TABLE OF CONTENTS

This page is left blank purposely.

CORRELATES OF ETHICAL INTENTIONS: A CRITICAL REVIEW OF EMPIRICAL LITERATURE AND SUGGESTIONS FOR FUTURE RESEARCH

Priya Nair Rajeev
Centre for Business Ethics and Corporate Governance
Loyola Institute of Business Administration, Chennai, India

Introduction

Research efforts have continually been focused on the triggers behind (un)/ethical conduct and the cognitive processes individuals use while evaluating dilemmas in order to ascertain why individuals behave unethically in workplaces. These efforts have mainly focused on examining individual characteristics ("bad apples"), moral issues ("bad cases"), and the organizational environment ("bad barrel") as antecedents of unethical choices (Kish-Gephart et al., 2010). In an attempt to comprehend the complexities of ethical decision-making, this paper reviews literature on a few key constructs used in explaining ethical decision-making, its various antecedents and consequents. Three categories of factors are looked at: individual antecedents, organizational context and the influence of the external environment on ethical intentions for the purpose of developing a coherent and integrated portrait of work done and identifying directions for further research.

Individual Factors

Individual characteristics are of central importance in understanding the level of ethical sensitivity, method of evaluation, ethical intention and finally the action of an individual. Among the several individual variables identified are age, religious beliefs, and gender (Hegarty & Simms, 1978). The level of an individual's moral maturity has also been found to be important (Kohlberg, 1969; Rest, 1986) as has been an individual's ego strength (Treviño, 1986). Another significant personal attribute is field dependence or the extent to an individual relies on referent others for direction and guidance when faced with an ethical dilemma (Treviño, 1986). Additional factors that have been studied are:

Internal or External Locus of Control

Internal or external locus of control has been studied as a contributor to decision-making (Forte, 2004). Individuals with an external locus of control believe ethical dilemmas are beyond their control, while those with an internal locus believe that they can control the things around them and hence are willing to take responsibility for their behavior (Treviño, 1986). Research shows that those with an internal locus of control will take action to settle ethical dilemmas and resist social pressure to perform unethical acts (Singhapakdi & Vitell, 1991; Treviño & Youngblood, 1990). Individuals with an internal locus of control have been seen as choosing an ethical alternative more often than those who have an external locus of control who succumb to external pressures (Hegarty & Simms, 1978, 1979).

Machiavellianism

Machiavellianism has an interesting relationship with ethical decision-making. Machiavellians are pragmatic, egoistic, and emotionally isolated. As people with this personality trait are hard to persuade and as they favor achievements regardless of means, it is predicted that persons with higher level of Machiavellianism tend to ground moral judgment on efficiency and value, overall utility over ethics (Giacalone & Knouse, 1990; Hegarty & Sims, 1978, 1979). Singhapakdi and Vitell (1999) found that more Machiavellian managers tended to perceive ethical problems as less serious and were less likely to take corrective action, thus relating Machiavellianism to both low ethical sensitivity and unethical behavior.

Achievement-orientation

Achievement- orientation influenced ethical intentions and behavior as it has been observed that people with a high sense of achievement tended to care more about their job position, designation and power at work. An achievement orientated personality will place his/her interest ahead of ethics when a conflict arises. Aronson and Metee (1968) in their cognitive consistency theory have suggested that ethical behavior is more consistent with a self-perception of high worth. Individuals with confidence in their personal competence exhibited by high self-efficacy would believe they can succeed without using unethical means. General self-efficacy (Bandura, 1977; Schwarzer, 1992) has been identified as an important constituent of ethical behavior. Self-efficacy – a person's perceived control over an event–positively impacts ethical behavior. Jensen and Steven (1990) hypothesized a person's self-efficacy as relating to his ethical behavior in their developmental self-valuing theory. They suggest that people with a low sense of self-efficacy, or self-confidence, may not pursue an ethical course of action which can bring about positive outcomes, if they do not believe that they can do it.

While Beu et al. (2003) deliberated on how hostility and aggression influenced responses to ethical dilemmas; research has shown that individuals with a Type A personality engage in more unethical acts than Type B individuals (Buckley et al., 1998; Perry et al., 1990). This is because a Type A person is typically involved in an aggressive, chronic, incessant struggle to achieve more and more in less and less time and hence would, if required go against the efforts of other people (Friedman & Rosenman, 1974).

Emotions in Ethical Decision–Making

Another avenue that has attracted research interest is the role of emotions in ethical decision-making. Gaudine and Thorne (2001) developed a conceptual model that suggests how individuals experiencing arousal and positive affect resolve ethical dilemmas in a manner consistent with more sophisticated cognitive moral structures. Connelly et al. (2004) undertook an in-basket study of trait emotions (positive and negative) on ethical choices and found active emotions (both positive and negative) to be more strongly related to personally directed ethical choices than to organizationally directed ones. Additionally, passive emotions were less related to ethical choices when compared to active emotions. The drawback of their study is the fact that instead of measuring felt emotion and its impact on ethical choices they actually measure propensity to experience a particular emotion.

Skoe et al. (2002) focused on feelings of individuals while they made an ethical decision to find that important and difficult dilemmas generated greater emotion. Additionally, dilemmas involving significant relationships generated more emotion than weak and impersonal issues and finally emotions were differentially associated with the adoption of care-related as against justice-related moral reasoning.

Additional proof of the role of emotions in ethical decision-making came with Robertson et al. (2007) presenting Executive MBA students with story segments, some of which had moral content, while others had none, based on marketing ethics scenarios developed by Sparks and Hunt (1998). During the study, participants were asked to indicate (by pressing on a button) whether they were able to "identify an important point or issue" in the story. Data from the neuro-images indicated that parts of the brain registered higher levels of activation when the participants responded to a moral scenario than when they responded to a non-moral or neutral scenario. With respect to ethical behavior, results from neuro-ethics studies that used imaging techniques (to capture the changes in the brain during decision-making) report results consistent with findings from case studies and behavioral experiments. For instance, the brain circuit involving the amygdala and the ventromedial prefrontal cortex was activated to a greater extent when participants acted in an ethically appropriate way, whether it was being compassionate towards an injured individual or aggressive towards a violent assailant in a virtual simulation (King et al., 2006). It can therefore be concluded that the brain processes underlying ethical decision-making appear to be distinct from those underlying other forms of thinking. Ethical decision-making also entails more than just conscious reasoning; it has intuitive and unconscious dimensions. In addition, emotions contribute to ethical decision-making, at least with respect to certain types of moral dilemmas (Salvador & Folger, 2009). While the behavioral consequences of the two emotions of regret and disappointment in terms of ethical decision-making have been proposed (Rajeev & Bhattacharyya, 2007), there is need to test these propositions further.

Gender

Gender and sex role socialization expects females to be dependent, lenient, affectionate, nurturing, respectful, warm, conforming, and obedient, whereas males are expected to be aggressive and independent (Roxas & Stoneback, 2004). As a result, women are more prone to obey the rules of society regardless of the situation, whereas men are more apt to examine the situation in terms of how their actions will affect others and themselves, and may sometimes engage in unethical behavior if the ends appear to justify the means. A number of studies have shown that differences in moral behavior can be partially explained by gender (Bowers, 1964; Buckley et al., 1998; Chonko & Hunt, 1985; Ferrell & Skinner, 1988; Franke et al., 1997; Jones & Gautschi, 1988; McCabe & Treviño, 1997; Ruegger & King, 1992; Whipple & Swords, 1992). Yankelovich (1972) found males and females to have a different moral orientation and claimed women had a greater sense of commitment to doing things for others while men were more pessimistic. Gilligan (1982) expanded further on the difference in moral orientation by gender and suggested that females frame moral questions as problems of care, involving empathy and compassion, while men frame moral questions as problems of justice, rights and fairness. Lyons (1983) and Langdale (1986) continued Gilligan's conceptualization by referring to female orientation as a "care orientation" while males are cited as having "justice orientation". Betz and O'Connell (1989) hypothesize that men are more concerned with money and advancement while women were most interested in relationships and helping people. Female attitudes and behaviors were found to be different at the workplace due to the different values they held. Borkowski and Ugras (1998) suggest that the moral development of females occurs in a different context and through different stages than males and these differences may cause dissimilarities in their ethical judgments.

Research has been inconclusive on the impact of gender differences in moral development or levels of ethical sensitivity. McCuddy and Perry (1996), based on a collective look at prior research argue that there is probably only a trivial relationship between gender and ethical attitudes. While Matlin (1993) indicated that there is no difference between men and women in moral and ethical responses, Peterson et al. (2001) add that if there are indeed gender differences, the reasons behind such variations are not clear. Sidani et al. (2009) on comparing females to males, found significant differences in ethical sensitivity in only four out of eighteen situations where in all cases females were more sensitive than males to issues of an ethical nature, and concluded that gender differences were not as prevalent as claimed in some earlier research.

Gaps in research: With women increasingly populating management positions in many organizations, it is important to understand whether, and how, they differ from men when facing situations with ethical implications. This enquiry would be of particular interest on account of the fact that while considerable improvement in the status of women has occurred in recent decades, several Asian cultures continue to be characterized by a dominant patriarchal social matrix. Thus, for example, boys are often favored over girls and are offered greater opportunity for education and professional development, a value system that is largely to blame for the growing sex imbalance in the population. Despite social, organizational and personal biases on the progression of professional women, women managers have generally been successful in rising to the executive suite in organizations. These women have been successful because of the interplay of organizational and familial support; coupled with the individual drive for success they have demonstrated (Nath, 2000). It would be interesting to examine the ethical content of decisions made by women professionals.

Age

Investigations linking age to ethics have been mixed although most studies have indicated an increase in ethicality with age. Kohlberg (1984) first suggested that age positively affected moral development with adults continuing to progress upwards on the stages of moral development. Barnett and Karson (1989) found that younger respondents acted less ethically in ethics scenarios compared to older respondents. Borkowski and Ugras (1998) conducted a meta-analysis of thirty-five studies that included age as a factor and concluded that attitudes and behaviors seem to become more ethical as people mature in age. Peterson et al. (2001) found that younger participants had lower ethical standards while Wimalasiri (2001) uncovered significant differences between younger and older participants. Younger Chinese executives were more inclined to engage in unethical or even illicit activities for profit than their older counterparts (Chan et al., 2002). But several studies have failed to find age to be a significant variable in explaining moral judgment (e.g., Cortese, 1989; Ekin & Tezolmez, 1999; Kohut & Corriher, 1994; Stanga & Turpen, 1991) or for moral reasoning (Christie et al., 2003; Forte, 2004). Sidani et al. (2009) found age better explained differences in sensitivity to business ethics and awareness of unethical business among men but found no significant difference among women.

Roman and Munuera (2005) offer several explanations on why older employees may be more ethical than younger salespeople for several reasons. First, as age increases, subjects have displayed more conservative and strict ethical tendencies and hold less compromising interpretations of what is to be judged ethical (Sikula & Costa, 1994). Second, ethical decision-making and intended ethical behavior, in general, increases as individuals move from lower levels to higher levels of moral reasoning (Wotruba, 1990) and moral reasoning has been directly linked to age (Rest, 1986). Third, older people would have been exposed longer to ethical dilemmas in non-business contexts (Izzo, 2000); therefore they are more willing to accept and conform to ethical standards and behave accordingly (Serwinek, 1992).

Gaps in research: India is one of the youngest countries in the world with 60 percent of its population less than 24 years of age (A. T. Kearney's Global Retail Opportunity Report, 2007). So India stands to gain from this 'youth bulge' which has created not only a huge potential for retail but also a value-creating workforce. The working population of the country is expected to grow by more than 47 million by 2020. This presents a great opportunity, but one that can be capitalized only if the capabilities of youth are harnessed properly. In this context, the values that young individuals hold and the organizational environments they are socialized into assume a lot of significance. There is therefore a need to examine differences if any in attitudes and intentions between the younger and older, more experienced employees.

Education

Education has been hypothesized as having a positive influence on ethical behavior. First, it can be argued that the educational process is designed to foster critical thinking and the ability to view a situation from multiple perspectives (Levy & Sharma, 1994). In this context, previous research has found education to be positively related to moral judgment (Rest, 1986; Rest & Thoma, 1985). Similarly, the effect of education on ethical behavior can be supported by Kohlberg's (1969) typology. Education is believed to result in greater sensitivity to different points of view and linked to a person's stage of cognitive moral development (Singhapakdi et al., 1999). A second possible link is the normative view that the core of education itself is virtue or right conduct (Hogness, 1986; Howard, 1986). As Roman and Munuera (2005) suggest, if knowledge is virtue, then education must ennoble individuals and the more educated ought to be more virtuous.

Gaps in research: Developing countries like India are making significant advances in human capital with millions of college graduates and professionals who man companies in both manufacturing and service sectors. With an increase in the level of education of the workforce, it would be interesting to examine whether this advancement is translated into an improvement in decision-making specifically in terms of the ethical content of decisions and actions. Has education brought about better awareness and ethical sensitivity and a resolve to be upright is a subject needs to be investigated.

Organizational Context Factors

The organizational context in which an individual operates has many facets. For instance, the organizational culture comprises of shared norms, values, and expectations (Deal & Kennedy, 1999; Schein, 2004) as well as formal codes of ethics that may influence ethical choices (McCabe et al., 1996). The ethical climate made up of the ethicality of the boss or leader, peer pressure and management expectations can influence an individual’s judgment (Jones, 1985; Sheidahl, 1986; Stead et al., 1990). In addition, organizational pressures surface in the form of expectations of employee obedience to authority and on whom the responsibility for consequences rests. From an Agency Perspective for instance, responsibility ultimately rests with the executive leadership which also sets the tone of an organization’s ethical culture (Treviño & Weaver, 2003; Vitell & Festervand, 1987; Weaver & Treviño, 1999). Competition for scarce resources among employees (Treviño, 1986), pressure to perform and the nature of performance and reward management system have been found to persuade action along ethically dubious courses. Incentives especially can sometimes motivate unethical actions by managers who are under pressure to meet deadlines or financial goals (Carson, 2003; Hunt & Vasquez-Parraga, 1993; Treviño & Weaver, 2003).

Gaps in research: There is relatively less research on the extent to which performance targets exert pressure to perform and how this in turn impacts ethical decision-making. The size of the growing Asian market and their integration with the global economy has made expansion critical for many companies. The impact of this growth on employee performance targets and expectations and ultimately on ethical behavior need study.

Organizational Ethics

Pimentel et al. (2010) in their model provide a comprehensive and simultaneous assessment of the interplay between individual-level variables (e.g. demographic variables, position in the organization), the structure and climate of the organization in which the decisions are made, and the socio-political features of the business environment. They present a decision-making model that can be used to examine ethical decisions in business settings, to investigate potential differences in decision-making accuracy and ethical reasoning between groups and individuals, and can be deployed to examine the impact of changing ethical climates on organizational strategy.

One of their main arguments is centered on the role and significance of organizational ethics. They suggest that the role of compliance to existing codes of conduct and the emphasis on building individual capacity for adequate moral agency constitute the two prevailing paradigms of ethics management in organizations (Maclagan, 2007). The first paradigm highlights the need to put ethics into operation so as to ensure conformity to endorsed practices and standards (Graaf, 2006). The second paradigm presumes that individuals are capable of making autonomous and rational ethical decisions when provided with an adequate array of options and information (Freeman & Francis, 2006). Pimentel et al. (2010) ponder over dilemmas and finally weigh solutions in a context-dependent manner especially as research suggests that managerial responses to ethical decisions are influenced by the ethical stance of the organization (Jones et al., 2007).

Role of Ethical Leadership

Integrating leader behaviors' with organizational values and vision helps create a consistent, coherent, and effective ethical climate. An effective ethical climate is imperative in conveying an accurate shared perception of the manner in which ethical issues are expected to be handled in an organization (Dickson et al., 2001). Ethical leadership will be able to promote value alignment between the organization and its constituents - contributing a third ethics management paradigm: value-based ethics. Value-based ethics ensures that multiple organizational members have responsibility for making ethical decisions based on knowledge and internalization of organizational values (Collier & Esteban, 2007). Such a culture place emphasis on the positive outcomes of ethical decisions for individuals, organization, and society, and relies on the integration of organizational systems (e.g. training and performance appraisal) with strong ethical leadership to promote internalization of ethical values among employees and enactment of desired ethical behaviors by them.

From this emerges the critical issue of the role of leaders in value-structuring and ensuring participation in decision-making while furthering norms that support corporate ethics. A positive perception of leaders' ethical conduct among employees is pivotal to the creation of an ethical climate that represents the organization's mission and values (Brown, 2007). This being so, the investigation of leader characteristics and behaviors in relation to organizational values and practices is imperative to better understand the materialization of an organization's ethical climate. Recent research has focused on the topic of ethical leadership and the categorization of ethical leadership behaviors (e.g. Brown et al., 2005; Brown, 2007). Ethical leadership therefore describes how a leader can demonstrate normatively appropriate conduct through personal actions and interpersonal relationships, and consequently encourage ethical conduct among followers by way of two-way communication, reinforcement, and decision-making (Brown et al., 2005).

Researchers have already investigated several leader characteristics (Turner et al., 2002; Weaver et al., 2005) and espoused practices (Burke, 1999; Fuqua & Newman, 2006) that help foster an ethical climate.

Weaver et al.'s (2005) qualitative research findings on the leadership characteristics relevant to ethical role modeling identified a set of behaviors such as support for others, honesty, holding oneself accountable for outcomes and decisions, fairness to others, and ability to articulate personal and organizational ethical standards.

Gaps in research: Search for literature has not come across substantive research on the experiences of Indian employees and the perceptions they hold about the integrity of their bosses though literature on the topic is plentiful in the West. Also the fallout of unethical leader behavior on subordinates warrants attention.

Organizational Characteristics

The extent to which leaders display ethical behaviors will depend on certain organizational characteristics such as the existence of structures that facilitate frequent interactions with their subordinates (Weaver et al., 2005). For instance, the extent to which leadership behaviors are considered normatively appropriate will depend upon the organization's culture, the industry it belongs to, legal considerations, and the larger socio-cultural setting in which the business operates. Ethical leadership requires that specific structural and functional arrangements are in place in the organization to ensure their effectiveness. These include the systemic implementation of ethical codes to facilitate leaders' integration of strategic plans with organizational principles, and the formal assignment of ethical responsibility to individuals and groups based on established codes of conduct to enable corrective action and finally authority to the leader to reward ethical behavior (Fuqua & Newman, 2006).

Gaps in research: There is a benefit in examining if organizational systems and structure can encourage and support ethical leadership so as to arrive at ways of redesigning them for creating a value-based culture.

Role of Peers as Influences on Ethical Behavior

Another dimension that has gained currency as an input into ethical decision-making is the role of peers as influences on ethical behavior (Fritzsche, 1991). This involves taking into account the extent to which members of a group or employees in an organization associate with each other. Zey-Ferrell et al. (1979) and Zey-Ferrell and Ferrell (1982) cited behavior of peers to be an important influence on employees. Their finding led to invoking Sutherland and Cressey's (1970) Differential Association theory as a partial explanation of ethical behavior. This theory posits that an individual tends to adopt and learn behaviors from people he associates with depending on the ratio of contract with those people.

Social learning theory (Bandura, 1986) suggests that a lot of human behavior is learned through the influence of examples and that people do not need to be personally reinforced in order to learn. In fact, most of what we learn is learnt through vicarious processes. Individuals observe others' behavior as well as the outcomes of that behavior. As such, observing peers being unethical and yet be successful at work would naturally increase the tendency of the observer to behave similarly. Peer behavior also provides normative support for cheating — when peers are seen cheating, cheating may come to be viewed as an acceptable way of behaving and of getting ahead (McCabe & Treviño, 1993). It is also possible that observing peers cheating provides license to cheat or even creates competitive pressure to do so. This may happen if the peers who are found committing ethical infractions are seen as being tacitly supported by their bosses or at least not being pulled up. McCabe et al. (2006) found that observed peer behavior was the most important of influences studied for graduate students—even more influential than deterrence-based factors such as the perceived certainty of being reported and the perceived severity of penalties. On the other hand, it has been observed that when students see their peers taking pledges of personal integrity, educating other students about the importance of academic integrity, and behaving honestly, then cheating was likely to decrease.

Gaps in research: An additional research question would be the generalizability of this inference in a work context especially since employees being older and possibly more mature are less likely to be influenced by peer pressure.

