

# **Business Ethics**

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## **DEMGN253**

**Edited by:**  
**Dr. Mridula Mishra**



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# **Business Ethics**

**Edited By**

**Dr. Mridula Mishra**

## CONTENTS

<b>Unit 1:</b>	<b>Ethics</b>	1
	<i>Dr. Akashdeep Joshi, Lovely Professional University</i>	
<b>Unit 2:</b>	<b>Business Ethics</b>	16
	<i>Dr. Akashdeep Joshi, Lovely Professional University</i>	
<b>Unit 3:</b>	<b>Eastern and Western Ethical Thought and Business Practices</b>	32
	<i>Dr. Akashdeep Joshi, Lovely Professional University</i>	
<b>Unit 4:</b>	<b>Theories of Business Ethics</b>	54
	<i>Dr. Akashdeep Joshi, Lovely Professional University</i>	
<b>Unit 5:</b>	<b>Decision Making Moral Reasoning and Its Application</b>	77
	<i>Dr. Akashdeep Joshi, Lovely Professional University</i>	
<b>Unit 6:</b>	<b>Ethical Dilemmas</b>	96
	<i>Dr. Akashdeep Joshi, Lovely Professional University</i>	
<b>Unit 7:</b>	<b>Creating an Ethical Organization</b>	111
	<i>Dr. Akashdeep Joshi, Lovely Professional University</i>	
<b>Unit 8:</b>	<b>Application of Ethical Standards to Human Resource</b>	127
	<i>Kajal Kapoor, Lovely Professional University</i>	
<b>Unit 9:</b>	<b>Sexual Harassment Act 2013</b>	136
	<i>Kajal Kapoor, Lovely Professional University</i>	
<b>Unit 10:</b>	<b>Application of Ethical Standards to Finance</b>	168
	<i>Kajal Kapoor, Lovely Professional University</i>	
<b>Unit 11:</b>	<b>SEBI and RBI</b>	186
	<i>Kajal Kapoor, Lovely Professional University</i>	
<b>Unit 12:</b>	<b>Application of Ethical Standards to Marketing</b>	198
	<i>Kajal Kapoor, Lovely Professional University</i>	
<b>Unit 13:</b>	<b>Consumer Rights and Privacy</b>	236
	<i>Kajal Kapoor, Lovely Professional University</i>	
<b>Unit 14:</b>	<b>Current Trends in Business Ethics</b>	236
	<i>Kajal Kapoor, Lovely Professional University</i>	

## Unit 01: Ethics

### CONTENTS

Objectives

Introduction

- 1.1 Meaning of Ethics
- 1.2 Meaning of Morals
- 1.3 Difference between Ethics and Morals
- 1.4 Evolution of Ethics
- 1.5 Classification of Ethics
- 1.6 Applied Ethics
- 1.7 Meta Ethics
- 1.8 Metaphysical issues: objectivism & Relativism
- 1.9 Ethics as moral values
- 1.10 Relationship between Ethics & Values
- 1.11 Conflict between Values and Ethics
- 1.12 Difference between Law and Ethics

Summary

Keywords

Self Assessment

Answers for Self Assessment

Review Questions

Further Readings

### Objectives

After studying this unit, you will be able to:

- Define Ethics
- Define Morals
- Differentiate between Ethics & Morals
- Discuss the evolution of ethics
- Explain the classification of ethics
- Discuss Ethics as moral values
- Analyze the difference between law and ethics

### Introduction

Ethics is a systematic science. The scope of ethics encompasses all human relationships. The business has an economic as well as social responsibility towards the society. The social responsibility of business towards society can be met only if business behaves ethically. In this chapter, the concept of ethics and morals is defined and the difference between them is explained. In this chapter, we will be exclusively dealing with the concept of ethics. In order to understand the concept of ethics, it is important to demarcate science from philosophy, as ethics belong to the

## Business Ethics

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latter. As a result, science is a descriptive analysis, but philosophy is a synthesis interpretation. Science provides us with knowledge, while philosophy provides us with wisdom. However, it is critical to remember that all sciences begin with philosophy and conclude with the arts. As a result, the arts provide beauty, science provides utility, and philosophy informs us the futility of many of our humdrum daily activities.

