Companies

Employees care about ethics because they are attracted to ethically and socially responsible companies. *Fortune* magazine regularly publishes the 100 best companies for which to work (http://money.cnn.com/magazines/fortune/best-companies).[39] Although the list continues to change, it is instructive to observe some of the characteristics of good employers that employees repeatedly cite. The most frequently mentioned characteristics include profit sharing, bonuses, and monetary awards. However, the list also contains policies and benefits that balance work and personal life and those that encourage social responsibility. Consider these policies described by employees:

- When it comes to flextime requests, managers are encouraged to "do what is right and human."
- There is an employee hotline to report violations of company values.
- Managers will fire clients who don't respect its security officers.
- Employees donated more than 28,000 hours of volunteer labor last year.

The public and consumers benefit from organizations acting in an ethically and socially responsible manner. Ethics matters in business because all stakeholders stand to gain when organizations, groups, and individuals seek to do the right thing, as well as to do things the right way. Ethical companies create investor loyalty, customer satisfaction, and business performance and profits.[40] The following section presents different levels on which ethical issues can occur.

1.3 Levels of Business Ethics

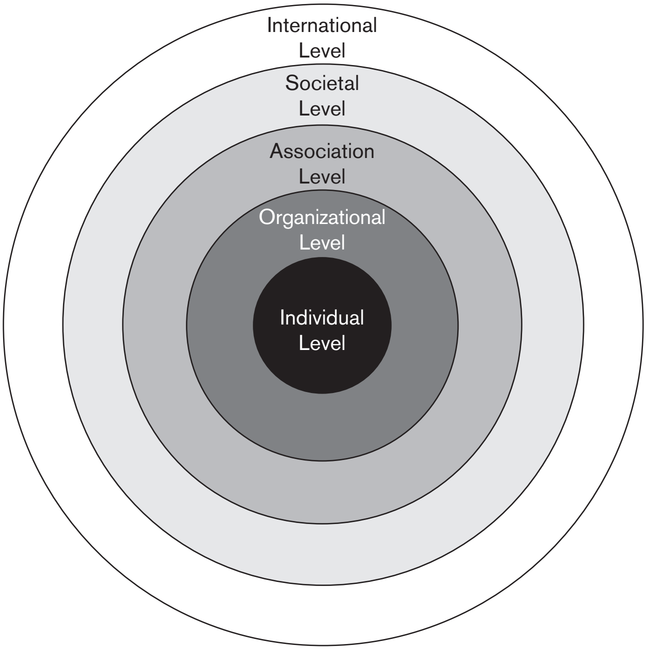
Because ethical problems are not only an individual or personal matter, it is helpful to see where issues originate, and how they change. Business leaders and professionals manage a wide range of stakeholders inside and outside their organizations. Understanding these stakeholders and their concerns will facilitate our understanding of the complex relationships between participants involved in solving ethical problems.

Ethical and moral issues in business can be examined on at least five levels. Figure 1.3 illustrates these five levels: individual, organizational, association, societal, and international.[41] Aaron Feuerstein's now classic story as former CEO of Malden Mills exemplifies how an ethical leader in his seventies turned a disaster into an opportunity. His actions reflected his person, faith, allegiance to his family and community, and sense of social responsibility.

On December 11, 1995, Malden Mills in Lawrence, Massachusetts—manufacturer of Polartec and Polarfleece fabrics and the largest employer in the city—was destroyed by fire. Over 1,400 people were out of work. Feuerstein stated, "Everything I did after the fire was in keeping with the ethical standards I've tried to maintain my entire life, so it's surprising we've gotten so much attention. Whether I deserve it or not, I guess I became a symbol of what the average worker would like corporate America to be in a time when the American dream has been pretty badly injured." Feuerstein announced shortly after the fire that the employees would stay on the payroll while the plant was rebuilt for 60 days. He noted, "I think it was a wise

Figure 1.3

Business Ethics Levels



Source: Carroll, Archie B. (1978). Linking business ethics to behavior in organizations. *SAM Advanced Management Journal, 43(3),* 7. Reprinted with permission from Society for Advancement of Management, Texas A&M University, College of Business.

business decision, but that isn't why I did it. I did it because it was the right thing to do."

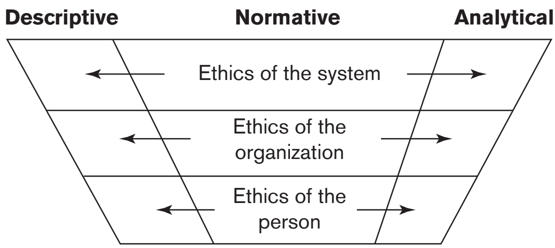
Feuerstein could have taken the $300 million in insurance and retired, or even offshored the entire operation. Instead, he paid out $25 million to his employees and rebuilt the plant. Feuerstein spent the insurance funds, borrowed $100 million more, and built a new plant that is both environmentally friendly and worker-friendly. It is also unionized. Feuerstein was invited to President Clinton's State of the Union address and serves as an icon in the business ethics and leadership community, regardless of the fate of Malden Mills going forward.[42]

Asking Key Questions

It is helpful to be aware of the ethical levels of a situation and the possible interaction between these levels when confronting a question that has moral implications. The following questions can be asked when a problematic decision or action is perceived (before it becomes an ethical dilemma):

Figure 1.4

A Framework for Classifying Ethical Issues and Levels



Source: Matthews, John B., Goodpaster, Kenneth E., and Laura L. Nash. (1985). *Policies and persons: A casebook in business ethics,* 509. New York: McGraw-Hill. Reproduced with permission from Kenneth E. Goodpaster.

- What are my core values and beliefs?
- What are the core values and beliefs of my organization?
- Whose values, beliefs, and interests may be at risk in this decision? Why?
- Who will be harmed or helped by my decision or by the decision of my organization?
- How will my own and my organization's core values and beliefs be affected or changed by this decision?
- How will I and my organization be affected by the decision?

Figure 1.4 offers a graphic to help identify the ethics of the system (i.e., a country or region's customs, values, and laws), your organization (i.e., the written formal and informal acceptable norms and ways of doing business), and your own ethics, values, and standards.

In the following section, popular myths about business ethics are presented to challenge misconceptions regarding the nature of ethics and business. You may take the "Quick Test of Your Ethical Beliefs" before reading this section.

Ethical Insight 1.1

Quick Test of Your Ethical Beliefs

Answer each question with your first reaction. Circle the number, from 1 to 4, that best represents your beliefs, if 1 represents "Completely agree," 2 represents "Often agree," 3 represents "Somewhat disagree," and 4 represents "Completely disagree."

1. I consider money to be the most important reason for working at a job or in an organization. 1 2 3 4
2. I would hide truthful information about someone or something at work to save my job. 1 2 3 4

3. Lying is usually necessary to succeed in business. 1 2 3 4
4. Cutthroat competition is part of getting ahead in the business world. 1 2 3 4
5. I would do what is needed to promote my own career in a company, short of committing a serious crime. 1 2 3 4
6. Acting ethically at home and with friends is not the same as acting ethically on the job. 1 2 3 4
7. Rules are for people who don't really want to make it to the top of a company. 1 2 3 4
8. I believe that the "Golden Rule" is that the person who has the gold rules. 1 2 3 4
9. Ethics should be taught at home and in the family, not in professional or higher education. 1 2 3 4
10. I consider myself the type of person who does whatever it takes to get a job done, period. 1 2 3 4

Add up all the points. Your Total Score is: ______

Total your scores by adding up the numbers you circled. The lower your score, the more questionable your ethical principles regarding business activities. The lowest possible score is 10, the highest 40. Be ready to give reasons for your answers in a class discussion.