Decision History

Social learning theories also suggest that past decisions impacts future decision-making (Stead et al., 1990). They state that when a particular decision is reinforced, it is bound to influence the decision-making pattern of the individual in future. Thus, if an ethical decision is applauded and appreciated, then the individual would continue to be ethical as that behavior has been reinforced. Over a period of time, the individual develops an ethical decision history making his/her ethical behavior relatively enduring. The uniqueness of ethical decision history lies in the fact that it is both situational on account of being reinforced by the organization as well as individual as it impacts the person's value system and distinctive behavior.

It is a well known management principle that if we desire a certain behavior then we ought to reinforce it. An organization's reinforcement systems hugely influence ethical decision-making. The reinforcement mechanism including the appraisal and performance and reward management systems must identify, appreciate and reward ethical behavior if the organization intends to nurture an ethical climate. Hegarty and Sims (1978, 1979), Worrell et al. (1985) and Treviño (1986) strongly suggest that modifying the performance and reward management system is an effective measure for ensuring ethical behavior. Unfortunately, reward systems implemented by senior management have also been found to encourage subordinates to act unethically, to comply or even cover up management malfeasance (Jones, 1991).

Gaps in research: Firstly, the linkage between organizational reinforcement mechanism and the development of a decision history offers an interesting area of research. Secondly, many companies today use the forced ranking system of performance evaluation. Yet, little study has gone into the ramifications of this system on employee job satisfaction, perceptions of fairness in appraisal and ultimately ethical behavior.

Dimensions of a Job

Stead et al. (1990) recognize dimensions of a job as an important influence on a job incumbent's proneness to misconduct. The more centrally located a job in the communication network of an organization, the more likely is behavior of the incumbent to be ethical (Treviño, 1986). Jobs that involve interface with other agencies and organizations offer greater opportunity for misconduct (Vitell & Festervand, 1987) than jobs that are purely internal. It has further been suggested that organizations generally tend to be more lenient with employees with higher technical skills as they are in short supply and need to be retained when compared to less competent and replaceable ones (Rosen & Adams, 1974).

Gaps in research: The impact of leniency in punishing high performers and those with higher technical skills on other employees as well as the larger ethical culture of the organization needs study.

Ethical Climate

Another significant aspect of organizational context that is reviewed is the strength of an organizations ethical climate and its influence on ethical decisions of employees. Bartels et al. (1998) carried out a study examining the relationship between the strength of an organization's ethical climate and the problems with its human resource management. Two different dimensions of ethical climate were taken into account: its strength and its direction. The direction is determined through Victor and Cullen's Ethical Climate Questionnaire while strength of the organization's ethical climate was determined by how much control it had over its employees, i.e. how strongly employees were attached to organizational norms. Strong ethical climates clearly communicate expected behavior and send unambiguous messages about what kind of behaviors are expected and the rewards and punishments that will be used for reinforcement. Such clarity helps employees choose appropriate behaviors when faced with a dilemma, strengthens the ethical climate and ultimately is likely to be more successful in dealing with ethical issues.

Gaps in research: Future research needs to examine the implications of unclear and ambiguous communication of expectations to employees as well as the ramifications of a mixed communication reaching employees in the form of formal codes of behavior accompanied by absence of punishments for unethical behavior. Such ambiguity is bound to confuse employees and how they would then resolve ethical dilemmas needs to be investigated.

Ethical Codes of Conduct

One of the most prominent ways in which ethical conduct is guided and supported by organizations is through formal Ethical Codes of Conduct**.** Building an ethical organization requires a proactive strategy that aims at institutionalizing ethical behavior by evolving, implementing and internalizing ethical codes of conduct and nurturing an ethical culture to sustain it. An ethical code is a distinct and formal document containing a set of prescriptions developed by and for a company to guide present and future behavior of its managers and employees toward one another, the company, the external stakeholders and /or society in general (Kaptein & Schwartz, 2008) with the purpose of removing ethical ambiguity and providing clear direction for ethical conduct.

Gaps in research: Whether formal ethical codes of conduct by themselves are able to offer clarity in the direction in which a dilemma is to be resolved is open to question. Hardly any research has been devoted to answering this question in India, though several organizations have gone ahead and implemented an ethical code of conduct with gusto.

Influence of the External Environment

Some situational variables that exist outside the organization too can influence ethical behavior of employees. For instance, cross-cultural studies have revealed how differences in societal norms can lead to different ethical practices and decisions (Donaldson & Dumfee, 1999; Sims & Gegez, 2004). Further, a country's legal system and political institutions together make up the environmental influence individuals face while taking difficult decisions. An equally impactful set of external forces facing corporate managers are industry norms and professional codes of conduct. Professional codes are created to give guidance to decision makers facing ethical problems act as deterrents to unethical decisions (Bommer et al., 1987). Personal and family obligations also exist outside the organization and are idiosyncratic to each individual. Their impact on an individual's behavior within an organizational setting can be a powerful motivator for ethical behavior (McDevitt & Van Hise, 2002).

Competitive economic factors are significant in their impact on business decision-making. Such factors can create environmental uncertainty that may lead to unethical business decisions (Morris & McDonald, 1995). Shleifer (2004) using examples of five activities: employment of children, corruption, excessive executive pay, corporate earnings manipulation, and involvement of universities in commercial activities shows that unethical behavior is often a consequence of market competition.

Gaps in research: Excessive executive pay, corporate earnings manipulation could probably be more prevalent in private companies. A comparison of how private and public sector enterprises deal with completion could throw additional light on the impact of competition on ethical behavior of their employees.

This review of empirical literature bases itself on the descriptive model of business ethics focusing on an examination of ethical intentions of managers with a thrust on understanding the role of individual attributes, organizational contexts as well as ethical codes of conduct evolved in organizations that facilitate or impede ethical judgment and ultimately ethical choices. As highlighted in the review, the potential for unethical behavior in business lies everywhere: in individuals, in certain organizational contexts as well as connected to specific issues. It is hoped that the gaps identified will be taken up for further study and improve our understanding of the complex and corrosive phenomenon of immoral business conduct.

References

A.T. Kearney's Global Retail Opportunity Report. (2007). http://www.atkearney.com/images/global/pdf/GRDI_2007.pdf

Aronson, E., & Mettee, D. R. (1968). Dishonest behaviour as a function of differential levels of induced self-esteem. *Journal of Personality, 9,* 121-127.

Bandura, A. (1977). *Social learning theory*. New York: General Learning Press.

Bandura, A. (1986). *Social foundations of thought and action*. Englewood Cliffs, NJ: Prentice-Hall.

Barnett, John H., & Marvin, J. Karson. (1989). Managers, values, and executive decisions: An exploration of the role of gender, career stage, organizational level, function, and the importance of ethics, relationships and results in managerial decision-making. *Journal of Business Ethics*, *8*(10), 747-774.

Bartels, L. K., Harrick, E., Martell, K., & Strickland, D. (1998). The relationship between ethical climate and ethical problems within human resource management. *Journal of Business Ethics, 17*(7), 799-804.

Betz, M., & O'Connell, L. (1989). Work orientations of males and females: Exploring the gender socialization approach. *Sociological Inquiry*, *59,* 318-339.

Beu, D.S., Buckley, M.R., & Harvey, M.G. (2003). Ethical decision-making: A multidimensional construct. *Business Ethics: A European Review, 12,* 88-107.

Bommer, M., Gratto, C., Gravander, J., & Tuttle, M. (1987). A behavioral model of ethical and unethical decision-making. *Journal of Business Ethics*, *6,* 265-280.

Borkowski, S. C., & Y. J. Ugras. (1998). Business students and ethics: A meta-analysis. *Journal of Business Ethics*, *17,* 1117-1127.

Bowers, W. J. (1964). *Student dishonesty and its control in college*. New York: Bureau of Applied Social Research, Columbia University.

Brown, M., Treviño, L. K., & Harrison, D. (2005). Ethical leadership: A social learning perspective for construct development and testing. *Organizational Behavior and Human Decision Processes*, *97,* 117-134.

Brown, W. A. (2007). Board development practices and competent board members: Implications for performance. *Non-profit Management and Leadership*, *17,* 301-317.

Buckley, M., D. Wiese & M. Harvey. (1998). An investigation into the dimensions of unethical behavior. *Journal of Education for Business*, *73*(5*)*, 284-290.

Burke, F. (1999). Ethical decision-making: global concerns, frameworks, and approaches. *Public Personnel Management*, *28*(4), 529-540.

Carson, T. L. (2003). Self-interest and business ethics: Some lessons of the recent corporate scandals. *Journal of Business Ethics*, *43*(4), 389–394.

Chan, R. Y. K., Cheng, L. T. W., & Szeto, R. W. F. (2002). The dynamics of Guanxi and ethics for Chinese executives. *Journal of Business Ethics*, *41,* 327-336.

Chonko, Lawrence B. & Shelby D. Hunt. (1985). Ethics and marketing management: An empirical examination. *Journal of Business Research*, 13*(August)*, 339-359.

Christie, P. M. J., Kwon, I. G., Stoeberl, P. A. & Baumhart, R. (2003). A cross-cultural comparison of ethical attitudes of business managers: India, Korea and the United States. J*ournal of Business Ethics, 46*(3), 263-287.

Collier, J. & Esteban, R. (2007). Corporate social responsibility and employee commitment. *Business Ethics: A European Review*, *16*(1), 19-33.

Connelly, S., Helton-Fauth, W., & Mumford, M. D. (2004). A managerial in-basket study of the impact of trait emotions on ethical choice. J*ournal of Business Ethics*, *51,* 245-267.

Cortese, A. (1989). The interpersonal approach to morality: A gender and cultural analysis. *Journal of Social Psychology*, *129,* 429-442.

Deal, T., & Kennedy, A. (1999). *The new corporate cultures*. Cambridge: Perseus Publishing.

Dickson, M. W., Smith, D. B., Grojean, M.W., & Ehrhart, M. (2001). An organizational climate regarding ethics: The outcome of leader values and the practices that reflect them. *The Leadership Quarterly*, *12*(2), 197-217.

Donaldson, T., & Dumfee, T. W. (1999). When ethics travel: The promise and peril of global business ethics. *California Management Review*, *41*(4), 45–64.

Eisenberg, N. (2000). Emotion, regulation, and moral development. *Annual Review of Psychology*, *51,* 665-697.

Ekin, M. G. Serap, & Tezolmez, S. Hande. (1999). Business ethics in Turkey: An empirical investigation with special emphasis on gender. *Journal of Business Ethics*, *18,* 17–34.

Ferrell, O. C., & Skinner, S. J. (1988). Ethical behavior and bureaucratic structure in marketing research organizations. *Journal of Marketing Research*, *25,* 103-109.

Forte, A. (2004). Antecedents of managers' moral reasoning. *Journal of Business Ethics*, *4,* 315-347.

Franke, G. R., Crown, D. F., & Spake, D. F. (1997). Gender differences in ethical perceptions of business practices: A social role theory perspective. *Journal of Applied Psychology*, *82,* 920-934.

Friedman, M., & Rosenman, R. (1974). *Type A behavior and your heart*. New York: Knopf.

Fritzsche, D. J. (1991). A model of decision-making incorporating ethical values. *Journal of Business Ethics*, *10,* 841-852.

Fuqua, D. R., & Newman, J. L. (2006). Moral and ethical issues in human systems. *Consulting Psychology Journal: Practice and Research*, *58*(4), 206–215.

Gaudine, A. & Thorne, L. (2001). Emotion and ethical decision-making in organizations. *Journal of Business Ethics*, *31,* 175-187.

Giacalone, J. R., & Knouse, S. G. (1990). Justifying wrongful employee behavior: The role of personality in organisational sabotage. *Journal of Business Ethics, 9,* 55-61.

Gilligan, C. (1987). *Moral orientation and moral development in women and moral theory*, E. F. Kittay and D. T. Meyers (eds.). New Jersey: Rowman and Littlefield

Graaf, G. (2006). Discourse and descriptive business ethics. *Business Ethics: A European Review*, *15*(3), 246-258.

Hegarty, W. H., & Sims, H.P., Jr. (1978). Some determinants of unethical decision behavior: An experiment. *Journal of Applied Psychology*, *63,* 451-457.

Hegarty, W. H., & Sims, H.P., Jr. (1979). Organizational philosophy, policies, and objectives related to unethical decision behavior: A laboratory experiment. *Journal of Applied Psychology*, 64: 331-338.

Hogness, J.R. (1986). The essence of education: Ethics and morality. *Vital Speeches of the Day*, 52: 561-563.

Howard, J.A. (1986). Higher education and civilization in trouble: Producing a virtuous populace. V*ital Speeches of the Day*, *55,* 314-318.

Hunt, Shelby D., & Arturo Vasquez-Parraga. (1993). Organizational consequences, marketing ethics and sales force supervision. *Journal of Marketing Research, 30(February)*, 78-90.

Izzo, G. (2000). Compulsory ethics education and the cognitive moral development of salespeople: A quasi-experimental assessment. *Journal of Business Ethics*, *28,* 223-241.

Jensen, Larry C., & Wygant, S. A. (1990). The developmental self-valuing theory: A practical approach for business ethics. *Journal of Business Ethics 9*(3)*,* 215-225.

Jones, E. E. (1985). Major developments in social psychology during the past five decades, G. Lindzey and E. Aronson (ed.). *The Handbook of Social Psychology*, 47–107.

Jones, T. M., & Gautschi, F. H. (1988). Will the ethics of business change? A survey of future executives. *Journal of Business Ethics*, *7,* 231-248.

Jones, T. M. (1991). Ethical decision making by individuals in organizations: An issue-contingent model. *Academy of Management Review*, *16,* 366-395.

Jones, T. M., Felps, W. & Bigley, G. A. (2007). Ethical theory and stakeholder-related decisions: the role of stakeholder culture. *Academy of Management Review*, *32(*1),137-55.

Kaptein, M. & Schwartz, M. S. (2008). The effectiveness of business codes: A critical examination of existing studies and the development of an integrated research model. *Journal of Business Ethics*, *77*(2), 111-127.

King, J. A., Blair, R. J., Mitchell, D. G. V., Dolan, R. J., & Burgess, N. (2006). Doing the right thing: A common neural circuit for appropriate violent or compassionate behavior. *Neuro Image*, *30,* 1069–1076.

Kish-Gephart, J. J., Harrison, D.A., & Trevino, L.K. (2010). Bad apples, bad cases, and bad barrels: Meta-analytic evidence about sources of unethical decisions at work. *Journal of Applied Psychology*, *95*(1), 1-31.

Kohlberg, L. (1976). Moralization: The cognitive developmental approach, in morality. *Theory Research and Social Issues*, *7.*

Kohut, G. F., & Corriher, S. E. (1994). The relationship of age, gender, experience and awareness of written ethics policies to business decision making. S*.A.M. Advanced Management Journal*, *59*(1), 32-39.

Langdale, C. J. (1986). A re-vision of structural-developmental theory, in G. Sapp (ed.), *Handbook of Moral Development*. Birmingham, AL: Religious Education Press.

Levy, M., & Sharma, A. (1994). Adaptive selling: The role of gender, age, sales experience and education. *Journal of Business Research*, *31*(1), 39-47.

Lyons, N. P. (1983). Two perspectives: On self, relationships, and morality. *Harvard Educational Review*, *53*(2), 125-145.

Maclagan, P. (2007). Hierarchical control or individuals' moral autonomy? Addressing a fundamental tension in the management of business ethics. *Business Ethics: A European Review, 16,* 48-61.

Matlin, M. (1993). *Women, work and gender stereotypes in the psychology of women*. Fort Worth, TX: Harcourt Brace Jovanovich.

McCabe, D. L. & Trevino, L. K. (1993). Academic dishonesty: Honor codes and other contextual influences. J*ournal of Higher Education*, *64,* 522-538.

McCabe, D. L., & Trevino, L. K. (1997). Individual and contextual influences on academic dishonesty: A multi-campus investigation. *Research in Higher Education*, *38,* 379-396

McCabe, D., Butterfield, K. D., & Treviño, L. K. (2006). Academic dishonesty in graduate business programs: Prevalence, causes, and proposed action. *Academy of Management Learning and Education*, *5,* 294 –305.

McCabe, D.L., Treviño, L.K., & Butterfield, K.D. (1996). The influence of collegiate and corporate codes of conduct on ethics-related behavior in the workplace. *Business Ethics Quarterly*, *6,* 461–476.

McCuddy, M. K., & Peery, B. L. (1996). Selected individual differences and collegians' ethical beliefs. *Journal of Business Ethics, 15*(3), 261—272.

McDevitt, R., & Hise, J. V. (2002). Influences in ethical dilemmas of increasing intensity. *Journal of Business Ethic*, *40*(3), 261—274

Morris, S. A., & McDonald, R. A. (1995). The role of moral intensity in moral judgments: An empirical investigation. *Journal of Business Ethics*, *14,* 715-726.

Nath, G. (2000). Gently shattering the glass ceiling: Experiences of Indian women managers. *Women in Management Review*, *15*(1), 44-52.

Perry, A. R., Kane, K. M., Bernesser, K. J. & Spicker, P. T. (1990). Type A behavior, competitive achievement-striving and cheating among college students. *Psychological Reports*, *66,* 459-465.

Peterson, D., Rhoades, A. & B.C. Vaught. (2001). Ethical beliefs of business professionals: A study of gender, age and external factors. *Journal of Business Ethics*, *31*(3), 225-232.

Pimentel, J.R.C., Kuntz, J., & Elenkov, D. (2010). Ethical decision-making: An integrative model for business practice. *European Business Review: (Special Issue) Business Ethics - Through Time and Across Context, 22*(4), 359-376.

Rajeev, P., & Bhattacharyya, S. (2007). Regret and disappointment: A conceptualization of their role in ethical decision-making. *Vikalpa*, *32*(4), 75-85.

Rest, J. R. (1986). *Moral development: advances in research and theory*. New York: Praeger.

Rest, J. R., & Thoma, S. J. (1985). Moral judgment development and formal education. *Developmental Psychology*, *21,* 709-714.

Robertson, D., Snarey, J., Ousley, O., Harenski, K., Bowman, F. D., Gilkey, R., & Kilts, C. (2007). The neural processing of moral sensitivity to issues of justice and care. *Neuropsychologia*, *45,* 755–66.

Roman, S., & Munuera, J. L. (2005). Determinants and consequences of ethical behaviour: an empirical study of salespeople. *European Journal of Marketing*, *39,* 473-495.

Rosen, B., & Adams, J. S. (1974). Organizational cover-ups: Factors influencing the disciplining of information gatekeepers. *Journal of Applied Psychology*, *4,* 375-384

Roxas, Maria L. & Stoneback, Jane, Y. (2004). The importance of gender across cultures in ethical decision-making. *Journal of Business Ethics*, *50,* 149-165.

Ruegger, D., & King, E. W. (1992). A study of the effect of age and gender upon student business ethics. *Journal of Business Ethics*, *11,* 179-186

Salvador, R., & Folger, R. G. (2009). Organizational forgiveness and punishing ethical misconduct. In R. DeShon and R. Sinha (Co-Chairs), *Injustice and Recovery: Understanding Forgiveness at the Workplace*. Symposium presented at the 24th annual meeting of the Society for Industrial and Organizational Psychology, New Orleans, LA.

Schein, E. H. (2004). *Organizational culture and leadership*. San Francisco, CA: Jossey-Bass.

Schwarzer, R. (Ed.) (1992). *Self-efficacy: Thought control of action*. Washington, DC: Hemisphere.

Serwinek, Paul J. (1992). Demographic and related differences in ethical views among small businesses. *Journal of Business Ethics*, *11,* 555-566

Sheidahl, T. K. (1986). Ethical dilemmas in managerial accounting. *Management Accounting*, *64,* 34–41.

Shleifer, A. (2004). Does competition destroy ethical behavior? *American Economic Review*, *94,* 414–418.

Sidani, Y., Zbib, I., Rawwas, M., & Moussawer, T. (2009). Gender, age, and ethical sensitivity: The case of Lebanese workers. *Gender in Management: An International Journal*, *24*(3), 211-227.

Sikula, A., & Costa, A. D. (1994). Are women more ethical than men? *Journal of Business Ethics*, *13*(11), 859-871.

Simon, H. A. (1992). What is an “explanation” of behavior? *Psychological Science*, 3: 150-161.

Sims, R. L., & Gegez, A. E. (2004). Attitudes towards business ethics: A five nation comparative study. *Journal of Business Ethics*, *50*(3), 253-261.