### **1.1 Meaning of Ethics**

In the common usage, the term morals and ethics are synonymously used, however, in terms of etymology, i.e. the root of words, the two words are different. Ethics comes from the Greek word Ethikos, which means "behaviour, custom, or habit." These definitions are quite close to the definition of the Latin word "mores." As a result, ethics is viewed as the study of morality, or simply put, ethics is a moral philosophy concerned with moral behaviour. The Greek word Ethikos, refers to the social environment. Thus, ethics can be understood as something which is acceptable by the society or social environment.

### **1.2 Meaning of Morals**

Morality is derived from the Latin moralis, which means traditions or etiquette. Morality is concerned with an individual's character and disposition, whereas ethics is concerned with how one should act in a community or society. A group's standard or rule of behaviour is referred to as ethics. Various sorts of ethics, such as professional, social, and business ethics, can sometimes conflict. A manager, for example, may face a conflict between personal morality and company ethics.

### **1.3 Difference between Ethics and Morals**

The first point of difference between ethics and morals is in terms of definition, ethics is society or group phenomena whereas morality is individual phenomena. To understand this difference better, let us take an example: A lawyer defending an alleged rapist, for example, might accuse the victim of being 'morally fallen' rather than 'ethically fallen'. A committee constituted to investigate the behaviour of members of Parliament, on the other hand, would be designated a "ethics committee," not a "moral committee." The use of the word determines its meaning. As a result, each of these phrases has its own distinct qualities.

In terms of usage the words, however, are not fundamentally different. Both allude to the same reality of human activities, which might be morally or ethically beneficial or detrimental depending on the situation.

Although the phrases (ethics and morals) may sound dissimilar, they allude to the same social reality in which a set of recognised standards serves as a rule of behaviour in society. The members' activities are classified as 'moral' or 'ethical,' based on the linguistic intricacies of the meaning in each circumstance as well as the words' common usage. The meaning of words becomes obvious when they are used in a certain context.

	Ethics	Morals
<b>What are they?</b>	The rules of conduct recognized in respect to a particular class of human actions or a particular group or culture.	Principles or habits with respect to right or wrong conduct. While morals also prescribe dos and don'ts, morality is ultimately a personal compass of right and wrong.
<b>Where do they come from?</b>	Social system - External	Individual - Internal
<b>Why we do it?</b>	Because society says it is the right thing to do.	Because we believe in something being right or wrong.
<b>Flexibility</b>	Ethics are dependent on others for definition. They tend to be consistent within a certain context, but can vary between contexts.	Usually consistent, although can change if an individual's beliefs change.
<b>The "Gray"</b>	A person strictly following Ethical Principles may not have any Morals at all. Likewise, one could violate Ethical Principles within a given system of rules in order to maintain Moral integrity.	A Moral Person although perhaps bound by a higher covenant, may choose to follow a code of ethics as it would apply to a system. "Make it fit"
<b>Origin</b>	Greek word "ethos" meaning "character"	Latin word "mos" meaning "custom"
<b>Acceptability</b>	Ethics are governed by professional and legal guidelines within a particular time and place	Morality transcends cultural norms

Source: [https://www.diffen.com/difference/Ethics\\_vs\\_Morals](https://www.diffen.com/difference/Ethics_vs_Morals)



### Case Study

B. F. Goodrich, a car parts company, obtained a military contract a few years ago to design, test, and produce aircraft brakes for the A7-D, a new light jet being developed by the US Air Force. To save weight, Goodrich engineers promised that their compact brake would weigh no more than 106 pounds, have no more than four tiny braking discs or "rotors," and be capable of stopping the plane repeatedly within a set distance. The deal had the potential to be quite valuable for the firm, therefore its executives were eager to provide a brake that was "qualified," that is, passed all of the testing necessary by the US Air Force for the A7-D. The brake was invented by John Warren, an elder Goodrich engineer. Searle Lawson, a junior engineer, was tasked with selecting the appropriate material for the brake lining and testing the brake to ensure it "certified." Searle Lawson was a young man in his twenties at the time. He had recently graduated from college with a bachelor's degree in engineering, and Goodrich had only recently employed him. To test lining materials, Lawson developed a "prototype"—a functional model—of the little brake. The linings on the four rotors heated up to 1500 degrees and began to disintegrate when the brake was applied, he discovered.