1.4 Five Myths about Business Ethics

Not everyone agrees that ethics is a relevant subject for business education or dealings. Some have argued that "business ethics" is an oxymoron, or a contradiction in terms. Although this book does not advocate a particular ethical position or belief system, it argues that ethics is relevant to business transactions. However, certain myths persist about business ethics. The more popular myths are presented in Figure 1.5.

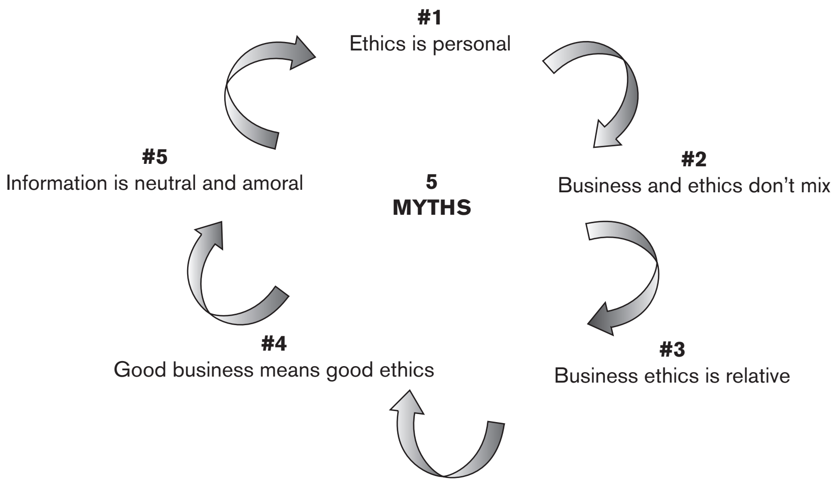
A myth is "a belief given uncritical acceptance by the members of a group, especially in support of existing or traditional practices and institutions."[43] Myths regarding the relationship between business and ethics do not represent truth but popular and unexamined notions. Which, if any, of the following myths have you accepted as unquestioned truth? Which do you reject? Do you know anyone who holds any of these myths as true?

Myth 1: Ethics Is a Personal, Individual Affair, Not a Public or Debatable Matter

This myth holds that individual ethics is based on personal or religious beliefs, and that one decides what is right and wrong in the privacy of one's conscience. This myth is supported in part by Milton Friedman, a well-known economist, who views "social responsibility," as an expression of business ethics, to be unsuitable for business professionals to address seriously or professionally because they are not equipped or trained to do so.[44]

Figure 1.5

Five Business Ethics Myths



Although it is true that individuals must make moral choices in life, including business affairs, it is also true that individuals do not operate in a vacuum. Individual ethical choices are most often influenced by discussions, conversations, and debates, and made in group contexts. Individuals often rely on organizations and groups for meaning, direction, and purpose. Moreover, individuals are integral parts of organizational cultures, which have standards to govern what is acceptable. Therefore, to argue that ethics related to business issues is mainly a matter of personal or individual choice is to underestimate the role organizations play in shaping and influencing members' attitudes and behaviors.

Studies indicate that organizations that act in socially irresponsible ways often pay penalties for unethical behavior.[45] In fact, the results of the studies advocate integrating ethics into the strategic management process because it is both the right and the profitable thing to do. Corporate social performance has been found to increase financial performance. One study notes that "analysis of corporate failures and disasters strongly suggests that incorporating ethics in before-profit decision making can improve strategy development and implementation and ultimately maximize corporate profits."[46] Moreover, the popularity of books, training, and articles on learning organizations and the habits of highly effective people among Fortune 500 and 1000 companies suggests that organizational leaders and professionals have a need for purposeful, socially responsible management training and practices.[47]

Myth 2: Business and Ethics Do Not Mix

This myth holds that business practices are basically amoral (not necessarily immoral) because businesses operate in a free market. This myth also asserts that management is based on scientific, rather than religious or ethical, principles.[48]

Although this myth may have thrived in an earlier industrializing U.S. society and even during the 1960s, it has eroded over the past two decades. The widespread consequences of computer hacking on individual, commercial, and government systems that affect the public's welfare, like identity theft on the Internet (stealing others' Social Security numbers and using their bank accounts and credit cards), and kickbacks, unsafe products, oil spills, toxic dumping, air and water pollution, and improper use of public funds have contributed to the erosion. The international and national infatuation with a purely scientific understanding of U.S. business practices, in particular, and of a value-free marketing system, has been undermined by these events. As one saying goes, "A little experience can inform a lot of theory."

The ethicist Richard DeGeorge has noted that the belief that business is amoral is a myth because it ignores the business involvement of all of us. Business is a human activity, not simply a scientific one, and, as such, can be evaluated from a moral perspective. If everyone in business acted amorally or immorally, as a pseudoscientific notion of business would suggest, businesses would collapse. Employees would openly steal from employers; employers would recklessly fire employees at will; contractors would arrogantly violate obligations; and chaos would prevail. In the United States, business and society often share the same values: rugged individualism in a free-enterprise system, pragmatism over abstraction, freedom, and independence. When business practices violate these American values, society and the public are threatened.

Finally, the belief that businesses operate in totally "free markets" is debatable. Although the value or desirability of the concept of a "free market" is not in question, practices of certain firms in free markets are. At issue are the unjust methods of accumulation and noncompetitive uses of wealth and power in the formation of monopolies and oligopolies (i.e., small numbers of firms dominating the rules and transactions of certain markets). The dominance of AT&T before its breakup is an example of how one powerful conglomerate could control the market. Microsoft and Wal-Mart are examples. The U.S. market environment can be characterized best as a "mixed economy" based on free-market mechanisms, but not limited to or explained only by them. Mixed economies rely on some governmental policies and laws for control of deficiencies and inequalities. For example, protective laws are still required, such as those governing minimum wage, antitrust situations, layoffs from plant closings, and instances of labor exploitation. In such mixed economies in which injustices thrive, ethics is a lively topic.

Myth 3: Ethics in Business Is Relative

In this myth, no right or wrong way of believing or acting exists. Right and wrong are in the eyes of the beholder.

The claim that ethics is not based solely on absolutes has some truth to it. However, to argue that all ethics is relative contradicts everyday experience. For example, the view that because a person or society believes something to be right makes it right is problematic when examined. Many societies believed in and practiced slavery; however, in contemporary individuals' experiences, slavery is morally wrong. When individuals and firms do business in societies that promote slavery, does that mean that the individuals and firms must also condone and practice slavery? The simple logic of relativism, which is discussed in Chapter 2, gets complicated when seen in daily experience. The question that can be asked regarding this myth is: Relative to whom or what? And why? The logic of this ethic, which answers that question with "Relative to me, myself, and my interests" as a maxim, does not promote community. Also, if ethical relativism were carried to its logical extreme, no one could disagree with anyone about moral issues because each person's values would be true for him or her. Ultimately, this logic would state that no right or wrong exists apart from an individual's or society's principles. How could interactions be completed if ethical relativism was carried to its limit? Moreover, the U.S. government, in its vigorous pursuit of Microsoft, certainly has not practiced a relativist style of ethics.

Myth 4: Good Business Means Good Ethics

This myth can translate to "Executives and firms that maintain a good corporate image, practice fair and equitable dealings with customers and employees, and earn profits by legitimate, legal means are de facto ethical." Such firms, therefore, would not have to be concerned explicitly with ethics in the workplace. Just do a hard, fair day's work, and that has its own moral goodness and rewards.[49]

The faulty reasoning underlying this logic obscures the fact that ethics does not always provide solutions to technical business problems. Moreover, as Buchholz argued, no correlation exists between "goodness" and material success.[50]

It also argued that "excellent" companies and corporate cultures have created concern for people in the workplace that exceeds the profit motive. In these cases, excellence seems to be related more to customer service, to maintenance of meaningful public and employee relationships, and to corporate integrity than to profit motive.[51]

The point is that ethics is not something added to business operations; ethics is a necessary part of operations. A more accurate, logical statement from business experience would suggest that "good ethics means good business." This is more in line with observations from successful companies that are ethical first and also profitable.