Singhapakdi, A., Vitell, S. J. & Franke, G. R. (1999). Antecedents, consequences, and mediating effects of perceived moral intensity and personal moral philosophies. *Academy of Marketing Science Journal*, *27*(1), 19-36.

Singhapakdi, A. & Scott J. V. (1991). Analyzing the ethical decision making of sales professionals. *Journal of Personal Selling and Sales Management*, *11*(4), 1-12.

Skoe, E. A., Cumberland, A., Eisenberg, N., Hansen, K., & Perry, J. (2002). The influences of sex and gender-role identity on moral cognition and pro-social personality traits. *Sex Roles*, *46*(9-10), 295- 309.

Sparks, J. R., & Hunt, S. D. (1998). Marketing researcher ethical sensitivity: Conceptualization, measurement, and exploratory investigation. *Journal of Marketing*, *62,* 92-109.

Stanga, K.G., & R. A. Turpen. (1991). Ethical judgements on selected accounting issues: An empirical study. *Journal of Business Ethics, 10,* 739-747.

Stead, W. E., Worrell, D. L., & Stead, J.G. (1990). An integrative model for understanding and managing ethical behavior in business organizations. *Journal of Business Ethics*, *9,* 233-242.

Sutherland, E. H., & D. R. (1970). *Cressey Criminology*. Philadelphia : Lippincott.

Treviño, L. K. (1986). Ethical decision making in organizations: A person situation interactionist model. *Academy of Management Review*, *11,* 601-617.

Treviño, L. K., & Weaver, G. R. (2003). *Managing ethics in business organizations*. Stanford, CA: Stanford Business Books.

Trevino, L.K., & Youngblood, S.A. (1990). Bad apples in bad barrels: A causal analysis of ethical decision-making behavior. *Journal of Applied Psychology*, *75,* 378-385.

Turner, N., Barling, J., Epitropaki, O., Butcher, V., & Milner, C. (2002). Transformational leadership and moral reasoning. *Journal of Applied Psychology*, *87,* 304-311.

Vitell, S., & Festervand, T. (1987). Business ethics: Conflicts, practices and beliefs of industrial executives. *Journal of Business Ethics*, *6*(2), 111–1222

Weaver, G.R., & Trevino, L. K. (1999). Compliance and values oriented ethics programs: Influences on employees' attitudes and behavior. *Business Ethics Quarterly*, *9,* 315-335.

Whipple, T. W., & Swords, D. F. (1992). Business ethics judgments: A cross-cultural comparison. *Journal of Business Ethics*, *11,* 671-678.

Wimalasiri, J. S., Pavri, F., & Jalil, A. A. K. (1996). An empirical study of moral reasoning among managers in Singapore. *Journal of Business Ethics*, *15*(12), 1331-1341.

Worrell, D. L., Stead, W. E., Stead, J. G., & Spalding, J. B. (1985). Unethical eecisions: The impact of reinforcement contingencies and managerial philosophies. *Psychological Reports*, *57,* 355–365.

Wotruba, T. R. (1990). Full-time vs. part-time salespeople: A comparison on job satisfaction, performance, and turnover in direct selling. *International Journal of Research in Marketing*, *7,* 97-108.

Yankelovich, D. (1972). *Corporate priorities: A continuing study of the new demands on business*. Stamford, CT: D. Yankelovich Inc.

Zey-Ferrell, M. K., Weaver, M., & Ferrell, O. C. (1979). Predicting unethical behavior among marketing practitioners. *Human Relations*, *32*(7), 557-569.

Zey-Ferrell, M., & Ferrell, O. C. (1982). Role-set configuration and opportunity as predictors of unethical behavior in organizations. *Human Relations*, *35*(7), 587-604.

ETHICS AND ECONOMICS: HOW CAN THEY BE INTEGRATED INTO GOOD BUSINESS DECISION-MAKING? AN EASTERN EUROPEAN PERSPECTIVE

Anton Jamnik

Theology Faculty of University in Ljubljana, Slovenia

Abstract: Can there be any doubt nowadays that business ethics is of extreme importance? The economic crisis in the entire world, as well as in Europe, where its impact has been especially acute, prompts us to reconsider the relation between material possessions (wealth) and man. Based on what has actually happened, it is evident that man has become enslaved to material goods, when in fact the opposite should have happened. However, to avoid empty moralising, the problem does not lie in contesting a person's right to personal possession, which was clearly defined by John Locke (and many great thinkers before him). The real problem arises when personal possessions take over man's freedom and his dignity, when man is overwhelmed by greed, gluttony, and arrogance, when he is confident of being the centre of the world with his economic power. This article will analyze the extent situation and hope to stimulate personal reflection in the field of business ethics, as well as on the level of personal relationships in our society, in Europe and throughout world.

Keywords: deontological ethics; economic utilitarianism; business decision-making

The Economic Crisis Morally Considered

Enslaved by his desires (no longer controlled by reason), man soon starts to lose his primal human honor understood as dignity and self-respect, and thus ends up humiliating himself and disabling his relations with other humans. Uncontrolled human greed does not allow any space for trust, cooperation, mutual care for the common good, or solidarity; on the contrary, it increases doubt, mistrust, fear, envy and unhealthy competition, which, unfortunately, often finds its limits only as a result of external circumstances, like the present-day economic and financial crisis.

We need a fresh discussion of the basic moral aspirations in all levels of social and personal life, if we want to preserve the basic dignity of human life, the fact that man respects himself, keeps his word, does not manipulate others nor allows himself to be manipulated, keeps his personal freedom and self-confidence, self-respect and integrity. If man does not possess these qualities he is in no position to create genuine relations with other humans, based on trust and honesty, rising above narrowly self-interested calculation, and his lust for domination. We must not forget that ethics does not begin somewhere out there, in some objectivist procedural rules. It begins in the depth of each person's heart. The subject is the criterion of an ethical act, in which freedom, or, as Aristotle would call it, prudence, together with will and morality, enable to do what is good and right, even though it is often demanding and difficult. Submitting oneself to whatever pleases the crowd, or to opportunistic calculations of short-term advantage, is ephemeral. It takes away man's core and personality, and such person eventually loses himself in his solitude of impersonality and self-humiliation.

Nevertheless, when we turn to ethical theory—particularly, to the ethical theories currently dominant in the literature on business ethics—do we find any real support for resisting this all-too-often dramatic decline in basic morality? From my perspective, it must be conceded that business ethics has been disappointingly weak in its response to this crisis. My thesis is that this weakness results from a failure in ethical theory, which has proven incapable of responding to the challenge of economic utilitarianism. This failure results from the fact that ethical theory—primarily the post-Kantian deontological approach to ethical reasoning—is formalistic and abstract in ways that are remarkable isomorphic with the reasoning involved in economic utilitarianism. Efforts to reconcile or synthesize deontological ethics and economic utilitarianism have only papered over the basic theoretical failure. What is needed is a fresh approach, rooted more substantively in the actual moral aspirations of our common humanity.

The Conflict between Deontological Ethics and Economic Utilitarianism

Of the many theoretical systems of moral philosophy, deontology has most influenced business ethics and the affiliated notion of corporate social responsibility. Theorists who adopt this outlook typically propose rules for corporate behavior, often deriving these rules from standards of human rights and social justice. Applied to business, these rules are ultimately expressed as managerial responsibilities, obligations, or *duties.* A theoretical prerequisite for such rules is to establish the moral status of a corporation. The argument is that if corporations are moral agents, they should, like people, assume moral burdens. Otherwise, to identify corporate responsibilities or obligations is, from a philosophic viewpoint, a moot exercise[1].

Once the moral agency argument is accepted, business ethicists use moral reasoning to deduce moral rules from well-argued axioms, such as those proposed in Kant's second categorical imperative, which advocates respect for the moral personhood of others. Accordingly, one ought to treat others as having intrinsic value in themselves, and not merely as means to achieve one's ends. This rule is a prescription for both moral motivation and for the subsequent enactment of duties. When applied to the business ethics, it means that managers are moral agents, and as such, they have basic moral duties to other members of society.

Even though deontology is conventionally understood to be an ethic of duty, lately many philosophers have used it to emphasize rights. It can be seen that rights usually require duties because for one person's right to be meaningful, another person typically must have a duty to respect that right by not violating it. Negative rights require that, as a duty, individuals not interfere with others, based on respect for their moral personhood. This ease of interchangeability demonstrates the logical compatibility of rights and duties in ethics reasoning.

Standards of social justice are also used by ethicists who are interested in analyzing moral obligations or duties. Justice-based reasoning identifies rules for establishing and preserving liberty, equality and fairness of opportunity for members of society. These standards are motivated by respect for the moral autonomy of personhood and the right of individuals to pursue their own good (Rawls, 1971). Because justice theorists are interested in fairness, they insist that an unfair distribution of benefits and harms be morally justified on logical grounds. The standard of rights often provides the logic, because it establishes the conditions that determine which harms and benefits should be distributed. Consequently, justice is commonly measured by the extent to which entitlements or rights exist and are upheld.

The social contract framework illustrates how moral reasoning in applied ethics research can formulate justice and rights standards as rules for duty. Because social contract logic asks what conditions justify society in conferring legitimacy on productive organizations, it provides useful insights into the moral obligations of corporations. Tom Donaldson (1989), for example, uses the social contract to frame his theory of international business ethics, reasoning that society expects corporations to adhere to the terms of social justice which are upheld and measured by individual rights. From this, he deduces a list of corporate duties that also respect the rights of corporate stakeholders under the terms of the social contract.

In sum, business ethicists seek to identify consistent moral rules for individual choices, and, for the most part, these rules align rights and justice standards with duties. This alignment takes place for three mutually supportive reasons: rights require duties, rights and justice are logically affiliated, and the motivation upholding both is the respect for moral personhood required by a deontological or duty-centered ethic. The importance placed on moral obligations by the duty-aligned approach contrasts sharply with the narrow focus on self-interest in economic utilitarianism, discussed next.

While there are many variants of economic inquiry, neoclassical economics is the one most influential in US business schools, which serve as the professional training ground for corporate managers and business leaders. Neoclassical economic utilitarianism provides the organizing logic for two types of economic efficiency: allocative and output. Allocative efficiency posits that individuals, motivated solely by self-interest, will make exchanges of reciprocal advantage in competitive markets that will lead to the greatest social satisfaction. Allocative efficiency assumes a specific kind of calculated, rational choice, i.e. that individuals know how to rank their preferences, and that they seek to maximize satisfaction or utility. Francis Edge worth (1881), who applied mathematical reasoning to utility theory, offered logical proof that the greatest social happiness or good is the consequence of pleasure-driven, acquisitive economic choices by individuals. At the same time, avarice, ill-will and predatory power-seeking were ruled out as incompatible with rational self-interest.

In contemporary form, the "greatest good" outcome is expressed as Pareto optimality - an analytical device that allows economists to separate efficient resource use from the more controversial problem of its distribution. In effect, Pareto optimality says that a given economic arrangement is efficient or optimal if it cannot make someone better off without worsening the situation of others. It represents the "greatest good" because it prevents scarce resources from being exhausted (to the detriment of all), given human wants and needs that axiomatically are considered inexhaustible.

From Adam Smith to contemporary proponents, neoclassical economists analytically separate markets from politics, or business from government. For them, only self-interested economic gain is expressed in markets and business, while power-seeking and ceremonial behaviors are expressed in other arenas, such as politics and government. As a result of this *ideal-type* of logic about markets, a convergences assumed between self-interest and the greater social good in economic activity. As a consequence, neo-classical economists see no reason to advocate a strong role for government in business, or for any other institution or principle of restraint. Instead, managers are assigned the role of agents for the self-interested owners of capital, and tasked with maximizing wealth for them in the form of dividends and capital gains.[2]

At this point, it is important to note the different ways in which moral philosophers and neo-classical economists use the "greatest good" concept of utilitarianism. Traditionally ethics moral emphasizes that the greatest happiness is a moral principle that requires people to consider not only themselves when choosing a course of action, but to try to maximize the good for all. In this case, utilitarianism is used as a moral precept or rule that is universally applied to all situations *a priori.* This rule requires that individuals place their self-interest no higher or lower than the interests of others. To assign such importance to universalized reason and other-interest is consistent with the philosophy of duty, previously described. By contrast, neoclassical utility theory provides a *post hoc* rationalization for the good produced by self-seeking actions, because it defines the outcome producing the greatest good with whatever choices that have *already been made* on the basis of self-interested preferences. The pursuit of rational self-interest is thus identified with allocative efficiency.

The second form of economic efficiency is output efficiency, identified with businesses in the private sector. This efficiency is equivalent to a favorable ratio of output to resource inputs and their costs, and accrual of profit on the resultant output. It is traditionally assessed by cost-benefit analysis. Like allocative efficiency, output efficiency is possible only if avarice, ill-will towards others, and power-seeking are in principle excluded as irrational behavior in business. The search for output efficiency under conditions of resource scarcity constitutes the core problem addressed by the science of management. Both allocative and output efficiency were prompted by economists' long-standing concern about the fundamental problem of resource scarcity, given unlimited human wants and needs. Both kinds of efficiency are consequentialistic in that they stress the importance of results.

It is evident that the utilitarianism underlying neoclassical economics does not encourage the inclusion of moral considerations, other than self-interest, in explanations of economic choice. The combination of utilitarian and Pareto principles means that exchanges in markets are viewed as mutually beneficial and socially integrative, and that self-interest and the greater social good are largely convergent, as if guided—in Adam Smith's memorable formulation--by an "invisible Hand." Consequently, neoclassical economics offers no compelling reason to impose rules about specific duties to others on economic behavior, or to include such considerations in its analysis of economic behavior, although the theory does accept some external restraints to economic activity. The *minimal* application of the law, public policy, and ethical customs is believed to be sufficient external check on the harmful spillover effects of business activity, such as pollution, which are understood as "externalities."

To summarize, although utilitarian economists characteristically acknowledge that social harms can result from *laissez-faire* business activity, they seek to rectify such adverse outcomes with social policy as the harmful impacts become apparent, rather than to promote the inclusion of moral considerations in managerial decision-making, which might minimize or preclude the harm in the first place. Dealing with the moral implications of choice somewhat "after the fact" is very different from advocating moral reflection prior to choice, which is the position of theorists who adopt the deontological approach to ethics.

Is there a way to overcome the conflict between deontological ethics and economic utilitarianism? In order to see the difficulties involved, it may be useful to clarify their similarities. Not surprisingly, like the differences, the similarities illuminate the impediments to any theoretical reconciliation. The first and most obvious of these is that both perspectives employ reasoning that prizes fixed-ended value standards that are seemingly disparate. Economic utilitarianism focuses on gain for self. It employs a cost-benefit rule to measure whether a desirable net gain accrues to individuals in markets, or to stockholders vis-a-vis corporate efficiency and profits. Focused on this self-centered end, the economic orientation de-emphasizes standards of rights and justice for others. By contrast, the deontological ethics asserts the primacy of duty to others and, despite an emphasis on moral motivation, it weighs the extent to which others are treated dutifully by criteria of rights and justice. This antagonism between self-interest and other-concern takes the form of a tradeoff in which economic goals (of stockholder or firm-interested gain) may exist in tension with duty to others (as standards of rights and justice).

Even in those instances where profits and duty seem to be compatible, another problem is encountered, that of moral justification. As defined by Frederick (1987), this problem stems from the second assumption shared by the theories: while both use formal logic, they do so in order to support dissimilar stances on the roles that rationality and morality play in choice. The economic view holds that, if doing one's duty pays off, then it is strategically justifiable as a byproduct of rational self-interest. However, ethicists never justify morality solely by economic criteria, even when the two coincide. For them, morality is not a mere outcome of rational choice. Instead, deontologists place human rationality in the service of morality. Hence, the moral justification problem is a manifestation of the immutable, bedrock disagreement between utilitarian economics and deontological philosophy over whether economic consequences - formulated as the greatest good achievable by rational self-seeking gain - or dutiful motives - that prompt dutiful actions for the greatest good - constitute legitimate moral reasons for choice. If either of these two alternatives is embraced to the exclusion of the other, moral justification becomes theoretically impossible and business ethics remains an oxymoron.

The third shared assumption that poses obstacles to integration is related to the first two, which involve fixed-ended reasoning and the reliance on formal logic. The third assumption consists of a narrow or myopic conception of value. It has two dimensions. First, both perspectives formulate values singularly. Economic utilitarianism prizes primarily self-interested gain, while deontological ethics prizes primarily the selfless performance of duty. Second, both emphasize individual choice in the expression of these singular values. The first part of the value myopia problem reinforces the tradeoff just mentioned. That is, the two perspectives tend to force a choice between the single values of gain or duty. Given their respective fixed-ended manner of reasoning, these singular values seem incompatible. The second part of the value myopia problem renders the problem of moral justification more acute. Because both theories emphasize the individual level of analysis, their concepts of the greatest social good can be traced to the logic of individual choice, as if individuals were "freestanding" apart from their social contexts. However, if theorists who rely on either of these perspectives were to acknowledge value pluralism in choice, then gain and duty - as well as individual and social considerations - would become part of a broader and more complex matrix of value relationships. In such cases, a simple tradeoff in choice and its moral justification, that is, between gain and duty, would be unlikely or unnecessary.

It is important to stress that the resulting gulf between ethics and economics is a theoretical conundrum. Since the fundamental tenets of both deontological ethics and economic utilitarianism were codified long before the advent of the large-scale corporation, the tension between the two is not necessarily based on collective human experience with business in contemporary societies. Nor is the conflict that I have described consciously created and purposefully fomented by theorists representing either perspective. Although neoclassical economists normally do not place a high value on intentional moral agency for corporations and managers, neither do deontologists have a strong tradition of prizing the market as a social vehicle for allocative and output efficiency.[3] Given different normative priorities, it is not surprising that ethics and economics collide. What is surprising is that these two orientations commingle in business curricula without calling into question the whole philosophic foundation of management theory and practice.

Resolving the Conflict between Ethics and Economics

It is now possible to identify some of the missing or flawed elements of the two perspectives that make them inadequate for comprehensive and relevant theorizing about business management. Three interrelated theoretical problems have been identified in my analysis of the obstacles to integrative theory-building. Each of these stems from the propensity of these orientations to favor the logic of individual choice over the knowledge based on social experience and collective social action. This shared bias means that both orientations face the same kinds of limitations in theoretical scope and relevance. Given their individualistic bias, neither perspective is adequate for addressing the magnitude and complexities of business and society interactions. Favoring the logic of individualism over the knowledge of social experience, both approaches have immunized themselves from research which is highly relevant to understanding how business functions in society, including the dynamics of group processes in organizations, the relevance of socio-cultural values to these dynamics and the bearing these dynamics could have on the enactment of a corporation's positive duty to society. Where, then, do we begin to correct this bias in order to develop an approach to moral decision-making in business that integrates both ethics and economics?

Morally effective managerial decision-making is and ought to remain the focus of business ethics. The rapid transformation underway in Eastern Europe and the recent expansion of the European Union provides five reasons for focusing on morally effective decision-making. Since these are already well known, let me just mention them: 1) The costs of unethical workplace conduct, 2) The lack of awareness of ethically questionable, managerial, role-related acts, 3) The widespread erosion of integrity and exposure to ethical risk, 4) The global corruption pressures that threaten managerial and organizational reputation, and 5) The benefits of increased profitability and intrinsically desirable organizational order.

In the academic literature on business ethics, there is already much written about the use of models of ethical decision making. Here I will not review this literature, and the various proposals for using ethical principles to guide organizational decision making (Cf. Buchholz & Rosenthal 1998). Nor will I elaborate my own list of questions that a manager ought to ask himself in trying to make an ethical decision. In my own work I recommend that managers do an "ethics check" involving three questions:

1. *Is it legal?* Will I be violating either civil law or company policy?
2. *Is it balanced?* Is it fair to all concerned in the short term as well as the long term? Does it promote win-win relationships?
3. *How will it make me feel about myself?* Will it make me proud? Would I feel good if my decision was published in the newspaper? Would I feel good if my family knew about it?

Obviously, the "wrong" answers to the above questions should move the manager into reconsidering his or her decision. On what basis such reconsideration should proceed should lead us to focus on the basic values that ought to guide any managerial decision-making model.

As stakeholder theory confirms, business managers care for relations between various interest groups: owners, employees (including managers), customers, suppliers, investors, and the entire business environment. Though the following principles are based primarily on Kantian or deontological ethic, they should be broad and adaptable enough to be used with any ethical decisions. Let me simply enumerate these, for they ought to be well known to anyone familiar with the moral values enshrined in any culture, as evident, for example, in the history of European civilization: 1) Seek Justice, 2) Do no harm, 3) Honor Loyalty, 4) Achieve Credibility, 5) Acknowledge Liability, 6)Perform Charity, 7) Foster Personal Growth, 8) Express Gratitude, 9) Preserve Freedom, and 10) Practice Respect. In short, it is these ten moral principles, substantively embodying the standard of care that Kant made axiomatic in urging us to treat persons as ends and never as mean only, that summarize the obligations and present the starting point for making ethical decisions. The following procedures can help us make wise, fair and prudent decisions, by allowing these principles to shape our deliberations.

1. *Prioritizing:* the question which helps us prioritize is: what are my obligations in this case? For more help, we can add questions like: is it my obligation to be just, not to do any harm, to be loyal etc.? We simply follow the ten above-mentioned ethical principles. Once we answer these questions, it is much easier to decide which principles we should abide by.
2. *Acknowledging conflicts of responsibility:* the question to guide us in acknowledging conflicts is: which obligations in a particular situation are in conflict with each other? We soon realize that it is of vital importance how we handle the conflicting obligations. Some ways of how to do good are just wrong (a good end does not justify any means) and sometimes we need to postpone certain actions, reconsider and reassess them.
3. *Ethical judgment of obligation:* the leading question here is: what is the significance of the conflicting obligations? Sometimes we have to choose between options which are contradictory in themselves. The greatest challenge to effective decision-making is allowing popular opinion to blind us to the difficulties involved in confronting such conflicts.
4. *The choice of ethically feasible options:* we often have to choose between different options, each being difficult and demanding in itself. It is of vital importance, for example, that whenever we need to convey an unpleasant piece of news to someone that we do so in a respectful manner, without humiliation or judgment. It is important that the receiver of our message feels our benevolence and good intention.
5. *The choice of action:* if we considered obligations at the first four levels, it is now time to act, or rather make a decision. The worst thing at this point is to be indecisive, to avoid responsibility, and leave questions to be answered sometime in the future. A person who knows exactly what he wants, a person with a vision, usually has enough courage and strength to make decisions, even though it is difficult to please everyone. Quite the opposite, critical and contrary remarks should be understood as a sign that a person is going in the right direction. Indecisiveness and allowing ourselves to be swayed by popular opinion lead to the point when a person no longer encounters either opponents or supporters, he loses his identity and turns into a faceless person.

Conclusion

The hallmark of moral seriousness consists not in rigorous adherence to one or another ethical theory, despite the problems this may cause for us, but in a willingness to reexamine our options in light of the basic values that ought to be guiding our deliberations in the first place. A recognition of the plurality of values usually operative in any business decision, where the challenges and conflicts are sometimes hidden and sometimes overt, is the best way to move beyond the theoretical difficulties that we unnecessarily pose for ourselves in relating ethics and economics. I am well aware of the fact that this is only one of the possible interpretations of ethics in the world of business. I would like us all to make a step forward in our attitudes and particularly in our way of life, so that honesty, justice, the common good and solidarity in our mutual relations may be given the consideration they deserve. If we nurture self-respect, cherish ourselves, keep our word, in short, if we start changing ourselves, then the world around us will start to change as well. Present-day society in our country and around the world cries out for us to awaken from our dogmatic slumbers, in order to notice our fellow man who needs material help, or perhaps only wants to be heard in his painful loneliness, crying for human company and understanding, who wants to be accepted and needed in this world. So that he can do something good for his fellow men! In responding to these needs, we will do well to remember the words of a great German writer J. W. Goethe: "Man's greatest wealth is the courage not to desire wealth."

Notes

1. For examples of different kinds of moral agency arguments, see Tom Donaldson, 1982.
2. This formulation of management's role has spawned a large body of literature on the agency problem, i.e. the possibility that managers will shirk their responsibilities to pursue the financial concerns of the owners of capital in favor of their own self-interest. Berle and Means (1921) give an authoritative statement on the nature of this problem.
3. Because it deals with general social principles, the social contract approach to business ethics can be used to acknowledge the vital role of corporate economic efficiency in society. Still, because this method is a subset of deontological reasoning, it is more aptly employed to prize duties based on rights and justice. For example, Tom Donaldson (1989: 47-64) starts with social contract reasoning to construct a theory of international business ethics which ultimately emphasizes the alignment of human rights and justice with corporate duties.

References

Berle, A. A., & Means, G. C. (1921). *The modern corporation and private property.* New York: Macmillan.

Cohen, M., March, J., & Olsen, J. (1972). A garbage can model of organizational choice. *Administrative Science Quarterly*, *17*, 1-25.

Davies, N. (1996). *Europe, A history*. Oxford: Oxford University Press.

Donaldson, T. (1982). *Corporations and morality*. Englewood Cliffs, NJ: Prentice Hall.

Donaldson, T. (1989). *The ethics of international business.* New York: Oxford Press.

Edgeworth, F. Y. (1881). Mathematical psychics: An essay on the application of mathematics to the moral sciences. Republished in 1953 by New York: Kelley.

Etzioni, A. (1988). *The moral dimension: Toward a new economics.* New York: The Free Press.

Frederick, W. C. (1987). Theories of corporate social performance. In S. P. Sethi and C. M. Falbe (eds), Business and Society: *Dimensions of Conflict and Cooperation*, New York: Lexington Books, 142-161.

Friedman, M. (1962). *Capitalism and Freedom*. Chicago: University of Chicago Press.

Friedman, M. (1979). The social responsibility of business is to increase its profits. *New York Times Magazine*, *13*, 122-126.

Jamnik. A. (1997). *Liberalism and the question of ethics*. Ljubljana: Novarevija.

Jamnik. A. (2011). The question of ethical decision in marketing and ethics. *Cultura Economica*, *Agosto*, 41-53.

Luijik, H. J. L. van. (1997). Business ethics in western and northern Europe: A search for effective alliances. *Journal of Business Ethics*, *16*(14), 1579-1587.

Rawls, J. (1971). *A theory of justice*. Cambridge Mass.: Harvard University Press.

Selznick, P. (1992). *The moral commonwealth: Social theory and the promise of community*. Berkeley and Los Angeles: University of California Press.

Swanson, D. L. (1995). Addressing a theoretical problem by reorienting the corporate social performance model. *Academy of Management Review*, *20*, 34-64.

Swanson, D. L. (1996). Neo-classical economic theory, executive control, and organizational outcomes. *Human Relations*, *49*, 735-756.

Swanson, D. L. (1999). Toward an integrative theory of business and society: A research strategy for corporate social performance. *Academy of Management Review*, *24*(3), 506-521.

Swanson, D. L., Calton, J. M., & Jones, R. E. (1997). Reconstructing positive duty: Theory-building exercises. Weber (ed.). *The International Association for Business and Society Proceedings*, 275-290.

Werhane, P. H. (1985). *Persons, rights, and corporations*. Englewood Cliffs, NJ: Prentice Hall.

CPG Netherlandas Bureau for Economic Policy Analysis. (1997). *Challenging neighbors, rethinking German and Dutch economic institutions*. Berlin, Heidelberg, New York: Springer.

HUMAN RIGHTS AND CORPORATIONS

Shaoping Gan
Research Office of Ethics, Institute of Philosophy
Chinese Academy of Social Sciences, Beijing, China

Abstract: China is undergoing a great change from a traditional society based on obligations to a modern society based on rights. In modern society human rights are basic behavior codes and values needed, and everyone's rights should be respected, which is a fundamental principle to the whole society, individuals and corporations. Therefore, corporation respecting human rights have become a national legal requirement with mandatory. The company that respects human rights could ride the trend of social expectations and earn inestimable business profits. In other words, corporation should not only focus on short-term profits but also commit itself to assure all the others' interests respected, in this way, maximum profits could be reached in the long term.

Keywords: human rights; corporation; soft-power; social responsibility; economic ethics

Introduction

After 30 years of implementation of Revolution and Opening-up policy, China's GDP has reached the second in the world, however, people's income and labor security have not developed to a suitable degree, numberless common workers devote themselves to the development of the country and social prosperity and make a big sacrifice at some aspects, but many of them have made a hard working on the way of protecting their rights. In order to sufficiently protect fundamental rights of workers, *Labor Contract Law* in China began to implement since January 2008, following the result that the proportion of signing labor contract has up to 93% from less than 20% ever. Furthermore, short-term contract has shrunk and mid-term, long term contract as well as non-fixed contract has dominated in the labor market.

The implementation of *Labor Contract Law* which is supposed to protect legal rights to labors called on a big reaction, and a lot of workers are inspired while exist opponents.

To some companies, especially those avoid responsibility to make profits will witness the increase of their labor cost. Since the outburst of global financial crisis, under the difficult condition, it's said that Labor Contract has increased cost, which should be put off, even someone thought this law should be revised again. Undoubtedly, there are some enterprises laying workers off to increase the efficiency. With indifference to their somewhat reasonable demands and legal rights, many workers have got to return home.

After spring festival in 2010, the economy had rebounded and international orders augmented with a sudden rise, however some places were experiencing shortages of migrant workers. The reason for this phenomenon was complex but fundamental that workers were not satisfied with company's long-term indifference to workers' rights. Migrant workers found it not attracting to work in a corporation for a long time with non-punctual salary and no welfare such as pension, housing, children's education, medical treatments and so on, which make them having no sense of belonging.

Thus, the so-called shortage of migrant workers can be thought as shortage of workers' rights. A company who have not attached much importance on workers' rights and not well treat workers would be denied by them. On the contrary, factories that obey *Labor Contract Law* and not laying off staff even though the influence of financial crisis could keep a constant relationship with labors even in the moment of needing lots of workers.

The phenomenon of shortage of migrant workers needs us reviewing the sense of Labor Contract Law. Laws like *Contract Law* have been implemented in the most parts of the world for centuries. However there is no information showing that protecting labors' fundamental rights would hamper social and economic development. As to standard-performing enterprises, *Contract Law* has no obvious influence on their costs and competitiveness of labor costs. For most of companies *Labor Contract Law* is helpful to stabilize labor relationship and benefit to human capital investment. In the long run, this law is not only positive to corporate healthy development but also benefit to keep national economic growing.

Because of market economy developing at a high speed, Chinese citizens have improved awareness of protecting their own rights. *Labor Contract Law* is a fundamental law that safeguards the interests of workers, and shortage of migrant workers has reflected that workers safeguarding their own interests have become a conscious action in daily life. Shortage of migrant workers has a profound effect on China's economic development, which teaches a lesson to some enterprises, and what's more, deepens cognition of relationship between human rights and companies.

Economic Development and Social Welfare

China is undergoing a great change from a traditional society based on obligations to a modern society based on rights. China's traditional society is known for emphasis on compulsion which is a one-way compulsion of an individual to the whole family and country. However in modern society human rights are basic behavior codes and values needed, when we talk about obligations again, for the most, obligations should be based on country protecting human rights. Every individual's rights should be respect no matter a country, a person or a company, which is a basic principle. As company is a conductor, it has been a country's legal requirement for company to respect human rights.

Lots of enterprises worry about that abiding by human rights' requirements strictly may impair company's competition. This worry does not stand. Human rights express basic human's requirements and fundamental behavior codes for people and countries to communicate. A country respecting another country would earn the praises of the world, a person respecting the others would receive gratitude, the same as a corporation, corporation respecting human rights would conform to the society's expectations, and then would earn incalculable business interests. In another words, a company should not focus on the short-term interests but commit to make sure that every related parts would get respects, and by this way the company would realize maximum business interests in a long term.

If corporation respects human rights, employees would get corresponding protection such as personal safety, equal opportunity, private data, minimum salary, labor contract, relaxed time, medical insurance, unemployment insurance and pension insurance and only in this way could a corporation attract outstanding staffs and make employees active. In 2010 People's Congress, there was a representative stated that a company should build humane management and change the traditional hard-working image of migrant workers in response to migrant workers' change of living method and culture (1). This proposal has a profound meaning. Entrepreneurs should look at the economy with a great mind, not only focus on immediate fortune, but also have an important eye on interests of majority, and then realize sustainable development. The reason why China's stated owned company Changan Auto won Outstanding Practice Award in 2011 in "the First Finance Corporate Social Responsibility List" is that Changan Auto knows the truth that employees is the most valuable wealth for the company. In the progress of developing, Changan Auto makes its best to create an atmosphere in which employees are respected, trained and could obtain achievements, and both corporate interests and individual's values could be realized at the same time. Under the guide of Respecting Customers, employee-oriented, integrity and Professionalism, Continuous Improvement, Changan Auto put Duo-Concern culture into practice. On the one side, Changan's staff would double their income, and on the other side, care about staff's health in the way such as examining body regularly, building up fitness center, holding games and playing Tai chi. Changan Auto has not only made contributions to social stability and economic growing, but also made an example of put CSR (Corporate Social Responsibility) into practice as well (2).

If a corporation respects human rights, consumers would be set in a vital position, and then corporation would attach much importance on production safety and protecting environment, as well as devote themselves into career of public welfare via donation, as a result the corporation would earn a unique brand image and a greater fame. COFCO Group, who based on the concept of Loyalty to the Country and Helpfulness to People's Livelihood, has been awarded on the list of "the First Finance` Corporate Social Responsibility List" and "Outstanding Corporate Award". COFCO Group connects social responsibility and corporate strategy initiatively, bases on Chinese market, takes advantage of global resources, disposes scientifically and builds industry train from universal perspective, through all of which commit itself to share responsibility of national food safety and solving rural issues.

By providing a whole industry chain from Field to Dining which includes source control, producing control, inspection and traceable system, COFCO fulfill the responsibility of company to public and maintain its brand as well. With the management method of HACCP, ISO22000 and TQM carried out, COFCO has promoted to complete modern system of food safety management around human, operations, merchandises, environment and management with spot management to make sure that production procedure are controlled efficiently. Except for daily management, COFCO Group explored risks assessment system of food safety and regularly assesses food safety management to promote rank of food safety raising (3). As the biggest stated-owned grain food company, COFCO Group knows well that excellent band is not only the symbol of quality but also of series of values, which would bring numerous profits to economy and society.

If a corporation respects human rights, when interests conflict it will provide a transparent procedure and a platform to gather all the related parts to talk about equally. Expressing different concepts is helpful to reveal the truth, arguing about opinions is helpful to form a wisdom decision. Brilliant light is the best disinfectant and monitor from society is the key for company to respond to challenge and go to success.

In the world of German business ethics there exists a theory saying the core of business ethics is the discourse ethics. It has been noticed that the character of traditional business management is that instruction is passed from top to down, however nowadays companies are influenced by democracy of universal suffrage and managers attach much importance on critique and advices from all of the company, which set up a cornerstone for communication solving corporate ethics problem. As an operational procedure, communication forms the kernel of business ethics. Corporate should have a sense of moral, giving up any behavior whose consequence may impact others'. If not give up, peaceful communication should be taken under a reasonable and voluntary condition to make a deal which could be accepted by all the parts, sharing interests and bad consequence. There are extensive meanings for corporation ethics including resolving labor conflicts, interior communication to improve quality management of products, as well as communication coordinating corporate behaviors and social responsibility. National Grid, a British energy group, built a free talking forum participated by representatives from industry, government, academia and civil society which is held by an independent institute – British Environmental Protection Committee when National Grid found that to the problem whether magnetic field affects human health or not there are lots of sounds in the science (4). It is proved that it is meaningful to eliminate public's worries and put forward a wisdom strategy by providing a transparent platform to express different ideas.

As to corporate interior communication, business ethics should study how to form rule of business ethics which have characteristic of the company and have a profound instructive meaning for quality of business ethics. This ethic rule is absolutely not traditional rules to enlarge production efficiency, but the complementation to the national law which reflects self-restraint of corporation itself economic action and provides a basic standard of making decisions that simplify procedure of thinking of moral. Taking Caterpillar as an example, its business ethics' rule contains the following things: First, as to foreign company's branch, if two appliers, one of who come from abroad and the other is a native, compete one position at the same time, the native has a prior chance when there are no essential differences. Second, as to staffs' salary, if the standard conflicts with universal moral standards, moral standards should be abided by. Because rules of ethics formulate definitely what interests should be considered first, what interest should be considered after the others, which draw an boundary to persons who pursue interests, when a company comes across problems such as that one profitable product has a side effect on health while other companies' are not, rule of ethics may make a decision since it put consumers' health in the first place (5).

Of course, there exists limitation to rules of ethics. For instance, certain company produces a kind of saccharine which has high value to health of overweight persons and diabetes. However later someone found out that saccharine is harmful to a few people which may cause cancer. In this case there is not a normal rule could be referred, so whether should be continued to produce or not? It's difficult for rule of ethics to play a role because it cannot weight the importance of interests of majority and potential cancer crisis of minority. Only way seems to set up an ethics committee to talk about this problem between corporation and representatives from society. Ethics committee is a temporary but important institute aiming to resolve conflicts between corporate action and its consequence, whose responsibility is to participate in board decisions, check the implements of rule of corporate ethics and publish review report. Except for companies, members of the committee should not only be equipped with professional skill and moral authority, but also be good at promoting communication and procedures of reaching an agreement.

If a corporation respects human rights, it could keep a good relation with governments and business partners, obtaining business license, lending opportunities, supply and sales channels, lowering operation risks, and then creating strong competitiveness. IFC is an international financial company, which needs lending customers comply for a demolition and resettlement rule to protect interests of relocates. This rule claims that in every relocation, corporation should provide stable using right of land to new residents even though the house before has no stable using right. If IFC's financing projects relate to non-voluntary resettlement, it need lending customers providing a detailed plan for resettlement and making sure that each target in this plan would be realized (6). In the summer of 1998, there erupted a flood in areas of Yangzi-River, and many companies promised to donate at a charity party organized by CCTV, but there were a few of companies didn't keep their words. GMC was informed that three companies having good partnership with GMC belongs to those that did not keep their promises, and deprived these three of agency rights, which trapped GMC into a dilemma: finishing contracts, GMC will suffer lots of losses; continuing contracts, if this was exposed by Chinese Media GMC's reputation would be impaired. Eventually, when the scandal was revealed, GMC determined to finish partnership with these three Chinese companies for an obvious reason that corporation with no integrity have no basis on cooperation

Conclusion

In China, it's a new concept to use human rights theory into business, which will have no doubt to rebuild understanding of people to corporation. Because of relationship between human rights and corporation, corporation would make a unique contribution to China's Human Right Career. According to expectation of Oxford University's staff, in the future there are 9 kinds of Jobs will have a promising future, among which include soft-power manager (be responsible for managing corporate culture and strengthening staff's skill), employee welfare manager (be responsible for employee welfare, safeguarding his health and reasonable time and intensity of working), sustainability manager (be responsible for monitoring the influence of company's behavior to environment and coordinating corporation, government and residents), these three kinds of managers' main duty involve to relationship between corporation and human rights, which is aimed to improve the degree of contribution of company to human rights. It can clearly be seen that a company must have the sense of human rights and its every decision should meet human rights requirement, so a company should have its own action guide which is taken as important standard for assessing performance. So far, there are more than 200 Chinese corporate have joined into Global Compact, which is a kind of voluntary deal of UN to spread CSR, having two core principles , one is that companies should support and respect international cognitive human rights, while the other is that assure not make friends with human rights abuses.

This compact let companies understand that their own records on human rights have a great influence on their fame, and only respect human rights could corporation maintain their own benefits.

References

Half Month Comment. (July 5, 2011). *Low income and unequal treatment affect new migrant workers' sense of dignity*, retrieved from http://news.sina.com.cn/c/sd/2011-07-05/093422758940.shtml

Tencent Auto. (December 13, 2011). Changan Automobile has won the prize of good performance for Corporate Social Responsibility, retrieved from http://auto.qq.com/a/20111213/000306.htm

Page 30, Business Leaders Initiative on Human Rights

Gan, S. (2000). *Ethical wisdom*. Beijing: China Development Press.

Rothlin, S. (2004). *18 rules for the top-notch player*. Beijing: Renmin University Press.

DEVELOPMENT FOR THE PEOPLE BY THE PEOPLE

Barbara Krug
Rotterdam School of Management, Erasmus University Rotterdam, Rotterdam, Netherlands

Abstract: The business ethics which we find in firms, implemented by managers and facilitated by formal economic institutions is socially embedded in the general perception of what economic development stands for. A country where monetary rewards get allocated to those who produce increasing market shares of their firms, and where social reputation is linked to conspicuous consumption as for example the US (or China?) follows another development path than, let's say the Netherland in the 16^{th} century where prudency in management, modesty in consumption and long-term wealth accumulation led to the "Embarrassment of Riches" (Schama, 1987). This paper is to examine the concept of development and happiness for a better social and economic progress.