Finally, the following questions need to be asked: What happens, then, if what should be ethically done is not the best thing for business? What happens when good ethics is not good business? The ethical thing to do may not always be in the best interests of the firm. We should promote business ethics, not because good ethics is good business, but because we are morally required to adopt the moral point of view in all our dealings with other people—and business is no exception. In business, as in all other human endeavors, we must be prepared to pay the costs of ethical behavior. The costs may sometimes seem high, but that is the risk we take in valuing and preserving our integrity.[52]

Myth 5: Information and Computing Are Amoral

This myth holds that information and computing are neither moral nor immoral—they are amoral. They are in a "gray zone," a questionable area regarding ethics. Information and computing have positive dimensions, such as empowerment and enlightenment through the ubiquitous exposure to information, increased efficiency, and quick access to online global communities. It is also true that information and computing have a dark side: information about individuals can be used as "a form of control, power, and manipulation."[53]

The point here is to beware the dark side: the misuse of information, social media, and computing. Ethical implications are present but veiled. Truth, accuracy, and privacy must be protected and guarded: "Falsehood, inaccuracy, lying, deception, disinformation, misleading information are all vices and enemies of the Information Age, for they undermine it. Fraud, misrepresentation, and falsehood are inimical to all of them."[54]

Logical problems occur in all five of the above myths. In many instances, the myths hold simplistic and even unrealistic notions about ethics in business dealings. In the following sections, the discussion about the nature of business ethics continues by exploring two questions:

- Why use ethical reasoning in business?
- What is the nature of ethical reasoning?

1.5 Why Use Ethical Reasoning in Business?

Ethical reasoning is required in business for at least three reasons. First, many times laws do not cover all aspects or "gray areas" of a problem.[55] How could tobacco companies have been protected by the law for decades until the settlement in 1997, when the industry agreed to pay $368.5 billion for the first 25 years and then $15 billion a year indefinitely to compensate states for the costs of health care for tobacco-related illnesses? What gray areas in federal and state laws (or the enforcement of those laws) prevailed for decades? What sources of power or help can people turn to in these situations for truthful information, protection, and compensation when laws are not enough?

Second, free-market and regulated-market mechanisms do not effectively inform owners and managers how to respond to complex issues that have far-reaching ethical consequences. Enron's former CEO Jeffrey Skilling believed that his new business model of Enron as an energy trading company was the next big breakthrough in a free-market economy. The idea was innovative and creative; the executive's implementation of the idea was illegal. Perhaps

Skilling should have followed Enron's ethics code; it was one of the best available.

A third argument holds that ethical reasoning is necessary because complex moral problems require "an intuitive or learned understanding and concern for fairness, justice, [and] due process to people, groups, and communities."[56] Company policies are limited in scope in covering human, environmental, and social costs of doing business. Judges have to use intuition and a kind of learn-as-you-go approach in many of their cases. In Microsoft's previous alleged monopoly case, for example, there were no clear precedents in the software industry—or with a company of Microsoft's size and global scope—to offer clear legal direction. Ethics plays a role in business because laws are many times insufficient to guide action.

1.6 Can Business Ethics Be Taught and Trained?

Because laws and legal enforcement are not always sufficient to help guide or solve complex human problems relating to business situations, some questions arise: Can ethics help? If so, how? And can business ethics be taught? This ongoing debate has no final answer, and studies continue to address the issue. One study, for example, that surveyed 125 graduate and undergraduate students in a business ethics course at the beginning of a semester showed that students did not reorder their priorities on the importance of 10 social issues at the end of the semester, but they did change the degree of importance they placed on the majority of the issues surveyed.[57] What, if any, value can be gained from teaching ethical principles and training people to use them in business?

This discussion begins with what business ethics courses cannot or should not, in my judgment, do. Ethics courses should not advocate a set of rules from a single perspective or offer only one best solution to a specific ethical problem. Given the complex circumstances of many situations, more desirable and less desirable courses of action may exist. Decisions depend on facts, inferences, and rigorous, ethical reasoning. Neither should ethics courses or training sessions promise superior or absolute ways of thinking and behaving in situations. Informed and conscientious ethical analysis is not the only way to reason through moral problems.

Ethics courses and training can do the following:

- Provide people with rationales, ideas, and vocabulary to help them participate effectively in ethical decision-making processes
- Help people "make sense" of their environments by abstracting and selecting ethical priorities
- Provide intellectual insights to argue with advocates of economic fundamentalism and those who violate ethical standards
- Enable employees to act as alarm systems for company practices that do not meet society's ethical standards
- Enhance conscientiousness and sensitivity to moral issues, and commitment to finding moral solutions

- Enhance moral reflectiveness and strengthen moral courage
- Increase people's ability to become morally autonomous, ethical dissenters, and the conscience of a group
- Improve the moral climate of firms by providing ethical concepts and tools for creating ethical codes and social audits[58]

Other scholars argue that ethical training can add value to the moral environment of a firm and to relationships in the workplace in the following ways:

- Finding a match between an employee's and employer's values
- Managing the push-back point, where an employee's values are tested by peers, employees, and supervisors
- Handling an unethical directive from a boss
- Coping with a performance system that encourages cutting ethical corners[59]

Teaching business ethics and training people to use them does not promise to provide answers to complex moral dilemmas. However, thoughtful and resourceful business ethics educators can facilitate the development of awareness of what is ethical, help individuals and groups realize that their ethical tolerance and decision-making styles decrease unethical blind spots, and enhance discussion of moral problems openly in the workplace.

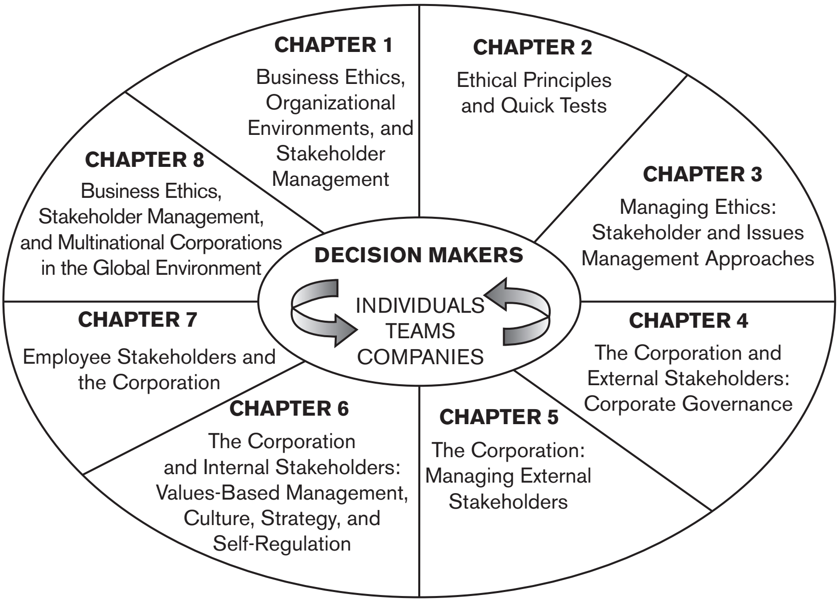
1.7 Plan of the Book

This book focuses on applying a stakeholder management approach—based on stakeholder theory—that is integrated with issues management approaches, along with your own critical reasoning to situations that involve groups and individuals who often have competing interpretations of a problem or opportunity. We are all stakeholders in many situations, whether with our friends, network of colleagues, or in organizational and work settings. Because stakeholders are people, they generally act on beliefs, values, and financially motivated strategies. For this reason, ethics- and values-based thinking is an important part of a stakeholder and issues management approach. It is important to understand why stakeholders act and how they make decisions. The stakeholder and issues management approach aims at having all parties reach win–win outcomes through communication and collaborative efforts. Unfortunately, this does not always happen. If we do not have a systematic approach to understanding what happens in complex stakeholder relationships, we cannot learn from past mistakes or plan for more collaborative, socially responsible future outcomes. A schematic of the book's organization is presented in Figure 1.6.