Keywords: development; happiness; institutional choice

We observe century-old theoretical debates on the compatibility between socially approved ethical standards and individual failures to pursue moral values, while an empirical analysis of the uneasy relationship between ethical norms and economic behavior is seldom analyzed (exception Hirschman, 1977). One of the striking features of the relationship is that from a historical perspective the same *ethics* can lead to a large variety of ethical norms within the economic 'real world'. Thus for example, Christianity generated economic systems where

1. To make a living or to find affordable accommodation depends on cunningness and the willingness to use bribes as in Peru in the 1970s (de Sotho, 1977);
2. Ethical purity is linked to foregoing any form of technical progress and 'trade' as in the case of the Amish people (Wikipedia);
3. Personal debt leads to imprisonment thus depriving the debtor any chance to repay his debt to this creditors, as it happened to Daniel Defoe who also noticed the change of times which ended the banishment of merchants from 'society' and accepted 'trade' as an honest profession:"Actions receive their tincture from the times, And as they change are virtues made of crimes" (*Hymn to the Pillory.* 1703)

In what follows, no contribution to the normative debate is attempted. The intention of the paper is rather modest, namely to introduce two approaches which discuss the problem of development, freedom and happiness from an economic perspective. By doing so the analysis offers valuable insights into the interplay between different forms of material and immaterial well-being. The introduction is followed by a summary of the few studies in which the attitudes of the Chinese into an international comparison of aspects of well-being are included. The findings show that the reconciliation between individual aspirations for freedom, happiness and economic development of a *community* depend on guaranteed dynamic capabilities and a permanent discourse within the communities to agree upon social institutions.

The Concept of Development

In the field of development theory, an illustrative example is the poor introduction of the term *Development theory* as "a conglomeration of theories about how desirable change in society is best to be achieved. Such theories draw on a variety of social scientific disciplines and approaches" in the Wikipedia reveals.

Referring to changes over time development often leads to the illusion that it is a 'pure' technical term. Models which stress the link between production factors and monetary outcomes reduce development theory to growth theory leaving the topic to a group of highly specialized (macro) economists or central bankers.

It is only when having a closer look at how development is measured that the normative side of the concepts gets revealed. If calculated on the base of changes in national and/or individual income then obviously development is defined as 'getting richer'. Further if the performance of managers or entrepreneurs is measured by increasing market shares of their firms, cash flow or rising share prices value then obviously 'more is better'. We claim that development theory, or maybe better: development ethics and business ethics are complements. While business ethics or CSR focuses on the individual behavior of managers, investors, or other economic actors, development policy (and theory) focuses on the intention of development. In the past both research agendas led a life of obscurity being dismissed as dealing with questions outside the field of economics if not social sciences (Schlicht, 1998). In both cases a re-thinking was prompted by the fact that the "ubiquitous selfishness" (as assumed in neoclassical economics) "is hard to defend empirically" (Sen, 1999, p. 118). Likewise, as empirical evidence shows rich countries do not automatically lead to happier people (Frey, 2008, pp. 41-43).

In what follows we concentrate on the question of *development.* We claim that development is an empty term so long as we don't know how people value goods and services, state provided 'public goods' or social conditions. We introduce two concepts which go beyond the neoclassical paradigm of utility maximizing individuals and GDP (p.c.) maximizing states by asking 'what for?' One concept is A. Sen's *Development as Freedom* (1999) the other B. Frey's *Happiness* (2008). The books do not offer another alternative development theory; they rather question conventional economics by offering ample of theoretical and empirical reasons for re-defining the research agendas, showing the limits of the inherited body of knowledge and – most provocatively – import insights from other social sciences or even (as in the case of Sen) *moral philosophy.*

With China and other developing countries or emerging markets in mind we will therefore summarize the two concepts by highlighting aspects which have direct connection to the economic reality of developing countries: (1) Most developing countries need to find ways to overcome deprivation and destitution or, in other words, the question is how to get rid of factors which constitute un-freedom and unhappiness? (2) Developing countries need set specific targets not only for income generating strategies but also for the establishment of institutions and public services which are market conforming and simultaneously accepted by society. Therefore, the question needs to be raised whether people have preferences for social or political mechanisms by which development goals get agreed upon. The process how a society agrees on development goals turns into a question of international policy, when (3) questions of human rights, inherited culture or religion and environmental issues are concerned. The insistence on equal cultural and not only economic opportunities, as well the acceptance that it is up to a specific society to agree which inherited form of living should be preserved cannot be countered by referring to the economic costs such a policy might imply.

Ending Unhappiness and Un-freedom as Development Policy

Both concepts insist that freedom or happiness is not instrumental for development but that they are constituent parts of development. More provocatively in the words of Frey happiness should replace the usual indicator for development such as GDP (Frey, 2008, pp. 8-12). In the most general term both concepts can be viewed as concepts of well-being. The difference is that based on psychological approaches happiness refers to joy and pleasure, life satisfaction and quality of life as reported by individuals. The freedom concept on the other hand focuses on *human capabilities*, i.e. the substantive freedom somebody “enjoys to lead the kind of life he or she has reason to value” (Sen, 1999, p. 87). The reason why these concepts ought to be taken seriously is (1) their implicit value. It is hard to imagine individuals or societies who prefer to be unhappy or not free; (2) their consequential role. The longing for happiness and freedom sets incentives for politics and rulers to care about economic and social security; (3) the constructive role happiness and freedom play in the genesis of value and priorities. The concepts acknowledge values changes but insist that these changes to become effective must not be seen as an automatic response to external change but need to be discussed, accepted and modified (Sen, 1999, p. 246).

A practical way to approach the problem of a development is to list the major factors which generate *unfreedom* and unhappiness by pointing to the fact that next to the world of opulence which characterizes the present global situation, we find deprivation, destitution and oppression. There is a surprising consensus about the factors responsible for the latter phenomenon which severely limits the capabilities of men. There is first poverty, HIV/Aids and other epidemic diseases, destruction of the environment all of which hinder individuals to ‘make a living’ via farming or finding employment in a labor market. To illustrate this point: Somebody who eats less than 2000 kcal per day has few chances to find employment at even the lowest wage rate. Destruction of the natural environment leads to agricultural products which do not find customers in the product market (to the connection between that variety and value of *tradable* and economic development.(See below in Dixit, 2007). A second set of factors refers to education, economic and social security, income, and inclusion in emotional settings such as the family or the community, which offer the emotional security without which individuals find it hard to realize their capabilities. The third set of factors refers to social justice, fairness of and participation in institutions and procedures where the development goals and priorities and values are discussed and modified.

It is worth mentioning that in the first category such as poverty, diseases absolute values matter: one is ill or hungry or not. In the other two categories the relative position matters. It is less how much money one earns than how much money one earns in comparison to others and what the income prospects are. Likewise it is not being alone than being forced into a position of an outsider excluded from schools, social gatherings or communities. While indicators such as health, education, marriage, children etc. are well known components of our well-being the third set of indicators represent ‘freedom’, better the intention and chance to increase capabilities. As moral philosophy argues and empirical studies confirm the means by which individuals can expand their capabilities and which institutions a society offers is in itself a component of development and freedom. A society where corruption offers chances for more income, health, education, or marriage is not seen as one that promises happiness. Before we take up the issue of procedural fairness and institutional choice, some remarks of the life satisfaction in China.

Life Satisfaction in China: Empirical Studies

Happiness research is in its infancy in China and mostly connected to the policy of a *harmonious society.* Yet there are some studies available which give an overview about how China fares in an international comparison, how life satisfaction changed over time, and whether the concept of the Chinese differs from the concepts of other countries. As Table 1 shows China falls into the middle categories of countries when it comes to life satisfaction. At first sight it looks as if richer countries are happier, yet as the case of France, Korea, and Japan indicate GDP p.c. does not explain everything.

Table 1. *Mean life Satisfaction in Selected Countries*

Country	**Average life satisfaction**
Denmark	8.16
Switzerland	8.02
Sweden	7.77
U.S.	7.67
Australia	7.58
Britain	7.46
Brazil	7.15
Taiwan	6.89
China 1995	6.83
Nigeria	6.82
France	6.78
South Korea	6.69
Japan	6.61
India	6.53
Urban China 2002	6.47
Peru	6.36
South Africa	6.08
Russia	4.45
Ukraine	3.95

Source: Song & Appleton, 2008.

The next question is how life satisfaction in China developed over time. As table 2 shows happiness increased till 1995, but has seen a decline afterwards – despite increasing economic success. It is not hard to speculate about the reasons. After all the economic reforms were accompanied about drastic changes in the capabilities of individual Chinese: Chinese could open firms and embark on exchange of goods services and economic information, private firms were established, parents could choose how long to invest in the education for their children, and how to spend their money. The state once more acknowledged the diversity within China by decentralizing the political institution, if not introducing a high degree of local autonomy which captured the cultural diversity as well as offering havens of belonging. Since the middle of the nineties this development seems to have stagnated while the distributional effects of the preceding years became obvious: Some parts of China, some groups of society did benefit less if at all from the economic policy.

Table 2. *Changes in reported happiness over time in China*

	1990	1995	2000
Very Happy	27.5	22.7	11.5
Quite Happy	39.1	60.9	66.3
Not very Happy	28.6	14.1	19.0
Not at all Happy	2.1	1.7	2.8
Don't Know	2.1	0.6	0.4
N/A	0.6	0.0	0.0

Source: Online analysis of world values survey data at http://www.worldvaluessurvey.org/

Findings

A closer look at the different components of life satisfaction confirms the assumption that the Chinese do not differ much when asked what they regard as components of happiness (Table 3). A further economic analysis of the data presented above shows that:

1. Employment (income) and inflation have a large impact on happiness, as have
2. Health and social welfare.
3. That the Chinese receive most happiness and support of the capability-development by their family is also not surprising.
4. What is however seldom assumed in the case of China is that the Chinese see political participation, i.e. the possibility to influence political and administrative decision making, as a component of happiness. The results of the econometric study are worth quoting "participating in politics or expressing a general interest in it does tend to increase life satisfaction. This is particularly interesting because half of those expressing an interest in politics or political participation were not Communist Party members. Sometimes it is feared that an interest in politics outside of the Party control may encourage social discontent. Our results provide some *prima facie* evidence against such a fear." (Song & Appleton, 2008, p. 12).
5. The Chinese regard happiness and freedom as dynamic (capability) concepts. It is the chance to improve their or the life of their family, and the chance to influence 'social choice', which forms part of their life satisfaction.

Table 3. *Satisfaction with Various Aspects of Life (percentages)*

How satisfied are you with:	Very dissatisfied	Not satisfied	Not so satisfied	Satisfied	Very Satisfied	No response
All aspects of your life considered together	3.31	11.55	42.1	38.89	1.03	3.12
Income:						
Current household income?	9.72	18.81	39.89	28.3	2.08	1.2
Income compared with the people you know?	6.32	16.4	40.09	33.2	1.29	2.7
Income compared with what you earned before?	5.71	14.22	34.83	42.24	1.68	1.32
Occupation and social status:						
Current occupation?	3.57	7.83	24.28	48.9	5.4	10.02
Current social status?	5.69	15.58	32.04	41.01	1.86	3.82
Career achievement/personal development?	5.75	17.45	39.49	27.71	1.2	8.4
Opportunities and social mobility:						
Chances for job promotion?	5.35	17.86	37.08	18.25	0.59	20.87
Chances for getting your talents/skills appreciated?	4.44	16.54	41.79	25.59	0.99	10.65
Opportunities for training?	4.92	15.7	31.52	25.46	1	21.4
Job security?	6.01	12.84	25.03	41.76	1.39	12.67
Welfare provision:						
Economic security in old age?	7.74	14.15	31.59	33.34	1.82	11.35
Current housing conditions?	8.51	15.88	34.63	37.54	2.91	0.53
Means of transportation?	5.16	17.57	32.93	35.74	1.4	7.2
Government policies & environment:						
General impact of state policies on your family?	2.61	8.7	34.83	42.27	1.76	9.82
Current price of basic foods?	0.59	3.27	18.08	73.12	2.57	2.37
Current price of basic daily needs (clothing and daily goods)?	1.32	6.98	32.64	54.96	1.56	2.54
Public infrastructure of the city?	5.62	15.11	38.72	37.07	1.39	2.09
Current level of pollution?	10.61	23.29	44.5	17.78	0.97	2.85
Family and social connections:						
Social relations with others (guanxi)?	1.1	5.69	30.98	51.42	1.38	9.44
Family life, marriage and relationships?	0.9	3.11	11.54	69.45	9.46	5.54
Spouse’s current income?	7.44	16.83	31.79	33.08	2.32	8.54
Spouse’s current occupation?	4.8	12.18	23.68	43.33	4.06	11.95
Spouse’s current social status?	5	13.59	27.85	41.37	2.24	9.95
Spouse’s current achievements?	4.39	13.88	32.67	34.66	1.85	12.55

Source: Song & Appleton, 2008.

Conclusion: Institutional Choice and Happiness

Sen (1999, pp. 25-31) claims - and sees his claims largely confirmed by empirical studies - two aspects of the *nature of men* which are relevant for happiness and freedom. Human nature is such that:

1. *People care about their own happiness but also about the well-being of others;*
2. *People constantly exchange goods, services, and ideas*. Trade is neither a 'sin' nor an economic behavior 'unleashed' by a capitalist economic system.

The assumptions have two consequences for 'choosing' economic or political institutions which in the case of emerging markets center on the role of the market and the role of politics. To start with the former:

1. A market economy is not the same as the institution of a market. The capability to embark of free and voluntary exchange, to establish economic organizations such as firms, and to save and invest in endeavors an individual values highly, such as education for the children or new products, directly affects happiness or life satisfaction. Free exchange depends on a complex and fine-tuned set of values. On the individual level trust, honesty, prudency and the acknowledgement of obligations have been identified (Schlicht, 1998); on a social level reputation, reciprocity and fairness and cooperation are essential to the point that a great part of business relations are successfully conducted outside in a lawless state (Dixit), i.e. do not need legislation and state organized law enforcement, and without the help of political agencies. The alternative to free exchange is exchange by force (war, confiscation, robbery), by inheritance, or by state organized exclusion of (part of the) populace from free exchange, or inheritance. In other words, as societies or their agencies which establish and guarantee free exchange while honoring the (inherited) values which shape the underlying custom contribute to the well-being of their populace.
2. While the values which matter for free exchange are so to speak universal, the relative weight of their usage is not. Thus for example most cultures insist on individual freedom as a principle; *equality in freedom* however is a much more recent and sometimes heavily disputed component of freedom: The slavery, the exclusion of women, religious or social groups have been excluded to the detriment of their human capabilities. The assessment of the relative weight of values and subsequent changes depend on a public discourse which all individual can join. It is this aspect which links the economic with the political world. The insistence on one set of values might come at a price when such preservation works for example to the detriment of 'modernization', yet to claim that a technical cost-benefit solves this problem, disregards the fact that 'crucial for a rational assessment of such choices is the ability of the people to participate in public discussion on the subject' and not the socially or politically privileged groups (Sen, 1999, p. 242).

To sum up: freedom and well-being are not abstract principles but are connected to concrete concerns of individual lives. Once an empirical perspective is used to examine the real life concerns *cultural or ethical differences* disappear. Health, family, improvement in life chances are ubiquitous concerns.

At first sight the findings seem to suggest straightforward policy recommendations for choosing the "right" institutions: Supplement high growth rates with social welfare programs and an appropriate (income) redistribution policy. Yet, the findings point to an additional aspect of institutional choice which is worth emphasizing. *The process* how such an economic policy and changes in the incentive structure within the economy is agreed upon *matters.* Dynamic capabilities are a *good* Chinese value as highly as, let's say

Europeans. Social institutional choice and in a broader sense the relationship between ethical norms and an effective incentive structure depend on participation in an open discourse about business of the whole community.

References

Wikipedia. (February 18, 2012). Amish people, retrieved from http://en.wikipedia.org/wiki/Amish,.

Defoe, D. (1703). Hymn to the Pillory.

De Soto, H. (1989). *The other path: The invisible revolution in the third world.* New York: Harpercollins.

Dixit, A. K. (2007).Governance institutions and development. *RBI Monthly Bulletin*, 1068-1080.

Frey, B. S. (2008). *Happiness: A revolution in economics*. Cambridge, MA: MIT Press.

Hirschman, A. O. (1977). *The passion and the interests*. Princeton: Princeton University Press.

Katz. P. R. (2009). *Divine justice: Religion and the development of Chinese legal culture*. London: Routledge.

Schama, S. (1987). *The embarrassment of riches*. New York: Alfred A. Knopf.

Schlicht, E. (1998). *On custom in the economy*. Oxford: Clarendon Press.

Sen, A. (1999). *Development as freedom*. Oxford: Oxford University Press.

Song, L., & Appleton, S. (2008). *Life satisfaction in urban China: Components and determinants*. Munich: Forschungsinstitut zur Zukunft der Arbeit (Institute for the Study of Labor).

ETHICAL NUMBNESS: SOME GLIMPSES OF LAWYERS ACROSS ASIA AND THE SOUTH PACIFIC

Roderick O'Brien
University of South Australia, Adelaide, SA, Australia

Abstract: Business and professional schools often include ethics instruction, and graduating students are often idealistic about their ethics. But this can change to ethical numbness. The paper examines five causes of ethical numbness among lawyers in the Asia and South Pacific region. How can we counteract this numbness, and maintain a strong sense of ethics among legal professionals? The paper identifies five strategies which are employed across the region to maintain the early ideals. (The paper was presented at the Eighth Annual International Business Ethics Conference; "Rule of Law and International Business Ethics Conference"; 21-22 October 2011: University of International Business and Economics, Beijing.)

Keywords: professional ethics; legal ethics; continuing professional development; lawyers associations

Introduction

Professor Antonette Palma-Angeles is the Director of the Jose B Fernandez Center for Ethics at the Ateneo de Manila University. Recently, Professor Palma-Angeles noted a difficult issue for teaching professional and business ethics: how do we *maintain* moral sensitivity? As a teacher, Professor Palma-Angeles grapples daily with the problem of developing moral or ethical sensitivity in students. But she also confronts the further problem: how do we maintain that sensitivity long after students have left their law schools or business schools?

I would like to respond to that question for lawyers (and here I include prosecutors). I want to draw on experience across Asia and the South Pacific, and examine the issue of loss of moral sensitivity. And I will put forward some of the diverse ways in which the profession of lawyers has attempted to solve the problem by maintaining ethical sensitivity beyond student days and into professional life.

Common Aspirations and Diverse Problems

Because lawyers serve in countries with different economic, social, and political systems, the ethical problems which they face will differ from one society to another. The observer will see different ethical codes, putting forward different priorities and different solutions even for the same issues.

Generally, no matter what the system of law, legal professionals aspire to some sense of ethical obligation beyond the basics of making a living. A report from the Republic of the Philippines put these aspirations at a high level:

> "Practice of the law is not a moneymaking venture. Law advocacy is not capital that yields profits. The returns it births are simple rewards for a job done or service rendered. It is a calling that, unlike mercantile pursuits which enjoy a greater deal of freedom from

government interference, is impressed with public interests, for which it is subject to State regulation." "The primary characteristics which distinguish the legal profession from business are:

1. a duty of public service, of which emolument is a by-product, and in which one may attain the highest eminence without making much money;
2. a relation as officer of the court to the administration of justice involving thorough sincerity, integrity, and reliability;
3. a relation to client in the highest degree fiduciary; and
4. a relation to colleagues at the bar characterized by candor, fairness, and unwillingness to resort to current business methods of advertising and encroachment on their practice, or dealing directly with their [colleagues'] clients.

These characteristics make the law a noble profession." (Lapeña, 2009)

Because of the diversity of legal systems and legal professions, these aspirations cannot be directly translated from one country or region to another, but they do provide us with a summary which has many common features across our various jurisdictions.

Ethical Numbness

Veteran Chinese jurist Professor Jiang Ping identified a key issue among lawyers: ethical numbness. Professor Jiang, who trained in the system of soviet law in the former USSR, recognises that his generations of students are often enthusiastic and innocent at the time of graduation. But after some years they become numb. He uses the fable of a toad. If a toad is dropped into boiling water, it will struggle and try to escape. But if the toad is put into water, and the water is slowly heated, the toad will become accustomed to the change in temperature, until finally it dies in comfort. Lawyers become inured to problems such as corruption in the justice system, and their ethical enthusiasm slowly dies. (Jiang, 2010) (The fable of the toad may not be technically correct, but it is widely used.)

While Professor Jiang is writing about the situation in China, the problem of ethical numbness or ethical insensitivity is a common problem. His amusing fable of the toad reminds us that loss of ethical sensitivity is rarely a single event: usually it is a slow process, hardly noticed even by the individual lawyer.

Causes of the Problem

Professor Jiang identifies a number of issues. One of these is the way in which legal work is treated as a business, and not as a profession. Another is that lawyers engage in a kind of self-preservation, in order to reap the material rewards of practice. But there may be a wider variety of issues across the Asia and South Pacific region, and we can identify some of them through the profession's own sources. Each of these may contribute to the incidence of ethical numbness or professional insensitivity.

Burnout and Mental Health Issues

Mental Health issues are important questions for legal professionals. And it seems that some mental problems such as distress and depression may be precisely caused by the ways in which law is practiced. For Western Australian lawyers, a recent report suggests that their rate of depression is worse than that of the general population. (Kendall, 2011) While the issues covered in the report are wider than ethical issues, the author notes that a feature of the distress of the legal profession is disillusionment "as many lawyers feel compromised by ethical dilemmas in their work".

The Law Society of South Australia has noted that some lawyers who are suffering from mental health and related issues are then acting unprofessionally, and there has been an increase ("a spike") in clients claiming on the indemnity funds available through the Law Society. (Martin, 2011) The mental health problem can lead to ethical problems for the individual and for the whole profession.

Institutional Problems Built into the Profession

In some cases, it is the institutional practices of the profession itself which creates the ethical slide for the profession. Many of these issues revolve around questions of fees charged by lawyers. These issues may operate within a law firm, or beyond. Australian researchers have observed that the system of billable hours (whereby a lawyer must be able to bill a client for a fixed number of hours per day, such as 6.5 or 7 hours) creates crushing pressure for young lawyers. Also, Chinese observers have noted that the law profession's own aspirations may lead clients to believe that lawyers should really work for nothing except their professional dignity. (Yao, 2004) Suing clients to recover legitimate fees creates a dilemma for the aspiring lawyer. The struggle to earn a living and to get paid may weaken the ethical sensitivity of the lawyer, even though this process is slow and imperceptible.

A second issue is the form of business for lawyers. The traditional form has been the partnership law firm, within a single legal jurisdiction. Does this form best serve the needs of the community, and the needs of clients? Certainly some jurisdictions have already moved to alternative business structures. In Australia, most jurisdictions now allow for incorporated practices, (Law Society of New South Wales, 2011), and similar proposals have been made for Hong Kong. (Wong, 2011) We cannot take it for granted that institutional structures which have served us well in the past will automatically be the best structures for future ethical practice. At the same time, we have to maintain ethical sensitivity within any new professional context where lawyers are responsible to non-lawyers such as investors or shareholders.

Thirdly, political or governmental interference in the practice of the profession may provide a source of conflict for lawyers. Faced with carrying out their ethical duties to clients on the one hand, and the restraint by political or governmental regulators on the other, lawyers can lose their ethical sensitivity in situations of professional survival. A Canadian observer has suggested that the Bar in Cambodia is so constrained by the Executive that it is unable to fully function independently and ethically. (Morris, 2009) When the profession is unable to function ethically because of interference, especially from those in authority, the individual lawyer may be led to feel that ethical practice is not a viable option.

A fourth issue is the rate of entry into the legal profession. Usually there is a qualification examination or some other gateway to entry to the profession. Some countries, for example Japan, have traditionally had a very low rate of entry into the profession. One argument is that a small profession ensures ethical and professional quality. But the counter argument is that a small profession is a busy and well-paid profession, and practising lawyers become numb to the needs of the poorer sections of society. (Hood, 1997) In 2004, Japan undertook a major reform of legal education and entry qualifications. Over time, this should result in an increased number of lawyers, but more examination is needed of the impact of these structures on ethics.

Prevalence of Unethical Practice in Society Generally

Where lawyers are working in a society where unethical practices are widely condoned, it can be particularly hard for lawyers to maintain ethical sensitivity. Professor Jiang Ping, in the article already cited, draws attention to the fact that clients may expect lawyers to facilitate the client's own unethical conduct, or may expect lawyers to routinely act in unethical ways to benefit the client, or to benefit the lawyers themselves. This can create a constant pressure whereby the lawyer slowly and imperceptibly loses her or his 'moral compass.'

Some indicator of the diversity of our region can be gained from the annual index of perception of corruption published by Transparency International. (Transparency International, 2010) In our region, we can be glad that two of our nations, Singapore and New Zealand, share the top place. Australia, Hong Kong, and Japan are not far behind. But of the 178 nations on the list, Myanmar has the 176th place, and Papua New Guinea, Laos, and Cambodia share the 154th place. How can lawyers across the region help each other to practice ethically and to maintain ethical sensitivity when the societies within which some lawyers must practice are riddled with unethical practices?

Prevalence of Unethical Practice in the Lawyer's Immediate Professional Environment

One of the key cases of Hong Kong's Independent Commission Against Corruption (ICAC) involved a senior and able government prosecutor, who was heavily indebted in business. The first successful attempt to bribe this lawyer came from other lawyers: a solicitor and barrister whose client was seeking to have charges dismissed. From this first bribe, in his immediate professional environment, the senior government lawyer went on to other cases, until finally he was caught out. It does not excuse his conduct, but it goes some way to explain his unethical receiving of bribes, that he responded to close professional colleagues. (Independent Commission against Corruption, 1996) While that is an individual case, I would generalise that it is more difficult for a lawyer to maintain ethical sensitivity and ethical standards when these standards are not respected widely in the profession.

An important aspect of professional life is the sense of belonging to the professional community. When that community is not acting ethically, then the lawyer will find a tension between ethical values and sense of belonging. It may not be the whole community which is infected with unethical practice, but if the immediate community of the lawyer (such as her law firm, or her peers from law school) are unethical, then ethical numbness may follow. Even if professional colleagues are not personally corrupt, but are cynical about corruption or tolerant of corruption, this creates an environment in which the lawyer's ethical standards and ethical sensitivity may be endangered.

An ethical environment is needed not only for lawyers, but also for the legal system in which they must work. The Transparency International Global Corruption Report for 2007, which focussed on judicial systems, indicated how judicial corruption in Mongolia is linked with bribery by lawyers. (Transparency International, 2007) The wider legal profession, including judges, create an environment which can be supportive of strong ethics, or which can erode a lawyer's ethical sensitivity and standards.

Failure of Moral Courage: Ethical Decisions and Ethical Dilemmas

Professor Jiang, cited earlier for his identification of ethical numbness, suggests that vitality and courage may be lost when life is too comfortable. If the lawyer becomes wealthy, with a good house and car, vitality and courage are threatened. While he does not suggest an artificially ascetic life, he does suggest that too much ease can be a trap.

In examining ethical courage, we can distinguish between two situations. The first is where the lawyer can see the ethical issue, but lacks the courage to deal with it correctly. The lawyer must have a clear sense of right and wrong, and the courage to act accordingly. But some years ago, the President of the Fiji Law Society complained of the profession that "In simple terms, more and more lawyers have great difficulty recognizing what is wrong from what is right. Worse still they do not care so long as they obtain an outcome in their favour." (Leung, 2004)

The second situation is where the lawyer is faced by a dilemma, and the ethical issue is not clear. In these cases, lawyers sometimes lack the courage to explore and solve the dilemma. The situations are not the same, but the failure of moral courage in these situations can be similar.

Courage is a difficult virtue to define, as it involves a number of elements. Courage includes knowledge of the situation and the dangers. Courage, according to Aristotle, takes the middle path between rashness and cowardice. The lawyer who acts without knowledge is not being courageous, only being rash. The lawyer who acts according to principle even when knowing the dangers is being courageous. Courage also involves the element of persistence or perseverance. The demands of ethical life cannot be satisfied just with one event or with one fine day. Maintaining ethical courage requires a sustained belief and willingness to carry out that belief.

Finding Solutions across the Region

Surely there are many critics both inside and outside the profession who can identify our ethical weaknesses. No doubt many of them are more articulate than I can be. But what can we do to solve the problems? The profession has tried a variety of tools, none of which can be effective on its own. The solutions listed here can be tried in any combination.

Government regulators, the wider public, the media, and especially other members of the profession provide the complex matrix of affirmation and pressures for conformity which will help a lawyer to maintain ethical values and ethical sensitivity. These affirmations and pressures will interact with the individual lawyer's own conscience, to maintain not only initial enthusiasm, but also ethical maturing over decades of practice. In a diverse society, where not everyone shares strong ethical values, we cannot expect that lawyers will only receive support. There will also be pressures from corrupt lawyers, clients, judges, and other members of society, for a lawyer to act against her professional ethics. The solutions listed here are simply possible responses by the profession in Asia and the South Pacific, all aimed at better ethical practice by the region's lawyers.

Continuing Professional Development

Continuing Professional Development (CPD) or Continuing Legal Education (CLE) is a technique commonly used. In many jurisdictions, the renewal of an annual practice certificate is made conditional on the achievement of a certain number of units of mandatory CPD. Of course, this can include a wide variety of professional topics, of which ethics is only one.

The Malaysian Bar has to deal with a geographical situation where the members are separated across wide distances, including a wide sea. In addition to the face-to-face continuing Legal Education, the Bar has recently introduced electronic education in ethics, to make the resource available more readily to members. (Francis, 2010) As far as I have researched, all organised CPD programmes include some element of ethics and professional conduct. Renewed contract through CPD programmes can serve to bring ethical topics into the foreground, and the compulsory nature of the programmes can underline the profession's concern about ethics.

Professional Exemplars

Across cultures, it is common to look to outstanding examples to serve as models of professional life, including ethical models. China has a wide variety of awards for exemplary lawyers, from local to national level. Some of the lawyers thus affirmed have been praised for their ethical response to difficult situations. Resisting bribes and seeking the enforcement of the law have been among the items for praise. (O'Brien, 2009) The use of professional exemplars has its risks, for example when a lawyer praised as an exemplary professional turns out to have acted, or later acts, unethically.

The President of the Law Institute of Victoria grants Awards each year, and in some years these are for contributions to legal ethics, or advanced the cause of ethics in the profession. In 2009, the award was given to a lawyer in a law firm for his work in ethics, particularly for setting up an ethics and conflicts committee within that firm, as well as contributing to the Law Society's own promotional and advisory work in ethics. In 2010 the award was given to a senior lawyer, who had been in a law firm, then a government official, and then a judge. Through these years he had lectured on ethics to law students, and contributed to the promotion of ethics. (Law Institute of Victoria, 2010) Although these awards are individual, they can contribute to sustaining the overall importance of ethics within a profession. They contribute to the matrix of affirmation.

Of course, it is important that lawyers who breach ethical standards should be disciplined. These disciplinary proceedings provide a kind of negative example for lawyers. If possible, the cases should be publicised through the profession and through the wider community. A valuable example is the practice of the Law Society of Hong Kong, which regularly publicises disciplinary proceedings in its monthly journal. But disciplinary proceedings do not provide lawyers with positive examples of how to live and practice ethically. Positive professional exemplars, endorsed by the profession or by government regulators, can help.

Re-learning the Code of Ethics through Symbolic Actions

Most jurisdictions have written Codes of Ethics for lawyers. The codes may have been prepared by the profession itself, or by government regulators. Sometimes these codes are accompanied by handbooks or other material which set out the experience of the profession through review of individual cases. But how can professional leaders ensure that the code is not just left on the bookshelf to gather dust?

One method for ensuring that lawyers are reminded of their ethical duties is through symbolic actions such as public recital, taking of oaths, or formal signing. These actions are conventionally part of the legal traditions. Such symbolic acts are more common at the commencement of processional life than during its course, but they may come into more frequent use. Recently in China the Supreme People's Procuratorate introduced a formal ceremony for oath-taking. An official commenting on the introduction of the oath suggested that "it should be an important part of ethics construction to organize oath-taking ceremonies for procurators" (Xinhua, 2010).

Mentoring

Most systems for admission to legal practice require the applicant to undertake a formal period of apprenticeship, as well as study and examinations. The name varies across the jurisdictions, but the concept is the same: the candidate must gain exposure to professional experience under the tutelage of a senior lawyer in a law firm. At best, the mentor can provide the applicant with the experience to maintain ethical sensitivity in the practice of law. A good relationship between mentor and applicant can last beyond the required year or two of formal apprenticeship.

Some teaching institutes sponsor mentorship even while students are still studying law. The law schools of the University of Hong Kong and the Chinese University of Hong Kong both promote such programs. The Law Institute of Victoria currently maintains a mentorship program into professional years, and it is specifically geared to include mentoring on ethical issues. It may be that there is a greater need for formal mentorship not only in student years or apprenticeship programs, but in later years when the young or middle-aged lawyer is slipping into ethical numbness.

Exposure to Public Needs

Some lawyers claim that undertaking legal aid work is a core professional responsibility. It should be noted that no other profession takes this claim as seriously as lawyers do. No doubt physicians do help indigent patients, and accountants might forego their fees, but lawyers promote this in an organised way. In some jurisdictions (such as China) the obligation is included in both the *Lawyers Law* and in the lawyers' Code of Conduct. (O'Brien, 2005) The Code of Ethics of Mongolian Advocates requires lawyers to reduce their fees for the needy. (Johnson, 2004) Whether it is undertaken on a voluntary (*pro bono*) basis, or under legislative compulsion, participation in legal aid brings the lawyer into contract with the most needy in society. Other kinds of exposure, such as voluntary work with non-government organisations, can also refresh the lawyer's sense of professional duty towards those most in need. Lawyers in Hong Kong can join in a mentorship programme operated by the Law Society of Hong Kong, through which professional lawyers can act as mentors to at-risk school students. This will bring the lawyer into contract with young people in a particular kind of need.

Conclusion

Professor Antonette Palma-Angeles asked if we could not only teach professional and business ethics, but also if we could maintain the ethical sensitivity of professionals beyond the days when the leave law school or business school. There is no simple answer to her question, but there is an answer in the making.

Surely we can identify many of the problems faced by lawyers in maintaining ethical sensitivity in their professional lives. We can see the professional numbness which can afflict practitioners after only a few years in practice. And we can identify some of the causes, which have been covered in section 3 above.

But we can also identify that the profession is alert to the need. A variety of methods are presently in use across the Asia and South Pacific region. These include Continuing Professional Development (CPD or CLE), symbolic actions such as oaths, mentoring, professional exemplars, and exposure to the needy. None of these methods can by itself be successful. Indeed, without the support and example (beyond mere words) of the leaders of the profession and of professional regulators in government, each of these steps can become mere window dressing. Nevertheless, the profession is alert to the problem of maintaining lawyers' ethical courage, and across the region we can learn from each other.

The methods which have been used are not restricted to ethical questions. For example, Continuing Professional Development can be used to enhance lawyers' skills in a wide variety of fields. Across the region, we can look at other methods, and see if these tools can be used to enhance ethical sensitivity. Perhaps future options could include retreats, which are now used in business. Another option might be the preparation of in-house Codes of Ethics, especially for those law firms working in more than one jurisdiction. Such in-house codes could draw on the best of ethical experience in each jurisdiction. Whatever steps we can find, they must first be honoured by professional leaders and regulatory leaders. For the cynical lawyer who has already become ethically numb, a retreat can simply be a holiday, and a code can be a useless piece of paper.

As our world and our profession become more globalized, it is important that professionals can share experiences and learn from each other. The Center for International Business Ethics (CIBE) and the co-organisers are to be applauded for arranging this conference on *The Rule of Law and International Business Ethics.* And as Beijing becomes an increasingly important centre for business and the professions, we can applaud the University of International Business and Economics for its role in hosting this conference in Beijing. I hope that the few thoughts which I have been able to offer from across the region might be of assistance to the fine group of professionals and academics who have gathered in Beijing today. No matter that we have traditions from the common law, from continental law, or from soviet law, we can all work together to ensure that we are ethically sensitive and courageous.

References

Francis, J. R. (January 13, 2010). Bar council ethics & professional standards course for pupils. *Malaysian Bar Association*. Retrieved from http://www.malaysianbar.org.my/bar_news/berita_badan_peguam/bar_council_ethics_professional_standards_course_for_pupils_9_and_10_dec_2009.html?date=2010-06-01

Hood, D. (1997). Exclusivity and the Japanese bar: Ethics or self-interest? *Journal of Pacific Rim Law and Policy*, *6*(1), 199-218.

Independent Commission against Corruption, (1996). *Senior government counsel bribery case*. Retrieved from http://www.icac.org.hk/en/law_enforcement/lc/index.html

Jiang, P. (November 1, 2010). When lawyers thrive the nation thrives. *Beijing Daily*. Retrieved from http://www.bjd.com.cn/10llzk/201011/t20101101_643735.html.

Johnson, V. (2004). Commentary on the code of ethics of Mongolian advocates. Unpublished paper, St Mary's University, San Antonio.

Kendall, C. (2011). *Report on psychological distress and depression in the legal profession*. Perth: Law Society of Western Australia

Lapeña, Justice N. P. (2009). Bar Review Guide in Legal and Judicial Ethics: 340-341 citing Metropolitan Bank and Trust Co v CA 181 Supreme Court Reports Annotated 377; Manila: Central Book Supply.

Law Institute of Victoria. (2010). Events. Retrieved from http://www.liv.asn.au/Education---Events/Events/LIV-Legal-Awards/Presidents-Awards-Nomination-Form

Law Society of New South Wales. (2011). Practice Structures. Retrieved from http://www.lawsociety.com.au/ForSolictors/practisinglawinnsw/practicestructures/index.htm

Leung, G. (2004). Rules of professional conduct and practice: A perspective from the private bar, retrieved from http://documents.ag.gov.fj/conductPractice-leung.pdf

Martin, J. (2011). Your mental health: do not despair, there is hope. *Bulletin of the Law Society of South Australia*, *33*(7), 16.

Morris, C. (2009). *Concerns about independence of lawyers and judges in Cambodia: Trends from 2004 to 2009*. Vancouver: Lawyers Rights Watch Canada, retrieved from http://www.lrwc.org/documents/Cambodia%20Independence%20of%20Jurists%20LRWC%20C%20Morris%20July%2009.pdf

O'Brien, R. (2005). The value and values of legal aid in China. *Chinese Cross Currents*, *2*(2), 38-49.

O'Brien, R. (2009). What makes a good lawyer? The official awards. *Chinese Cross Currents*, *6*(1), 54-65.

Transparency International. (2007). *Global corruption report 2007*. Berlin: Transparency International.

Transparency International. (2010). *Corruption perception index 2010*. Berlin: Transparency International.

Wong, H. (2011). Ceremonial opening of the legal year 2011, retrieved from http://www.fjt2.net/gate/gb/www.hklawsoc.org.hk/pub_e/news/societyupdates/20110111.asp

Xinhua. (2010). Chinese procurators required to take oath of office for greater sense of duty. Xinhua News Agency, retrieved from http://news.xinhuanet.com/english2010/china/2010-03/21/c_13219165.htm

Yao, Y. (July 5, 2004). Legal "Savior" fighting for his fees. *China Daily*, retrieved from http://www.chinadaily.com.cn/english/doc/2004-07/05/content_345478.htm

DISCUSSION FORUM

Exposing "The Perfect Crime": Thomas A. Myers' Open Letter to the Occupy Wall Street (Ows) Movement

Dennis P. McCann
Journal of International Business Ethics Editorial Board

The Journal of International Business Ethics (JIBE) is proud to publish this open letter from Thomas A. Myers, the principal of one the USA's top firms specializing in forensic accounting. For those whose perception of the Occupy Wall Street movement has been shaped largely by the concerted attempts of mainstream news media to marginalize or otherwise discredit it as a throwback to the hippie protest movements of the 1960s, Myers account should prompt us to take a second look. The movement, at its core, is not some misguided declaration of war on capitalism as such, but a principled demand that justice be done to those who perpetrated 'the perfect crime' of ripping off the system of global financial markets, thus precipitating the global financial crisis. Myers' specific expertise in forensic accounting allows him to describe authoritatively the crime and identify those who had a hand in it.