Chapter 2 provides a foundation of ethical principles, quick tests, and scenarios for evaluating motivations for certain decisions and actions. A stakeholder management approach involves knowing and managing stakeholders' ethics, including your own. Chapter 3 provides a systematic approach for structuring and evaluating stakeholder issues, strategies, and options at the out-

Figure 1.6

Plan of the Book



set. Step-by-step methods for collaborating and for forming and evaluating strategies are identified. Chapter 4 then examines an organization's corporate governance and compliance before Chapter 5 looks at how organizations manage external and business issues stakeholders. Chapter 6 looks at internal stakeholders, strategy, culture, and self-regulation in corporations and discusses rights and obligations of employees and employers as stakeholders. Chapter 7 analyzes current trends affecting employees in corporations and Chapter 8, the final chapter, examines globalization and views nations as stakeholders to examine how multinational corporations operate in host countries and different systems of capitalism.

Chapter Summary

Businesses and governments operate in numerous environments, including technological, legal, social, economic, and political dimensions. Understanding the effects of these environmental forces on industries and organizations is a first step in identifying stakeholders and the issues that different groups must manage in order to survive and compete. This book explores and illustrates how stakeholders can manage issues and trends in their changing environments in socially responsible, principled ways. Thinking and acting ethically is not a mechanical process; it is also very personal. It is important as a professional in an organization, to integrate personal with professional experiences and values.

Business ethics deals with what is "right" and "wrong" in organizational decisions, behavior, and policies. Business ethics provides principles and guidelines that assist people in making informed choices that balance economic interests and social responsibilities. Being able to think of other stakeholders' interests can better inform the moral dimension of your own decisions. This is one aim of using a stakeholder management approach.

Seeing the "big picture" of how ethical issues begin and transform requires imagination and some "maps." Because business ethics apply to several levels, this chapter has presented these levels to illustrate the complexity of ethical decision making in business transactions. When you can "connect the dots" among these dimensions, more options for solving problems morally are opened.

The stakeholder management approach also provides a means for mapping complicated relationships between the focal and other stakeholders, a means of identifying the strategies of each stakeholder, and a means for assessing the moral responsibility of all the constituencies.

Five common myths about business ethics have been discussed. Each myth has been illustrated and refuted. You are invited to identify and question your own myths about business ethics. Ethical reasoning in business is explained with steps to guide decision making. Here are three reasons why ethical reasoning is necessary in business: (1) laws are often insufficient and do not cover all aspects or "gray areas" of a problem; (2) free-market and regulated-market mechanisms do not effectively inform owners and managers on how to respond to complex crises that have far-reaching ethical consequences; and (3) complex moral problems require an understanding and concern for fairness, justice, and due process. Ethical reasoning helps individuals sort through conflicting opinions and information in order to solve moral dilemmas.

Ethical education and training can be useful for developing a broad awareness of the motivations, values, and consequences of our decisions. Business ethics does not, however, provide superior or universally correct solutions to morally complex dilemmas. Principles and guidelines are provided that can enhance—with case analysis, role playing, and group discussion—a person's insight and self-confidence in resolving moral dilemmas that often have two right (or wrong) solutions.

Questions

1. Refer to Figure 1.1 to identify three specific environmental influences that the organization for which you work (or the institution in which you study) must address to survive and be competitive. Explain how these influences, pressures, and opportunities affect you, and ask yourself how ethically do you accomplish your work and goals.
2. What are the three major ethical issues you face now in your work or student life? What is "ethical" about these issues?
3. Identify some benefits of using a stakeholder approach in ethical decision making. How would using a stakeholder management approach help you plan and/or solve an ethical issue in your working life? Explain.

4. What is a myth? Which, if any, of the five business myths discussed in this chapter do you not accept as a myth (i.e., that you believe is true)? Explain.
5. Identify one myth you had/have about business ethics. Where did it originate? Why is it a "myth"? What led you to abandon this myth, or do you still believe in it? Explain.
6. Identify three reasons presented in this chapter for using ethical reasoning in business situations. Which of these reasons do you find the most valid? The least valid? Explain.
7. Is the law sufficient to help managers and employees solve ethical dilemmas? Explain and offer an example from your own experiences or from a contemporary event.
8. What are some important distinctive characteristics of ethical problems? What distinguishes an ethical from a legal problem?
9. What (if any) specific attitudes, values, beliefs, or behaviors of yours do you think could be changed from an ethics course? Explain.
10. Identify and describe a specific belief or behavior of yours that you feel could be changed through taking a course in ethics.

Exercises

1. Invent and state your own definition of "business ethics." Do you believe that ethics is an important factor in business transactions today? If you were the CEO of a corporation, how would you communicate your perspective on the importance of ethics to your employees, customers, and other stakeholder groups?
2. Conduct your own small survey of two people regarding their opinions on the importance of unethical practices in businesses today. Do your interviewees give more importance to economic performance or socially irresponsible behavior? Or do they think other factors are more important? Summarize your results.
3. You are giving a speech at an important community business association meeting. You are asked to give a presentation called "An Introduction to Business Ethics" for the members. Give an outline of your speech.
4. Explain how a major trend in the environment has affected your profession, job, or skills—as a professional or student. Be specific. Are any ethical consequences involved, and has this trend affected you?
5. Review Kohlberg's levels and stages of moral development. After careful consideration, briefly explain which stage, predominantly or characteristically, defines your ethical level of development. Explain. Has this stage influenced a recent decision you have made or action you have taken? Explain.
6. You are applying to a prestigious organization for an important, highly visible position. The application requires you to describe an ethical dilemma in your history and how you handled it. Describe the dilemma and your ethical position.

Real-Time Ethical Dilemma

You are a staff associate at a major public accounting firm and graduated from college two years ago. You are working on an audit for a small, nonprofit religious publishing firm. After performing tests on the royalty payables system, you discover that for the past five years, the royalty payable system has miscalculated the royalties it owes to authors of their publications. The firm owes almost $100,000 in past due royalties. All of the contracts with each author are negotiated differently. However, each author's royalty percentage will increase at different milestones in books sold (i.e., 2% up to 10,000 and 3% thereafter). The software package did not calculate the increases, and none of the authors ever received their increase in royalty payments. At first you can't believe that none of the authors ever realized they were owed their money. You double check your calculations and then present your findings to the senior auditor on the job. Much to your surprise, his suggestion is to pass over this finding. He suggests that you sample a few additional royalty contracts and document that you expanded your testing and found nothing wrong. The firm's audit approach is well documented in this area and is firmly based on statistical sampling. Because you had found multiple errors in the small number of royalty contracts tested, the firm's approach suggested testing 100% of the contracts. This would mean (1) going over the budgeted time/expense estimated to the client; (2) possibly providing a negative audit finding; and (3) confirming that the person who audited the section in the years past may not have performed procedures correctly.

Based on the prior year's work papers, the senior auditor on the job performed the testing phase in all of these years just before his promotion. For some reason, you get the impression that the senior auditor is frustrated with you. The relationship seems strained. He is very intense, constantly checking the staff's progress in the hope of coming in even a half-hour under budget for a designated test/audit area. There's a lot of pressure, and you don't know what to do. This person is responsible for writing your review for your personnel file and bonus or promotion review. He is a very popular employee who is "on the fast track" to partnership.

You don't know whether to tell the truth and risk a poor performance review and jeopardize your future with this company, or to tell the truth, hopefully be exonerated, and be able to live with yourself by "doing the right thing" and facing consequences with a clean conscience.

Questions

1. What would you do as the staff associate in this situation? Why? What are the risks of telling the truth for you? What are the benefits? Explain.
2. What is the "right" thing to do in this situation? What is the "smart" thing to do for your job and career? What is the difference, if there is one, between the "right" and "smart" thing to do in this situation? Explain.
3. Explain what you would say to the senior auditor, your boss, in this situation if you decided to tell the truth as you know it.

Cases

Case 1

Bernard L. Madoff Investment Securities LLC: Wall Street Trading Firm

Bernard L. Madoff Investment Securities LLC was founded in the 1960s as a small investment firm on Wall Street. With $5,000 in savings from summer jobs and at the age of 22, Madoff launched the firm that in the 1980s would later rank with some of the most prestigious and powerful firms on Wall Street. Madoff began as a single stock trader before starting a family-operated business that included his brother, nephew, niece, and his two sons. Each held a position that was quite valuable within the company.

Madoff had also created "an investment-advisory business that managed money for high-net-worth individuals, hedge funds and other institutions." He made profitable and consistent returns by repaying early investors from the money received from new investors. Instead of running an actual hedge fund, Madoff held this investment operation inside his firm on the seventeenth floor of the building where only two dozen staff members were permitted to enter the secured area. No employee dared question the security and confidentiality of the "hedge fund" floor due to the prestige and power that Madoff held. The $65 billion investment fund was later discovered to be fraudulent, involving one of the largest Ponzi schemes in history and shattering the lives of thousands of individuals, institutions, organizations, and stakeholders worldwide.

The Man with All the Power

Bernard Madoff's charisma and amiable personality were important traits that helped him gain power in the financial community and become one of the largest key players on Wall Street. He became a notable authoritative figure by securing important roles on boards and commissions, helping him bypass securities regulations. One of the roles included serving as the chairman of the board and directors of the NASDAQ stock exchange during the early 1990s. Madoff was knowledgeable and smart enough to understand that the more involved he became with regulators, the more "you could shape regulations." He used his reputation as a respected trader and perceived "honest" businessman to take advantage of investors and manipulate them fraudulently. Investors were hoodwinked into believing that it was a privilege to take part in Madoff's elite investments, since Madoff never accepted many clients and used exclusively selective recruiting in order to keep this part of his business a secret.

Madoff was even able to keep his employees quiet, telling them not to speak to the media regarding any of the business activities. While several understood something was not right, they ignored suspicions due to Madoff's perceived clean record and aura: "He appeared to believe in family, loyalty, and honesty. . . . Never in your wildest imagination would you think he was a fraudster."

Dr. Meloy, author of the textbook *The Psychopathic Mind,* states that "typically people with psychopathic personalities don't fear getting caught. . . . They tend to be very narcissistic with a strong sense of entitlement." This led many analysts of criminal behavior to observe similar traits between Madoff and serial killers like Ted Bundy. Analysts discovered several factors motivating Madoff toward a Ponzi scheme: "A desire to accumulate vast wealth, a need to dominate others, and a need to prove that he was smarter than everyone else." Whatever the motivating factors were, Madoff's behavior was still criminal and affected a large pool of stakeholders.

Early Suspicions Arise

Despite the unrealistic returns and questionable nature of Madoff's business operations, investors continued to invest money. In 2000, a whistle-blower from a competing firm—Harry Markopolos, CFE, CFA—discovered Madoff's Ponzi scheme. Markopolos and his small team developed and presented an eight-page document that provided evidence and red flags of the fraud to the Securities and Exchange Commission (SEC)'s Boston Regional Office in May 2000. Despite the SEC's lack of response, Markopolos resubmitted the documents again in 2001, 2005, 2007 and 2008. His findings were not taken seriously: "My team and I tried our best to get the Securities and Exchange Commission (SEC) to investigate and shut down the Madoff Ponzi scheme with repeated and credible warnings." Because Madoff was well respected and powerful on Wall Street, few suspected his fraudulent actions. The status and wealth that Madoff had created gave him the means to manipulate the SEC and regulators alike.

Negligence on All Sides

The negligence and gaps in governmental regulation make it very difficult to point to only one guilty party in the Madoff scandal. The SEC played a crucial role by allowing Madoff's operations to carry out for as long as they did. For over 10 years, the SEC received numerous warnings that Madoff's steady returns were anything but ordinary and nearly impossible. The SEC and the Financial Industry Regulatory Authority, "a non-government agency that oversees all securities firms," were known to have investigated Madoff's firm over eight times but brought no charges of criminal activity. Despite the red flags and mathematical proof that Markopolos presented, SEC staff allowed Madoff's operations to continue unchallenged. Spencer Bachus, a politician and a Republican member of the U.S. House of Representatives, stated that "What we may have in the Madoff case is not necessarily a lack of enforcement and oversight tools, but a failure to use them." Unfortunately, there could be another side to the story. David Kotz, currently the SEC's inspector general, planned an ongoing internal investigation to understand the reasoning behind the negligence and to determine if any conflict of interest between SEC staff and the Madoff family could have been part of the problem. Arthur Levitt Jr., who was part of the SEC and a chairman from 1993 to 2001, had close connections with Madoff himself. He would rely on

Madoff's advice about the functioning of the market, although Levitt denies all accusations. In September 2009, it was officially stated that no evidence was found relating to any conflict of interest: "The OIG [Office of Inspector General] investigation did not find evidence that any SEC personnel who worked on an SEC examination or investigation of Bernard L. Madoff Investment Securities LLC had any financial or other inappropriate connection with Bernard Madoff or the Madoff family that influenced the conduct of their examination or investigatory work."

Unfortunately, the SEC is not the only party to blame. JPMorgan Chase has also been criticized for its actions regarding the Madoff scandal. Instead of investing client's money in securities, as Madoff had promised to do, he deposited the funds in a Chase bank account. In 2008, federal court documents show that "the account had mushroomed to $5.5 billion. . . . This translates to $483 million in after-tax profits for the bank holding the Madoff funds." As one of Chase's largest customers, Madoff's account should have been monitored closely. Internal bank compliance systems should have detected such red flags. Unfortunately, Madoff was savvy enough to move millions of dollars between his U.S. and London operations, making it seem like he was actively investing clients' money. The massive account balances of investors should not have been difficult to overlook. Don Jackson, director of the SecureWorks Counter Threat Unit Intelligence Services, noted that "The only way to stop this kind of fraud is for the bank to know its clients better and to report things that might be suspicious. It really comes down to human control." This was an area of weakness for JPMorgan Chase at the time.

Where Were the Auditors?

For Madoff to successfully perpetrate such a large scam spanning more than a decade, he needed the help of auditors to certify the financial statements of Bernard L. Madoff Investment Securities. The company's auditing services were provided by a three-person accounting firm, Friehling & Horowitz, formerly run by David Friehling. For over 15 years, Friehling confirmed to the American Institute of Certified Public Accountants (AICPA) that his firm did not conduct any type of audit work. Because of this confirmation, Friehling did not have to "enroll in the AICPA's peer review program, in which experienced auditors assess each firm's audit quality every year . . . to maintain their licenses to practice." Friehling & Horowitz had in fact been auditing the books of Madoff for over 17 years, providing a clean bill of health each year from 1991 through 2008. Authorities state that if Friehling provided integrity in his findings, the scandal would not have continued for as long as it did: "Mr. Friehling's deception helped foster the illusion that Mr. Madoff legitimately invested his client's money," stated U.S. Attorney Lev Dassin. In addition to receiving total fees of $186,000 annually from the auditing services provided to Madoff, Friehling also had accounts in Madoff's firm totaling more than $14 million and had withdrawn over $5.5 million since the year 2000. Friehling deceived investors and regulators by providing unauthorized audit work and verifying fraudulent financial statements. Given the size of the accounting firm, a red flag should have been raised. Madoff's operations were too large in size and complexity for the resources of a three-person accounting firm.