But it is lucidity of his prose and the transparency of his moral passion that ought to elicit from us a renewed commitment to take up the cause of ethical reform in the financial services industry. Myers' letter, however, offers more than just an expression of solidarity with the protestors who this past autumn and winter occupied Zuccotti Park in lower Manhattan. In order to shame those whose cavalier disregarded their fiduciary responsibilities. Myers asks all of us to join him, not only in shaming those who so cavalierly set aside their fiduciary responsibilities, but also in working to formulate and implement an "Investors' Bill of Rights," beginning with the pension plans, endowment funds and other institutional investors, that may help restore the ethical basis and legitimacy for the indispensable role of financial institutions in the global economy. If you are at all concerned about the integrity of international business ethics, you cannot afford to ignore this invitation from Thomas A. Myers.

Open Letter from Thomas A. Myers to Occupy Wall Street

Thomas A. Myers
T. A. Myers & Co.

I am offering this letter of support to all of you who have contributed so selflessly to the Occupy Wall Street ("OWS") movement. You are steadfast examples of the fortitude and conviction that represents the quintessential American dedication to what is right, what is just, and what is fair. Such commitment stems from well before the time of the famous New England activist and brilliant philosopher, Henry David Thoreau, who in 1849 asserted in his celebrated essay on civil disobedience: "I think that we should be men first, and subjects afterward. It is not so desirable to cultivate a respect for the law, so much as for what is right."

The cause for which you rally is born from the ignominious recent history of how greedy Wall Street investment bankers, with the tacit approval of the United States Treasury and the Federal Reserve, successfully exploited the world financial system -- to the tune of hundreds of billions, if not trillions, of dollars. The unfortunate aftermath of this hijacking of the world economy has engendered a somber tapestry of increasing poverty and joblessness for hard-working American citizens. Such hardships for the middle class exist even as those who perpetrated the greatest fraud in history, the Wall Street elite, have been allowed to go unpunished -- able to capitalize on their ill-gotten gains -- wealthier, and more influential, than ever.

The 2008 economic catastrophe engineered by Wall Street has left global financial chaos and financial dysfunction in its wake. The current Occupy Wall Street phenomenon which is sweeping the globe, is an emotional and passionate reaction of public outrage to the excesses of Wall Street and the popular conception that little, if anything, has been done to make right the inherent wrongs. Moreover, our government has failed to undertake the changes necessary to establish the accountability which could lead to a reformed system -- one that will be resistant to such outrageous exploitation in the future.

Although the Occupy Wall Street movement has been criticized for its alleged lack of a coherent, united voice and failure to articulate an explicit, detailed rationale for its dissatisfaction, the movement is based on a social conscience and commitment to social responsibility that is unassailable. Beyond any doubt, the social cause of those who protest in the OWS movement is unequivocally grounded in contemporary, factual reality and time honored American values. The basis for the dissatisfaction expressed by OWS is, in my view, compelling.

According to the latest United States census data, as the poor grow in numbers the rich grow in wealth. The collective income of the top 0.1% of the U.S. population earning an annual average of $5.6 million each, grew 385% from 1970 to 2008, while the collective income of the bottom 90%, averaging some $31,000 a year, was essentially flat.

The virtually unpunished conduct of the Wall Street elite and their cohorts -- which I would define to include the major credit ratings agencies, supported by a number of key government regulators, treasury officials and politicians -- has far-reaching implications for the future of our democracy, for ourselves, for our children and for our children's children. The moral hazard created by our government's acquiescence to this grandest of all thefts is, unfortunately, off the charts in its implications for those who cherish the notions of social responsibility, appropriate corporate governance, fairness and equality, and who would like to preserve those values for others who follow.

I offer this letter of support because, as a nationally recognized forensic investigator who has undertaken numerous investigations during the past years of Wall Street wrongdoing leading up to the financial crisis, I can provide absolute and unequivocal factual and intellectual support for the expressions of outrage that many OWS constituents are expressing from their hearts and from their gut. Before I share my perspective on the 2008 financial debacle and what has ensued, it is important to provide you with some particulars regarding my background so that you can judge for yourself the credibility of my remarks.

By profession, I am a forensic accountant, CPA, and have testified widely across the United States and Puerto Rico in major litigation involving allegations of securities fraud as well as fraud in connection with complex investment schemes. I have testified before the U.S. Congress on matters relating to banking fraud and trained literally thousands of representatives from all of the federal banking regulatory agencies over the past two decades.

In 2009, I was engaged by the Board of Governors of the Federal Reserve to chair, and to provide a series of lectures for a major conference in Washington D.C. sponsored by the banking regulators. These lectures were for capital market specialists from all over the country who were dealing with the subprime credit debacle and the various complex derivatives and securities instruments which the federal regulators had inherited from bailing out so- called "too big to fail" money center and other large banking institutions.

In the course of my firm's professional investigations -- some undertaken on behalf of the federal regulators, and, more frequently, on behalf of law firm consortiums representing defrauded investors -- I have investigated allegations of securities fraud stemming from the current crisis against more than 20 major Wall Street players including investment bankers, mortgage originators, the ratings agencies, and other architects of the recent financial debacle.

Over the past few years I have been "up to my eyeballs" in thousands of documents involving e-mails, internal correspondence, and public pronouncements prepared and/or generated by many of the bad actors implicated in the 2008 financial collapse. As a result of my extensive analysis and investigations, it is clear to me that the greed of these Wall Street elite was like an itch that resisted all scratching.

Some of you may have heard of the notorious bank robber and safecracker from the 1930s named Willie Sutton who was finally caught after a long and profitable criminal career. When asked why he robbed banks, Sutton allegedly replied, "It's where the money is!" However, Sutton was a complete amateur compared to a number of Wall Street bankers who have espoused the philosophy that the best way to steal a fortune is not to break into a bank, but, rather, to own one and steal from the customers. The Wall Street system of betting against ("shorting") investors' interests is designed from top to bottom, not to make sure that your retirement is secure but rather, to separate you from your hard-earned money. It's not unlike the lobster being put into a pot who inquires "What's for dinner?" If Wall Street has its way -- you are.

In the words of Sen. Carl Levin, co-chairman of the Senate Permanent Subcommittee on Investigations in their recently published, April 13, 2011 report: "Wall Street and the Financial Crisis: Anatomy of the Financial Collapse”:

> When you're putting together a product, hold that out and then are betting against the same product, I think it's a conflict of interest and at a minimum you have to tell people, not some boilerplate that you might be on the other side, but in clear language that you're betting against [the security].

After looking at the inexcusable conduct demonstrated time and again by some of the world's largest commercial and investment bankers in their actions that led up to the financial crisis, it appears that these perpetrators may have committed the perfect crime. It seems that only through the passion, the fortitude and the commitment of the OWS movement -- and the pressure applied by individuals such as yourselves -- that such egregious matters may be held up to the light of day. Appropriate scrutiny of what went wrong opens the door for enlightened reform.

The saga of recent Wall Street greed and avarice is laced with, among other things, enormous and outrageous executive bonuses and excessive compensation, abysmal underwriting standards, misstatements, omitted disclosures and complete disregard for fiduciary responsibilities, as well as massive, pervasive conflicts of interest. It involves the fleecing of billions of dollars of pension/retirement fund money from all over the world, the loss of which will change many lives forever.

In the remainder of this letter, I will comment on what I have seen and learned from my investigations. Not simply to point fingers at the wrongdoing, but also to suggest change in order to avoid such travesties in the future. My intent is to affirm and ratify, based on the facts, the legitimate outrage which many of you feel so explicitly in your gut. In my youth, I once had a coach who told me: "It's the coward's way to complain but the way of the hero to make it different." I believe there are numerous heroes in this movement who would like to learn from and avoid the mistakes of the past which are epitomized by Wall Street greed. Our objective should be to develop a proactive financial and economic system based on fairness, transparency, sustainability and social responsibility, as opposed to the rampant self-interest and unconscionable profiteering that we have seen. As a seasoned financial observer with more than three decades of experience analyzing complex financial transactions, I can assure you that -- far from being unrealistic -- such goals are essential and fundamental to a sustainable recovery -- but much hard work by committed individuals such as yourselves, and others, needs to be done.

The goal of this letter is not only to make transparent some of the uglier truths about the financial crisis, but also to examine alternatives that might help our country and the world to avoid the mistakes of the past. We must underscore the point -- with which I am convinced you would agree -- that when the authorities act contrary to what is right, we must act contrary to the authorities. However, we should also remember that, as Voltaire said, "It is dangerous to be right in matters on which the established authorities are wrong." Even though you will be criticized and, in certain inevitable instances, persecuted, it is important to remember that you are spot on in your conviction that the system must be changed. It goes without saying that those who wreak violence and irresponsible behavior in the name of OWS simply provide fodder for others who would marginalize and condemn the movement.

To improve the financial ecosystem, we must first understand what went wrong. The 2008 financial debacle and ensuing malaise was engendered largely by what I would characterize as an "unholy alliance" between the United States Treasury, the U.S. Federal Reserve and some of Wall Street's largest and most dominant commercial and investment bankers. These players, collectively, were responsible for the loss of untold billions of dollars of investor's funds while at the same time, sticking the U.S. taxpayer with the tab for more than $1 trillion worth of abysmally underwritten subprime residential mortgage backed securities.

Subprime Snake Oil

The subprime debacle began with Wall Street investment bankers who sought a unique niche in the previously unexploited subprime mortgage market. To fill the bankers' insatiable demand for mortgages, which were subsequently sold into securitizations and other structured finance products including CDOs, Wall Street enlisted hundreds of mortgage origination operations. The Wall Street bankers then proceeded to dictate the most historically lax standards for mortgage underwriting ever known on the planet. Unbelievably, according to the policy of one of the largest banks in the world, a mortgage borrower would actually be disqualified if the borrower revealed his or her income. These loans came to be known at the time as "liars" loans -- for good reason. The mortgage originators received commissions for originating the loans which were then sold to the bankers who then sold them for huge profits into structured finance products which they sponsored. In this manner, after taking their profits, the mortgage originator avoided the risk of loan ownership, as did the investment banker, whose top management received bonuses in the many millions of dollars. The ultimate losers -- counted in trillions of dollars – were the pension funds and retired workers, along with other investors around the world that were victimized by the banksters.

The ratings agencies, who are paid directly by the investment bankers to rate the product the bankers were selling, were notoriously lax and even complicit in providing their "investment grade" seal of approval. When the wheels finally came off and it became apparent that these defective mortgages were not going to perform, a financial implosion of epic proportions took place. The economic malaise that ensued continues to exist to this day and is a focal point of the OWS movement.

We could spend hours, indeed days and weeks, going through and recounting details of the aggressive stupidity, greed, and the massive conflicts of interest. For anyone interested, I am preparing a series of YouTube videos that will provide an explicit roadmap of the deception that was perpetrated. In the interest of brevity, I will not dwell on the details of the many instances of securities fraud involved in the promotion and packaging of the Wall Street structured finance products that were at the heart -- the very epicenter -- of the financial crisis.

Wall Street and the U.S. Fed: Too Close for Comfort

In addition to the gory details of the transactions, I would like for you to consider another aspect of the financial debacle -- that is, the consistent collaboration and overall parasitic relationship that existed between the most influential central bank in the world -- that would be the United States Federal Reserve -- and some of the most culpable Wall Street perpetrators, including Goldman Sachs, which recently received the largest fine ever by the Securities and Exchange Commission to settle allegations of defrauding its investors. Each situation I refer to could take hours to review, so I will simply provide an overview of what the record has established.

First let's consider the action that was undertaken in early 2008 by the Federal Reserve with respect to the troubled investment banker, Bear Stearns. The collapse of two Bear Stearns hedge funds in mid-2007 is widely regarded as ushering in the worldwide financial crisis. Rather than permit this notorious investment banker to fail, the Fed engineered an "acquisition" of Bear Stearns by J.P. Morgan Chase ("J.P. Morgan") whereby the central bank contributed $29 billion of U.S. taxpayer money to J.P. Morgan to accomplish the transaction.

The agreement, which was "negotiated" during the weekend before the merger, provided a sweetheart deal to J.P. Morgan, including that the funding to J.P. Morgan would be nonrecourse, i.e., J.P. Morgan would not be required to repay the debt out of its own assets if things went bad. Instead, to "secure" this massive bailout, the Federal Reserve, on behalf of the U.S. taxpayers, took some of Bear Stearns' worst, most abysmal, toxic finance products as security.

The Fed negotiated the deal with Jamie Dimon, chairman of the board and CEO of J.P. Morgan Chase, who was also, at the same time, a director of the New York Fed. According to the New York Fed's explicit ethical guidelines, as well as federal law, Federal Reserve Bank directors must abstain from decisions affecting their personal financial interests. Mr. Dimon, who wore two hats in the massive transaction, and had a significant conflict of interest, was instrumental in negotiating the deal with Timothy Geithner, as president of the New York Fed (Mr. Geithner is the current U.S. Treasury Secretary), and then Secretary of Treasury, Henry Paulson, the former CEO of Goldman Sachs.

Mr. Dimon was the major architect of the bailout and beneficially owned more than 9 million J.P. Morgan shares at the time he negotiated the fire sale of Bear Stearns to his company – a sale that was funded entirely through taxpayer money. Dimon’s stock holdings appreciated more than $10 per share (a 27% increase in value) during the ten-day period during which the merger played out in the newspapers -- for a total windfall to the J.P. Morgan CEO, and chief negotiator of the bailout, of more than $90 million in stock appreciation. The Bear Stearns giveaway was the largest ever by the Fed at that time. This enormous conflict of interest with Jamie Dimon was given little, if any, coverage in the mainstream press. Today, Mr. Dimon is frequently mentioned as a most likely successor to Timothy Geithner for Treasury Secretary of the United States.

Similarly, we could take hours to talk about the pervasive conflicts of Goldman Sachs and the role it played in creating the financial debacle. Goldman, which was a major player in developing the market for toxic subprime structured products while Henry Paulson was its CEO. The investment banker secretly made billions by simultaneously betting against the success of those products (“shorting” them) in the distressed debt market, even as its former CEO Paulson was anointed as U.S. Secretary of the Treasury by George W. Bush.

The AIG Bailout

It is also interesting to examine the role of the New York Fed under its then-president, Timothy Geithner in bailing out the world’s largest bond insurer -- the notorious AIG -- to the tune of more than $180 billion in the fall of 2008. AIG initially made a fortune insuring Wall Street's toxic bonds. When the bonds that Wall Street investment banks had been promoting suffered massive losses, AIG owed billions to the banks. This unilateral bailout, which was done without congressional approval, was followed by a New York Fed mandate for AIG to pay out many billions in U.S. taxpayer money to its Wall Street counterparties, rather than negotiating substantial billion-dollar discounts that were available and which could have been obtained at the time. Indeed, the market was pricing such counterparty payments at 50% of value, yet the Fed, using taxpayer money, chose to pay 100 cents on the dollar. The New York Fed instructed AIG to delete references on draft regulatory filings disclosing the sweetheart deals. Rep. Darrell Issa (R-CA), the ranking member of the House Committee on Oversight and Government Reform, made the following statement regarding this matter:

> It appears that the New York Fed deliberately pressured AIG to restrict and delay disclosure of important information to the SEC. The American taxpayers, who own approximately 80% of AIG, deserve full and complete disclosure under our nation's securities laws, not the withholding of politically inconvenient information. This news ought to serve as a cautionary tale to those who advocate giving the Federal Reserve even more power over the U.S. economy. The lack of transparency and accountability is disturbing enough, but the outstanding question that remains is why the [New York Fed] didn't fight for a better deal for the American taxpayer. Clearly, the New York Fed wanted to suppress details and limit disclosure of the counterparty deal from the American people -- the only question is why?

Gaming the System

In spite of demands from Congress and the media, neither the Fed nor AIG were willing to reveal the names of the counterparties nor the amount of taxpayer provided bailout funds that were doled out until March 15, 2009, when AIG finally did so under pressure. Not too surprisingly, Goldman Sachs was a prime beneficiary of the secret New York Fed "backdoor bailout," receiving $12.9 billion in payouts. This occurred even as the contemporaneous New York Fed Chairman, Stephen Friedman (a former Goldman Sachs chairman), maintained his position on the Board of Directors at Goldman Sachs. That Friedman was simultaneously chair of the New York Fed and a board member of Goldman Sachs was itself a violation of Fed policy. Before any taxpayer-funded windfall to Goldman Sachs was made public, Mr. Friedman purchased 52,600 shares of Goldman Sachs stock. His "timely" purchase, made while the public was in the dark, earned millions in paper profits as Goldman's stock appreciated on news of AIG's taxpayer-funded payout when the information finally became public. Similar tales of investment banker/regulator incest abound.

In the meantime, Goldman Sachs was recently required to pay a record $550 million to settle charges by the SEC that it defrauded its investors regarding the Abacus synthetic CDO deal. The SEC fine was a mere slap on the wrist to Goldman Sachs and represents a small fraction of the amounts actually earned by Goldman off of its toxic subprime product line. Rather than a deterrent, the SEC fine, with no admission of guilt by Goldman, simply validated their scurrilous conduct. Many other horror stories regarding spectacular failures, fraud And greed relating to the financial crisis exist including, e.g. relating to Washington Mutual, Indymac, Countrywide, Fannie Mae, and Freddie Mac, Citigroup, Bank of America, and a host of others.

As a postscript to the AIG bailout, even Timothy Geithner, who had graduated from president of the New York Fed at the time of the Bear Stearns and the AIG bailouts to become President Obama's Treasury Secretary, remonstrated when months after the Fed's massive $180 billion giveaway, AIG announced that it would pay some $165 million in bonuses to executives in the same business unit that brought the company to the brink of its collapse. Mr. Geithner's professed outrage seems hypocritical considering that this was less than 1/1000 of the amount that Giethner’s New York Fed had ponied up previously for the taxpayer's 80% interest in the bankrupt AIG enterprise.

The Secret Bailout

Even the AIG bailout pales in comparison to the $1.2 trillion of public money that the Fed (taxpayer’s) forked over in emergency loans to Wall Street's elite bankers at the height of the crisis so the banks could avoid failure, including $107 billion to Morgan Stanley, $99 billion to Citigroup, and $91 billion to Bank of America. This amount, according to Bloomberg, is more than the total earnings of all federally insured banks in the U.S. for the decade through 2010 and is approximately the same amount that U.S. homeowners currently owe on delinquent and foreclosed mortgages. Despite steadfast and formidable opposition from the Fed, information regarding the $1.2 trillion bailout by the Fed to Wall Street was only recently disclosed after a Freedom of Information Act request, months of litigation, and an act of the U.S. Congress. It must be emphasized that the Fed fought tooth and nail to prohibit public access to this information. The Fed apparently seeks to inspire confidence in the "too big to fail" banks by misrepresenting their tenuous financial condition. Ironically, such subterfuge is exactly what the securities fraud statutes are designed to prevent.

But for the actions of the U.S. Fed -- the largest central bank in the world -- a number, if not the majority, of the largest Wall Street banks would have failed. Clearly, the Fed is not a U.S. government agency but, rather, a cartel of private banks acting by proxy. A member of the infamous Rothschild banking family, Nathan Rothschild, once stated that "he cared not who ruled the nation as long as he controlled its monetary system."

It should be apparent that, with respect to the financial crisis, the foxes have clearly been guarding the hen house for a long time. With the likes of “guardians” such as Henry Paulson, Timothy Geithner, Robert Rubin (Clinton treasury secretary who later became chairman of Citigroup) and Ben Bernanke, I believe little progress will be made without an enormous public outcry. It is worth noting that just before resigning under pressure, the previously discussed Goldman director and New York Fed Chairman, Stephen Friedman -- as a parting act -- finished his job as chair of the search committee to find a replacement for Timothy Geithner by choosing *another* Goldman alum, William C. Dudley, as President of the New York Fed. Prior to taking his position as the current New York Fed President, Mr. Dudley was chief economist at Goldman Sachs. This is typical of the remarkable infiltration of the U.S. Treasury and the Federal Reserve that has been achieved by Goldman Sachs.

GAO Criticizes the Fed

According to a recent General Accounting Office ("GAO") audit on "Major Conflicts of Interest at the Federal Reserve," no less than 18 former and current members of the Federal Reserve's board were affiliated with banks and companies that received emergency loans from the Federal Reserve during the financial crisis including General Electric, J.P. Morgan Chase, and Lehman Brothers. Many of the Federal Reserve's board of directors own stock and/or work directly for banks that are supervised and regulated by the Federal Reserve. These board members oversee the Federal Reserve's operations including salary and personnel decisions. The Federal Reserve does not publicly disclose its conflict of interest regulations, or when it grants waivers to its conflict of interest regulations.