Revealing the Fraud

As the U.S. economy entered the 2008 recession period, investors began to panic and withdraw their money from Madoff's accounts, totaling more than $7 billion. Madoff was unable to cover the redemptions and struggled "to obtain the liquidity necessary to meet those obligations." He confessed to his sons that the business he was running was a scam. On December 11, 2008, Bernard Madoff was arrested by federal agents—one day after his sons reported his confession to the authorities.

Global Crisis

The Ponzi scheme that Madoff ran for more than a decade affected the lives of thousands of individuals, institutions, organizations, and stakeholders worldwide. A 162-page list was submitted to the U.S. Bankruptcy Court in Manhattan detailing the affected parties. The lengthy list consisted of some of the wealthiest investors and well-known names around the region: "They reportedly include Philadelphia Eagles owner Norman Braman, New York Mets owner Fred Wilpon and J. Ezra Merkin, the chairman of GMAC Financial Services." Talk show host Larry King and actor John Malkovich were on the list, among others. Many investment-management firms, such as Tremont Capital Management and Fairfield Greenwich Advisors, had invested large amounts in Madoff's funds and were hit the hardest financially. Major global banks, "including Royal Bank of Scotland, France's largest bank, BNP Paribas, Britain's HSBC Holdings PLC and Spain's Santander" were also known to have lost millions. Charitable foundations, such as the Lautenberg foundation; and financial institutions, including Bank of America Corp., Citigroup, and JPMorgan Chase were all stakeholders in the Madoff scandal. Ordinary individuals also invested much of their life savings into what they believed was a "once in a lifetime opportunity." William Woessner, a retiree from the State Department's Foreign Service, agreed that the investors "were made to feel that it was a big favor to be let in if you didn't have a lot of money. It was an exclusive club to belong to." It has been reported that individual losses were between $40,000 to over $1 million in total. There were 3,500 investors from New York and more than 1,700 from Florida.

The repercussions of Madoff's Ponzi scheme have been emotional as well as financial. A French aristocrat and professional investor living within the suburbs of New York, Rene-Thierry Magon de la Villehuchet, had invested almost $1.4 billion in Madoff's accounts. He had invested both his and his client's money, only to lose everything. Villehuchet felt personally responsible for the loss of his clients' money: "He had a true concept of capitalism. . . . He felt responsible and he felt guilty," said his brother Bertrand de la Villehuchet. Villehuchet's depression grew to such a point that he committed suicide on December 22, 2008.

Consequences and Aftermath

On June 29, 2009, Judge Denny Chin found Madoff guilty on eleven criminal counts and sentenced him to 150 years in prison, the maximum possible sentence allowed at the time. Chin's severe sentence was influenced by the statements given by Madoff's victims and the 113 letters received and filed with the federal court: "A substantial sentence may in some small measure help the victims in their healing process," stated Judge Chin. Madoff was also forced to pay a $170-billion legal judgment passed by the government, stating that this amount of money "was handled by his firm since its founding in the 1960s." David Friehling, the auditor for Madoff's books, was also arrested on fraud charges. He was initially "released on a $2.5-million bond and had to surrender his passport." Friehling lost his CPA license in 2010, and his sentencing has since been postponed four times. He faces a sentence of more than 100 years in prison.

Lawyer Irving H. Picard is a bankruptcy trustee in the Madoff scandal. As a court-appointed trustee, Picard has filed numerous lawsuits and has collected $1.2 billion in recovered funds from "banks, personal property, and funds around the world." It is estimated that from this $1.2 billion, Picard has earned approximately $15 million. More than $116 million has been given to 237 Madoff victims, each receiving up to $500,000. In order to help the victims of the Madoff scandal, Picard started a program called "Hardship Case." He has also filed a $199 million lawsuit against the Madoff family, including Madoff's brother, his two sons, and niece, all of whom worked alongside Madoff. An additional lawsuit was filed against Madoff's wife for $44.8 million, stating that she had transferred large amounts of money from the firm "over a six-year period." As of now, none of the family members—Madoff's two sons, brother, niece, and wife—have been found guilty on any of the charges. Madoff's oldest son, Mark, 46, committed suicide in December 2010. Madoff's victims took swift action against the negligence of SEC and JPMorgan Chase. U.S. District Court Judge Colleen McMahon threw out most of the $19.9 million charges against JPMorgan in November 2011, however. The New York Mets owners paid a settlement of $162 million in March of 2012 to avoid going to trial to answer the allegations made by Irving Picard.

Hidden Secrets?

Despite the accusations of negligence that JPMorgan Chase received from the public, it was one of the biggest-profiting financial firms in the Madoff scandal. As stated earlier in the case, JPMorgan made a profit of $483 million. During 2006, "the bank had started offering investors a way to leverage their bets on the future performance of two hedge funds that invested with Mr. Madoff" and decided to place $250 million of their own money inside these funds. A few months before Madoff's arrest in 2008, JPMorgan withdrew its $250 million, stating that it had become "concerned about the lack of transparency and its due diligence raised doubts about Madoff's operations." It is surprising that the bank was suspicious and apprehensive toward investments with Madoff, but at the same time raised no concerns about the large amount of money being deposited in Madoff's accounts within the bank. JPMorgan also failed to alert investors to move their money, stating that "The issues did not meet the threshold necessary to permit the bank to restructure the notes. . . . We did not have the right to disclose our concerns." Regardless of the public statements made by JPMorgan in support of its actions, many lawyers and investors believe that the bank had knowledge of Madoff's scam but wanted to secure high returns for as long as possible.

Ethical Flaws

In a 2011 *New York Magazine* interview, Madoff stated that he never thought the collapse of his Ponzi scheme would cause the sort of destruction that has befallen his family. He asserted that unidentified banks and hedge funds were somehow "complicit" in his elaborate fraud, an about-face from earlier claims that he was the only person involved. "They had to know," Mr. Madoff said. "But the attitude was sort of, 'If you're doing something wrong, we don't want to know.' " To date, none of the major banks or hedge funds that did business with Mr. Madoff have been accused by federal prosecutors of knowingly investing in his Ponzi scheme. However, in civil lawsuits Picard has asserted that executives at some banks expressed suspicions for years, yet continued to do business with Madoff and steer their clients' money into his hands.

In some ways, Madoff has not tried to evade blame. He has made a full confession, saying that nothing justifies what he did. And yet, for Madoff, that doesn't settle the matter. He feels misunderstood. He can't bear the thought that people think he's evil. "I'm not the kind of person I'm being portrayed as," he told *New York Magazine*.

A main issue in this controversy is the continuous fraudulent operations that Madoff was able to maintain for a decade that created a $65 billion Ponzi scheme and shattered the lives of thousands around the world. For most of the world, Bernie Madoff is a monster: he betrayed thousands of investors, and bankrupted charities and hedge funds. On paper, his Ponzi scheme lost nearly $65 billion; the effects spread across five continents. And he brought down his own family with him, a more intimate kind of betrayal.