The GAO found that compared with central banks in other countries, the Federal Reserve does *not* do a good job in disclosing potential conflicts of interest and other important transparency issues. The GAO found that such transparency is "essential to the effective and credible functioning of a healthy democracy" and fulfilling the government's responsibility to citizens and taxpayers. In contrast, the central bank in Australia prohibits its directors from working for or having a material interest in private financial companies located in that country. According to the GAO, if such regulations were in place at the Fed, the CEO at J.P. Morgan Chase and many other bank executives would be prohibited from serving on the Fed’s Board of Directors. Other interesting facts from the GAO report include:

- In 2010, the 108 members of the Federal Reserve's Board of Directors were predominantly white men who were senior executives of financial institutions.
- While Congress has mandated that the Federal Reserve's Board of Directors consist of experts in labor, consumer protection, agriculture, commerce, and industry, only 11 of the 202 members of the Federal Reserve's Board of Directors represented labor and consumer interest from 2006-2010.
- When choosing who will serve on its board of directors, the Federal Reserve generally focuses its search on senior executives, usually CEOs or president in the financial industry. Of the 108 Federal Reserve board directors, 82 were president or CEO of their company.

A central bank is necessary to control the money supply for a modern economy. In the United States, the Federal Reserve fulfills this function. However, under the current system, the Fed is able to print money by the trillions of dollars with a few keystrokes and to distribute the money to beneficiaries of its choosing with no public accounting or oversight. The primary mission of the Fed has been to assure the solvency and profitability of the Wall Street mega-banks. Such priority is questionable since those money center banks are concerned mainly with maximizing compensation packages for top executives and have no responsibility to the United States or its citizens.

An eastern philosopher is reported to have once said: "A lion chased me up at tree and I greatly enjoyed the view from the top." In many ways, I have been chased up a tree personally by some of the highest paid defense attorneys hired by Wall Street. Although, I do not necessarily enjoy the view, I can see clearly what has not been made transparent to the public. A complacent and sometimes complicit media in the United States and, with notable exceptions, heavily influenced by huge corporate interests, whitewashes and soft-pedals outrageous Wall Street conduct that should, in many instances, be prosecuted criminally. The reason the Wall Street cover up has been so successful is that the public doesn't have the facts to react to it. At a time when many Americans seem to have lost their capacity for outrage, the OWS movement represents a shining light and a much needed breath of fresh air.

It is interesting that, even though hundreds of bankers were sent to jail for actions taken in the Savings and Loan scandals of the 1980s, to date no major investment banker has been imprisoned. This is true even though the 2008 financial debacle represents a crisis more than 100 times more egregious than that inflicted previously by the Savings and Loans. The Justice Department has been conspicuously and unforgivably missing in action when it comes to prosecuting the Wall Street scoundrels.

The Investors' Bill of Rights

We know that the oyster can heal its wounds by making a pearl and that out of adversity springs the call to greatness. With your affirmative support our current financial adversity can result in new measures, new procedures and new laws designed to protect the public, including most categorically, the middle and poorer classes.

Collectively, pension plans, endowment funds and institutional investors all over the world represent trillions of dollars of capital that Wall Street covets. Pension plans, in particular, have a fiduciary obligation to protect the rights of their beneficiaries and pension plan funding depends on the labor of its beneficiaries. If all pension plans, endowment funds and other institutional investors were to band together and assert a revolutionary "Investor's Bill of Rights," they would be in a position to dictate more appropriate behavior from the financial markets controlled by Wall Street. Like a union for labor, institutional investors should join together to collectively demand socially responsible investment products which must be sold by transparent entities that demonstrate the kind of integrity consistent with a high level of corporate governance and commitment to environmental, socially responsible, investment objectives.

Such institutional investors could collectively reflect the view that, as fiduciaries, environmental, social, and corporate governance issues have a great impact on the ultimate performance of investment portfolios. Accordingly, such institutional investors could agree to incorporate such issues into their portfolio strategies so that the objectives of their beneficiaries and society at large can better be served. Indeed, such a coalition has been formed by the United Nations. Called the PRI (for "principles of responsible investment") this coalition represents an initiative with a set of aspirations and voluntary guidelines for investment entities wishing to address environmental, social, and corporate governance issues. Much work needs to be done but it is a brave start. Collectively, an organization of pension funds and institutional investors could demand such proactive and enlightened measures as, e.g.:

1. Commitment to investment programs emphasizing social, governmental, and environmental responsibilities;
2. Curbs on runaway corporate executive salaries;
3. Monitoring the regulatory "reform" packages that have been already authorized by Congress including that the provisions of the Dodd-Frank bill and Sarbanes-Oxley are not watered down by Congressman who are lured by the lobby dollar and are counting on a public with a short memory;
4. Independent oversight and other limitations on the powers of the Federal Reserve with requirements for representation from all stakeholders including especially, the interests of consumers and the middle class while, at the same time, enforcing strict conflict of interest provisions;
5. Shareholder rights to determine corporate board of directors;
6. Requirements for investment transparency, including that the Byzantine labyrinth of complex deal documents relating to enigmatic structured finance products such as synthetic CDOs and credit defaults swaps be translated into plain English;
7. Laws to make it especially onerous to defraud a pension plan (e.g. triple damages provisions and mandatory criminal sentencing) with stringent standards for investment advisors to such plans;
8. Investment in products that create sustainable jobs and provide value to society in sharp contrast to the opaque structured finance products engineered for the gambling casino that Wall Street promotes;
9. Imposition of a financial transaction tax which discourages activity that is unhealthy for our financial markets and, at the same time, raises hundreds of billions of much-needed revenue for the U.S. Treasury;
10. Progressive taxes on the wealthy as advocated by none other than Warren Buffett.

Certainly, the travesties manifest in the latest financial crisis should be held up to the light of day. This is necessary so that investors worldwide will be able to see through the subterfuge and duplicity that was cleverly disguised by the large investment bankers and complicit ratings agencies who promoted their modern-day snake oil. Wall Street sold this garbage under the names of enigmatic structured finance products such as collateralized debt obligations, synthetic CDOs and credit default swaps. Such products have nothing to do with creating jobs, much less improving the quality of life in this country. For far too long, Wall Street has been permitted to play a game of "heads I win -- tails you lose."

Responding to this arrogance is what resonates with the Occupy Wall Street movement. Many of those in the OWS movement are portrayed by various media as being among society’s disenfranchised. Indeed spinmeisters with inimical interests will attempt to marginalize the movement by characterizing it as the aimless boorishness of lazy, anti-capitalist ne'er-do-wells. Already the condescending mantra seems to be: “Don't blame big business -- blame government regulation.” Such rhetoric is fundamentally off the mark. The aggressive *de*regulation which was steadfastly pursued by government in the decade before the financial crisis (most notably passage of the Private Securities Litigation Relief Act and the repeal of Glass Steigel) set the stage for the 2008 debacle. However, it was the avaricious Wall Street investment bankers and their entourage that took the ball and ran with the legislators' open invitation to conflict of interest and, ultimately, to steal, that was provided by indiscriminate deregulation.

The ensuing financial calamity ushered in by Wall Street's "Masters of the Universe" cannibalization of the world economy has left in its wake, among other things: out of control unemployment, vanishing retirement accounts, impoverished wages, outsourced jobs, massive foreclosures, student debts, and a health care system in jeopardy. While Congress threatens to shut the country down over a $20 billion budget line item, the fat cats that raped the world financial system for trillions have yet to be pursued. Martin Luther King said, "Human progress is neither automatic nor inevitable… Every step towards the goal of justice requires sacrifice, suffering, and struggle; the tireless exertions and passionate concern of dedicated individuals." I stand in gratitude for and in solidarity with the OWC brothers and sisters who will not forget and who will not capitulate to a corrupt financial system that casually and systematically diminishes the working people that have always been the backbone of our great country.

I thank you for your attention, your prodigious efforts, and continued aspirations. No less an apostle of civil disobedience than Henry David Thoreau once said: "He [she] who advances confidently in the direction of his [her] dreams and who endeavors to live the life he [she] has imagined will meet with success unexpected in common hours." Along with many others who commend your spirit and your cause, I wish you uncommon success in your efforts to build a more sustainable, socially accountable America where economic equality is allowed to flourish through the politics of integrity and environmental responsibility.

BOOK REVIEW

When China Rules the World: The End of the Western World and the Birth of a New Global Order

by Martin Jacques

The Penguin Press, 2009
ISBN 1594201854, 978-1594201851
Hardcover, 576 pages

"When China Rules the World: The End of the Western World and the Birth of a New Global Order" is the provocative the title of Martin Jacques' assessment of China's future role as the dominant global power. For more than a decade Jacques was editor of *"Marxism Today"* - having first transformed it from an obscure ideological organ of the Marxist Left into a broad platform for wide ranging political and social debate. Not long after the collapse of the Soviet Union *"Marxism Today"* was also wound up and Jacques went on to become deputy editor of *The Independent*, an engaging newspaper columnist and author.

Having heard him speak recently about his book on China my main reservation is that he is still overly influenced by his political antecedents, and perhaps too willing to overlook the nature of the Chinese political system as he rightly dwells on China's extraordinary growth, economic capacity, and cultural richness.

The title of the book is itself a giveaway.

Mercifully, no nation has ever ruled the world and however much national fortunes may change no free people would accept the idea of one nation determining our destiny. It's neither desirable nor historically probable.

In 1963 the great Welsh tenor, Sir Harry Secombe, recorded a song entitled *"If I ruled the world"*. It contained the memorable lines that if he ever found himself in that position *"every man would be as free as a bird"* and *"every voice would be a voice to be heard."* Would this be China's song for its own citizens or the rest of us?

Jacques tends to dismiss concerns for human rights as the West patronizing China and he believes that because the Communist State has created economic growth (a Pew Poll indicated that over 91% of its people are satisfied with its economic performance) this confers legitimacy on the Government. He argues that there is no widespread desire for democracy or for the "enlightenment values" of the West.

His central point is that, unlike Western powers, China is not a nation state but a *"civilization state";* that China is far more diverse than we imagine, and more flexible. He cites the example of Hong Kong and the creation of *"two systems in one country"* as an example of both its diversity and its flexibility.

What is incontestably true is that at a moment when our western economies are in crisis and stagnating, Chins continues to accelerate.

In 1992 just 3.5% of America's imports came from China; today it is 14.5%; in Brazil it was 0.9%, today it is 14%; and in the UK, from virtually nothing in 1990, China provides 6% of our imports today. One fifth of Australia's imports come from China, while its two-way trade with its near neighbors – Taiwan, Singapore, and even Japan –soars. Over the next five years we will see the Chinese currency, the Renminbi (RNB) - "the people's currency" – increasingly challenge the mighty U.S. dollar.

Globalization will no longer be shaped by the United States but by China – although Jacques takes far too little account of America's military might or China's disastrous demographic trends, or the flight of capital from China's new rich. The inhumane one child policy (previously a flagship of the country's Communist ideology) has left it with an aging population which will have to be supported by a significantly reduced young workforce (the back bone of its current economic growth).

Perhaps expressed less provocatively and less provocatively than in the title of Jacques' book, it could certainly be said that the twenty-first century is China's century; just as the twentieth century was America's century and the nineteenth century was Britain's.

What this will mean in terms of the aspirations of its own people is still to be seen.

Even more intriguing will be to watch what happens in the developing world China – especially Africa – where China has become the main show in town. And Jacques rightly says that *"the developing world and China are umbilically linked."* The rise of China and the rise of the developing world will march hand in hand. Here Jacques provides a contradictory picture. He says that China was never a colonial power (some in Tibet would probably beg to differ) while it *"has always seen its civilization as superior as it created relationships with its vassal states"* (places like the Korean peninsula). For thousands of years China was the epicenter of a system of tributary states – which only ended when European powers arrived in the East at the end of the nineteenth century. But does anyone seriously believe that the modern republic of Korea or Japan would happily settle into such a subservient relationship today? These are not vassal states but neighbors and how China behaves in East Asia will shape the way they and the rest of the world sees it.

In Africa, Chinese self interest will also have to come to terms with democratic legitimacy and the rights of sovereign nations. And the more that Chinese workers travel and are exposed to democracy, free speech, religious freedoms, and human rights will certainly affect the way they see themselves in relationship to their own State.

China is in Africa because it has a scarcity of oil, minerals and food. Africa provides a solution. Once again, the big question will be whether China will be able to avoid the age old temptation to exercise hegemony and be better than its colonial forbearers, Britain included, in both in avoiding exploitation and in using statecraft to resolve conflict and to provide long term infrastructure and enable sustainable development. Harry Secombe's idyllic world where *"happiness which no man can end"* might seem a little far-fetched to Congolese or Sudanese worker trapped in countries awash with arms (many made in China) where millions have died in lawless conflicts. If China ruled the world would it be any different?

Jacques rightly contends that Confucianism was at the heart of Chinese civilization and that it still shapes what is the very best of China today. But here he makes a miscalculation. He has nothing to say about the rise of Christianity in China and by many calculations during this century China is set to become the biggest Christian nation in the world.

As Matteo Ricci understood in the seventeenth century, when high Confucian philosophy and Christian faith walk together, they are an extraordinarily powerful combination – and perhaps this will be China's great gift to the world and certainly not something to fear. Martin Jacques should perhaps also ruefully recall that Christianity is also a principal reason why Marxism is *yesterday* rather than *today* in the former Soviet Union.

David Alton
Member of the House of Commons
and Independent Crossbench Life Peer

Contributing Authors

Priya Nair Rajeev is a university rank holder at all three levels [Pre-Degree, Graduation, and Post Graduation] and a Ph.D in Management Studies from I.I.T Madras, she possesses many years of experience as a faculty member. She has worked as a freelance career consultant and conducted several workshops in the areas of Women's Empowerment and Personality Development. An Associate Professor of Organizational Behavior, her research interests include Business Ethics, Emotions and Decision Making, Creativity and Leadership.

She has published papers in international and national peer reviewed journals as well as presented in Indian and International conferences. She coordinates the institute's industry interface papers through the Beyond Management initiative which offers students an opportunity to interact with industry leaders and learn from them. She is also the Chairperson of the Centre for Business Ethics and Corporate Governance at the Institute. The author's thesis of "Impact of the Organizational Environment on Unethical Choices: A Moderated Mediating Relationship of Moral Disengagement and Ethical Empowerment" has been chosen, by the editor(s) of *Management Decision*, as a Highly Commended Award Winner of the 2011 Emerald/EFMD Outstanding Doctoral Research Awards in the Management and Governance category.

Anton Jamnik is Assistant Professor of Philosophy and Religion, University of Ljubljana, since 1997. In 1996, he became member of the Matura Subject Commission for Philosophy. Since 2001 he is the president of The Republic Commission for Philosophy and in 1997 The National Examinations Centre appointed him External Examiner. Since 1995 he has been chief editor of the catholic magazine Tretji dan. From its foundation in 1993 till 1997 he was a secretary of the Joint Commission for the relationship between the Roman Catholic Church and the Government of the Republic of Slovenia. Since 1997 he has been a member of the Board of Priests of the Ljubljana Diocese and a member of the Board of Advisers of the archbishop and metropolit of Ljubljana Dr. Franc Rode.

In 1997 he became young member of the European Academy of Science and Art in Salzburg. In August 2000 the archbishop Dr. Franc Rode named him director of St. Stanislav's Institution in Ljubljana. In 2008 he became member of European Academy of Science and Art in Salzburg. He has held lectures at Harvard University (USA), University of Boston, University of Oxford, Cambridge, Berlin, Bueno Aires (Argentina), Salzburg and other universities. Among his publications the most important book was issued in 1998 by Nova revija with the title Liberalism and the Question of Ethics. Other papers from the field of ethics and social questions have been published as well: Trstenjak's Ethical Comprehension of a Human Being, Between Values and Liberalism, Post-modern Ethical Perspective, Tolerance – a Virtue for New Times, Europe Seeks for Its Soul, Destruction of Totalitarian Ideology and Social - Moral Crisis, etc.

Shaoping Gan earned his doctoral degree of philosophy from Munich University, Germany. He now serves as the Dean of the Center for Applied Ethics at the Chinese Academy of Social Sciences, and Vice Director of the Research Office of Ethics in the Institute of Philosophy of Chinese Academy of Social Science. He also supervises Ph.D. candidates in the graduate school of the Chinese Academy of Social Sciences. At the same time, he is a part-time professor in Southeast University, director of several committees, and editor of *World Philosophy*. His research mainly focuses on applied ethics, Western ethics, and German philosophy. Principal works by Shaoping Gan include, *Wisdom of Ethics*, *On the Front Line Ethics, Second Line Ethics, Applied Ethics Argumentation,* and *Clone People- an Impassable Forbidden Zone*.

Barbara Krug is a Professor for Economics of Governance at the Rotterdam School of Management, Erasmus University, Netherlands, and the Manchester Business School, Manchester, United Kingdom, and visiting fellow at INSEAD, Fontainebleau, and the University of Technology, Sydney, Australia. One of her most recent publications includes the book China's Rational Entrepreneurs. Also, Dr. Krug has co-authored the book *China in the 21st Century* and the article, *Framing China: Transformation and Institutional Change* in *The Management and Organization Review*.

Roderick O'Brien is an Australian lawyer. He was first admitted to practice law in 1971.In recent years, he has been researching professional ethics of lawyers in the People's Republic of China. He has published articles on ethics, and on the legal system of the PRC, in *the Australian Journal of Professional and Applied Ethics, China: an International Journal;* the *Hong Kong Law Journal; Chinese Cross Currents; Australian Ethics;* the *International Journal of the Legal Profession; The Law Teacher;* and the *Journal of International Business Ethics.*

Thomas A. Myers is a preeminent forensic accountant from the United States who has lectured widely on Wall Street securities fraud, particularly in connection with the current credit crisis. He has provided training for all of the major banking regulatory agencies in the United States as well as the FBI, Secret Service, Securities Exchange Commission, and the U.S. Attorney General's Office. He has testified before the U.S. Congress on banking matters. The Board of Governors of the Federal Reserve engaged Mr. Myers, to organize a national symposium of top experts to discuss the implications of the United States government ownership of hundreds of billions of dollars worth of toxic subprime structured finance products, including collateralized debt obligations and credit default swaps. This weeklong seminar was held in Washington D.C. for senior U.S. banking regulators and capital markets specialists. Mr. Myers was the chief lecturer at this forum which was attended by banking regulators from all over the country. Mr. Myers is also the author of "Tax Planning for Foreign Investments in the United States," published by the Canadian Institute of Chartered Accountants.

David Alton was a member of the House of Commons for 18 years and today is an Independent Crossbench Life Peer. He began his career as a teacher but, in 1972, he was elected to Liverpool City Council as Britain's youngest City Councillor. He became the youngest member of the House of Commons in 1979 and, in 1997, David was made a Life Peer of the House of Lords.

Partner Organizations:

Founded in 1986, the Caux Round Table advocates comprehensive global ethical principles for businesses, governments, non-profits and those who own wealth. CRT management approaches bring ethics and social responsibility into focus as praxis and not just moral theory.

China Credit Research Center，Peking University（CCRC）

The China Credit Research Center was founded in October 2002 to assess public policy towards credit markets in China and provide independent support for policymakers in the development of a China's credit system.

Globethics.net is a global network of persons and institutions interested in various fields of applied ethics. It offers access to a large number of resources on ethics, especially through its leading global digital ethics library. In addition, it facilitates collaborative web-based research, conferences, online publishing and active sharing of information. Globethics.net aims especially at increasing access to ethics perspectives from Africa, Latin America and Asia. It strengthens global common values and respect of ethical contextual diversity.

The W. Paul Stillman School of Business at Seton Hall University provides professional education geared toward the complex, practical needs of business leaders. The mission of the School is to enrich the life of each student through a nationally recognized educational experience that is inspired by innovative teaching, supported by applied research, and guided by a values-centric curriculum. The Stillman School collaborates with the Center for International Business Ethics to produce JIBE, together forming JIBE's joint editorial board, and awards scholarship to the winners of the annual CSR Essay Competition hosted by the Center for International Business Ethics.

For more information on any of these or other CIBE projects and affiliations, CIBE partners, and related sponsors, please visit us at www.cibe.org.cn