Bernard Madoff was the central stakeholder who manipulated and involved his brother, two sons, and niece, all of whom worked inside the Bernard L. Madoff Investment Securities LLC. Other key stakeholders included Madoff's employees, who had invested their money into an operation they believed was legal and ethical. The financial community were also major players, including financial institutions, investment management firms, charitable organizations, and global banks. The government, specifically the SEC, and the justice department, were also heavily involved. The lawyer Irving Picard was a key player, as was the whistleblower Harry Markopolos and his team who revealed the nature of the scam early on, even though the SEC and other government regulators did not move on the evidence.

As of October 2013, Federal authorities are working toward mounting a criminal investigation into JPMorgan Chase, believing that the bank may have intentionally neglected Madoff's Ponzi scheme. Having recently agreed to a $13 billion settlement with the U.S. government to settle charges that the bank overstated the quality of mortgages it was selling to investors in the run-up to the financial crisis, the threat of criminal charges over the Madoff case represents another major threat to the reputation of the nation's largest bank. The resolution of this scheme is not over.

Questions for Discussion

1. What did Madoff do that was illegal and unethical?
2. Identify some of the main reasons that Madoff was able to start and sustain such an enormous Ponzi scheme for as long as he did?
3. Who were/are the major stakeholders involved and affected by Madoff's scheme and scandal?
4. Did Madoff have accomplices in starting and sustaining his scheme or was he able to do it alone? Explain.
5. How was he caught?
6. What lessons can be learned from Madoff's scandal?

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Case 2

Cyberbullying: Who's to Blame and What Can Be Done?

What Is Cyberbullying?

Cyberbullying is a unique form of bullying that continues in spite of the dire consequences that can and do occur. Cyberbullying has gained significant media attention and countless incidents of bullying continue to occur. Although many cases are reported in the news, probably as many if not more go unreported. Because of the news attention, the phenomenon generated an antibullying movement in 2010. Bullying has been defined as something that one repeatedly does or says to gain power over another person. Unlike traditional bullying, cyberbullying eliminates the need for physical contact with others in order to make them feel inferior. Cyberbullying is "when a child, preteen or teen is tormented, threatened, harassed, humiliated, embarrassed or otherwise targeted by another child, preteen or teen using the Internet, interactive and digital technologies or mobile phones."[1] Technology as an avenue for intimidation is a hot-button issue for school systems and parents alike. This is uncharted territory, and legislation does not always provide guidance and structure.

The reality is that bullying makes a significantly negative impact on the lives of today's youth. Cyberbullying directly impacts self-esteem and can, and has, led to suicide among its adolescent victims. Schools, parents, and peers must identify and intervene in cases of cyber bullying. Increased awareness and education about cyber bullying and its consequences can help create a safer online community. Individuals should be held morally responsible for the consequences of their actions online.

Why Cyberbullying?

A young adult's behavior is primarily motivated by a desire to meet his or her basic need for recognition, attention, and approval. In a survey conducted in 1999, students in over 100 schools were asked the following question: "Is it easier for you to get noticed or get attention in this school by doing something positive or something negative?" Almost 100% replied "negative."[2] Adolescents turn to cyberbullying to fuel their need for attention and recognition from their peers. It began primarily in chat rooms and instant messaging conversations, but has expanded to include social networking web sites (Facebook and MySpace) and video-sharing web sites (YouTube). Text messaging and anonymous web postings are common methods of cyberbullying. Very recently, cyberbullying has established a presence in portable gaming devices through "virtual worlds" and interactive sites.

Cyberbullying is more attractive than traditional bullying for a variety of reasons. First, technology provides the perpetrator with the option of anonymity. Victims often do not know who is targeting them because the bully is able to hide his or her identity through anonymous web posts or fictitious e-mails. Secondly, bullies are able to expand the scope of their impact because a larger network of individuals may be involved in the cyber-attack. With just a few mouse clicks, an entire community may be a participant in the incident, creating the perception that "everyone" knows about it. Many argue that it is psychologically easier to be a cyberbully than a traditional bully. A cyberbully does not have to physically confront the victim and witness the immediate result of a message. Some cyberbullies might not even recognize the severity of their actions, which take place from a different location. Lastly, the response to cyberbullying has been slow, suggesting to perpetrators that there are little or no consequences for malicious online actions.

Why Is Cyberbullying a Major Issue?

Today's youth are "wired" and connected to technology 24/7. Statistics suggest that "two-thirds of [American] youth go online every day for school work, to keep in touch with their friends, to play games, to learn about celebrities, to share their digital creations, or for many other reasons."[3] Given the accessibility of technology, it should be no surprise that individuals are using the Internet, cell phones, and other electronic instruments to bully each other. A 2010 study revealed that "30% of middle school students were victims of at least one of nine forms of cyber bullying two or more times in the past 30 days" and "22% of middle school students admitted to engaging in at least one of five forms of cyber bullying two or more times in the past 30 days."[4] Females are more likely to choose cyberbullying over traditional bullying. The rationale is that females prefer the nonconfrontational nature of technology.

With such a large percentage of today's youth affected by cyberbullying, something has to be done. Cyberbullying is damaging to the self-esteem of the victims. Typically beginning around middle school, self-perception begins to dictate a child's sense of self-worth. Teenagers often feel that they are defined by "their erupting skin and morphing bodies, [and] many seventh-grade students have a hard enough time just walking through the school doors. When dozens of kids vote online, which is not uncommon, about whether a student is fat or stupid or gay, the impact can be devastating."[5] Victims of cyberbullying typically report feeling angry, frustrated, sad, embarrassed, and scared.

An adolescent's self-esteem can dramatically decrease during puberty. In one survey, when kids in kindergarten were asked if they like themselves, 95% or more said "yes." By fourth grade, the percentage of kids who reported liking themselves was down to 60%; by eighth grade the percentage was down to 40%; and by twelfth grade it was down to 5%.

Meet the Victims

Phoebe Prince. On January 14, 2010, Phoebe Prince was found dead in her South Hadley, Massachusetts home. Phoebe was 15 years old and a recent immigrant from Ireland attending South Hadley High School. As a freshman in high school, she had a romantic fling with a senior football player, upsetting the other girls at her school. They tormented her relentlessly, calling her a "slut." They even followed her home one day, throwing things at her from their moving car.

Phoebe took her own life when the intimidation became too much. She was found dead by her 12-year-old sister.

Immediately following the death of Phoebe Prince, the girls who bullied her mocked her death on the Internet. It was confirmed that Phoebe had been a victim of both cyberbullying and daily physical abuse. Many students reported to school officials that Phoebe was the victim of harassment via social networking sites like Facebook and text messages. Two students of South Hadley High School were later suspended as a result. Principal Daniel Smith observed that "the bullying often surrounded arguments about teen dating."[7] Even in her death, a Facebook page created in her memory contained cruel messages posted by bullies.

Megan Meier. Another high-profile case was that of Megan Meier, a 13-year-old girl whose suicide was the result of cyberbullying. In October 2006, Tina and Ron Meier found their daughter's body in a bedroom closet. Megan had hanged herself. A few weeks earlier, Megan established a relationship with a boy using the social networking site MySpace. Megan and the boy, "Josh Evans"—later discovered to be a fake cover name for another (others) to use as Megan's cyberbullies, quickly formed an online relationship. The catch, as noted: Josh Evans was not a real person. Evans claimed to be a 16-year-old boy who lived in a nearby town but was homeschooled. There were several red flags to suggest that Josh Evans did not exist, but to Megan Meier, an already insecure teenager on medication for depression, the boy seemed very real. The so-called Josh even told Megan that he did not have a phone, restricting him to virtual communication.

Megan's online relationship with Josh then took a turn for the worse. Megan received a message from Josh on MySpace saying, "I don't know if I want to be friends with you any longer because I hear you're not nice to your friends." A bully was using Josh's account to send cruel messages. Megan called her mother, describing electronic bulletins posted about her saying things like "Megan Meier is a slut. Megan Meier is fat."[8] Megan had an existing history of depression, and these messages were a crushing blow to her self-esteem. The stress of the situation was too much for Megan, and she took her own life shortly after these messages were posted.

The person orchestrating Josh Evan's fictitious account was actually a neighborhood mother. Lori Drew, aged 47 at the time of Megan's death, was the mother of one of Megan's former friends. Lori Drew knew that Megan had been prescribed antidepressants but still used the fraudulent identity to torment Megan. Drew's reasoning was that Megan had been mean to her daughter and needed to be taught a lesson. This highly unusual case went to trial in November 2008, and Drew was found guilty of three misdemeanors. She did not serve any jail time.

The Beverly Vista School. In May of 2008, Evan S. Cohen confronted the Beverly Vista School in Beverly Hills, California, for disciplining his eighth-grade daughter, J. C. Cohen for cyberbullying. J. C. had videoed friends at a café egging another eighth-grade girl. In the video, J. C. and her friends make mean-spirited comments toward the victim, calling her "ugly," "spoiled," and a "slut." When the video surfaced online, the Beverly Vista School suspended J. C. for two days, along with her accomplices.

Mr. Cohen, a lawyer in the music industry, sued the school on behalf of his daughter. "What incensed me," he said, "was that these people were going to suspend my daughter for something that happened outside of school."[9] The legal test was whether or not the video had caused the school "substantial" disruption. According to the law, a student can only be suspended when his or her speech interferes "substantially" with the school's educational mission. The judge ruled in favor of Cohen, and the school district was required to pay Cohen's legal expenses amounting to $107,150.80.[10] "The Judge also threw in an aside that summarizes the conundrum that is adolescent development, acceptable civility and school authority. The good intentions of the school notwithstanding, he wrote, it cannot discipline a student for speech, simply because young persons are unpredictable or immature, or because, in general, teenagers are emotionally fragile and may often fight over hurtful comments."[11]

No case involving student online speech has yet been brought before the Supreme Court. Lower courts have ruled both ways, sometimes siding with schools disciplining their students and other times siding with the individual perpetrator.

Legislation for Cyberbullying

In response to these and other cases, the Federal government has taken steps to prevent and to manage cyberbullying, including the drafting of the Megan Meier Cyberbullying Prevention Act (H.R. 1966). This bill proposes that Chapter 41 of Title 18 of the United States Code (related to extortion and threats) be amended to define cyberbullying and related penalties. According to the Act, cyberbullying is not limited to social-networking web sites but also includes e-mail, instant messaging, blogs, web sites, telephones, and text messages. "The bill would amend the federal criminal code to impose criminal penalties on anyone who transmits in interstate or foreign commerce a communication intended to coerce, intimidate, harass, or cause substantial emotional distress to another person, using electronic means to support severe, repeated, and hostile behavior."[12]

The Megan Meier bill was introduced to the House of Representatives on April 2, 2009. It was referred to two subcommittees–the House Judiciary Committee and the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security. The last action was on September 30, 2009, when subcommittee hearings were held. The bill has not become law. It was a part of a previous session of Congress and must be reintroduced in order to be reconsidered for law.

State governments are also considering laws against cyberbullying. On May 3, 2010, Governor Deval Patrick signed new antibullying legislation that places greater responsibility on schools to intervene in bullying situations. "Bullying, as defined by the bill, encompasses crimes such as stalking and harassment. The anti-bullying legislation specifically holds provisions for anti-bully training, and mandates that all school employees, including teachers, cafeteria staff, janitorial staff, etc., must report and investigate incidents involving bullying. Teachers must also notify all parents of the students involved in the bullying incident. It also includes an anti-bullying curriculum to be taught in both public and private schools."[13]

Although a step in the right direction, the bill does not assign specific penalties to those who do not intervene in instances of bullying. Following the bill's implementation, bullying continues to be a major issue in Massachusetts schools.

On February 13, 2013, Illinois State Senate representative Ira I. Silverstein introduced the Internet Posting Removal Act–SB 1614. When you read the bill solely through cyberbullying-prevention lenses, it makes sense. But what happens when politicians start using the statute to silence critics? Precise language is a must when it comes to laws; loose lips sink ships and loose language can annihilate freedoms.

The Impact of Facebook and MySpace

The growth of social networking web sites such as Facebook and MySpace in the past decade has contributed to the prevalence of cyberbullying. Both social-networking giants have experience in dealing with cyberbullying. Facebook and MySpace have accessible help centers that provide postings and suggestions on how users can fight back against cyberbullying.

Facebook gives users the responsibility to manage cyberbullying. On Facebook's Help Menu, advisory information is available for teens and parents regarding how to handle cyberbullying. Facebook provides a mechanism for users to report abusive behavior by another user. After the abuse is reported, Facebook investigates the behavior. Facebook also gives users the ability to block specific individuals and restrict privacy settings. There are comprehensive instructions on Facebook's web site to make online safety as user-friendly as possible.

Facebook also encourages users to avoid retaliation, recommending that victims block or report abusers rather than respond via "inbox, wall posting, or Facebook Chat." A section of Facebook's Help Center is dedicated to educating parents about ways to protect their teens from cyberbullying. This page emphasizes the need for communication among parents and teens regarding expectations and the use of common sense. Though Facebook cannot prevent and monitor every issue of online harassment, the company recognizes that cyberbullying is an issue and is doing what it can to empower users.

MySpace, another social-networking leader, recognizes the negative consequences of cyberbullying and has similar content to help its users. MySpace users have the ability to "block" individuals and report instances of harassment. MySpace has a zero tolerance policy for hate speech, harassment, and cyberbullying, and pledges to do its best to respond to reported situations within 48 hours.[14] Parents have the power to delete the contents of their son's or daughter's MySpace page. The web site also provides safety tips for teens and parents, including links to more resources and safety videos.

MySpace has developed a team of specialists to assist parents with inquiries regarding their teens' profiles. The Parent Care Team must be initiated for review by a parent and can perform actions other than simply deleting a teen's profile.

For instance, the Parent Care Team can lock (i.e., fix in place as unchangeable) the age on a teen's profile and answer any questions that a parent may have about their teen's MySpace page. This service is available via e-mail and detailed instructions are available.

Although Facebook and MySpace have taken steps to prevent cyberbullying on their respective web sites, these efforts are not enough. Cyberbullying is still a major issue on social-networking sites and on other forms of media and communication. To push forward to a solution, questions must be raised about who should be held accountable in instances of cyberbullying.

Conclusion

Cyberbullying is a real issue that deserves recognition. We should be educating adolescents about the potentially damaging effects of their actions, responding to incidents, and holding the appropriate people accountable in instances of cyberbullying. All stakeholders in cyberbullying should take this issue very seriously. Cyberbullying can have an incredibly harmful effect on adolescents if nobody intervenes. Teenagers, parents, schools, and the government especially, have a moral responsibility to take action when they come across cyberbullying. From an ethical perspective, we can no longer be bystanders. Take a stand against cyberbullying.

Questions for Discussion

1. Have you or someone you know ever been involved in cyberbullying, as a bully or victim? If so, what are the feelings and effects associated with cyberbullying in the situations with which you are familiar?
2. What are the issues with cyberbullying? Explain.
3. Who are the stakeholders in cyberbullying cases and what are the stakes for them?
4. Who is ethically responsible for the rise and continuance of cyberbullying?
5. Should social-networking sites be censored in an effort to stop cyberbullying? Explain.
6. Is it legal and ethical to censor social-networking sites to stop cyberbullying? Explain.
7. What is Congress doing about this situation?

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