Lawson checked over Warren's design and determined it was based on a mistake after trying alternative linings and getting the same results. According to his estimates, the rotors did not have enough surface area to stop an aeroplane in the appropriate distance without creating too much heat, causing the linings to break. Warren's design should be updated with a new design for a bigger brake with five rotors, according to Lawson, who presented Warren his calculations. Warren dismissed the notion that his design was based on a blunder found by a "green youngster" fresh out of engineering school. He advised Lawson to keep experimenting with different brake lining materials until he found one that worked.

Lawson, on the other hand, was not ready to quit up. He went to the project manager to speak with him and show him his calculations. The project manager had frequently assured his bosses that the brake's development was on track, knowing that if the brake did not arrive on time, he would be punished. Furthermore, he was probably under the impression that he should entrust Warren, one of his top engineers, rather than someone fresh out of engineering school. Lawson was informed by the project manager that if Warren stated the brake would work, it would. He should just keep experimenting with new materials, as Warren said.

Lawson had spent several weeks looking for a brake lining that would not deteriorate. He

Business Ethics

had another conversation with his project manager. This time, his project manager instructed him to simply put the brake through the necessary tests in order to "qualify" it for use on the A7-D. The management then informed him flat out that he had to make the brake pass all of its qualification tests no matter what. Lawson was shaken by his manager's directives, and he subsequently discussed his feelings with Kermit Vandivier, a technical writer hired to prepare a report on the brake.

Lawson built a production model of the brake and put it through a dozen rounds of testing. Every time, it failed. Lawson "nursed" the brake through the tests on the thirteenth attempt, using special fans to cool the brake and dismantling it at each stage, cleaning it thoroughly, and repairing any distortions produced by the extreme heat. A measurement equipment was reportedly intentionally miscalibrated at one time, indicating that the brake pressure was 1000 pounds per square inch (the highest accessible to the pilot in the A7-D aircraft) when it was actually 1100 pounds per square inch.

Kermit Vandivier, who was supposed to write the test's final report, was also concerned. He discussed the tests with Lawson, who stated that he was only following the project manager's orders. Vandivier made the decision to speak with the section's senior executive. "It's none of my business and it's none of yours," the executive remarked after listening. Vandivier inquired if his conscience would be troubled if something went wrong during flight testing on the brake, leading in the death or injury of the test pilot. "Why should my conscience concern me?" said the Goodrich CEO. "I just do what I'm told, and I'd recommend that you do the same."

Kermit Vandivier refused to submit a report concluding that the brake had passed all qualification testing. He believed that such a report would be "deliberate falsifications and misrepresentations" of the facts. But, after a short while, he changed his mind.

(The case study is adapted from Velasquez, M. G. (2014). *Ethics and Business*. In M. G. Velasquez, *Business Ethics Concepts and Cases* (pp. 8-15). Pearson)

#### 1.4 Evolution of Ethics

The evolution of society has influenced social behaviour. Your elders are referring to a societal rule of behaviour when they say, "Do not cheat." Over hundreds of years, social behaviour has evolved in civilization. Rules of behaviour have been passed down from generation to generation, and the growth of such codes follows a pattern. Acceptable behaviour is rewarded and promoted as a societal value, whereas inappropriate behaviour is criticised. The ritual of sati—immolating the widow on the funeral pyre of the slain husband—had no moral ramifications in ancient India. However, society has progressed to the point that the behaviour is now considered immoral and morally repugnant.

A country's laws are founded on its society's conventions or moral norms. Penalties are imposed for poor behavior—behavior that is in violation of the law. The laws are a deterrent to those who violate the social code, and they ensure that law-abiding persons are shielded from the harmful repercussions of law-breakers. The purpose of social norms of behaviour is to develop, preserve, and elevate peaceful relationships. One such code is to "honour your parents." It encourages respect for one another in the family and preserves a calm connection between parents and children.

If we look back at the history of business ethics, we can see that ethics had been discussed in religious circles previous to 1960. There were a few writers, such as Raymond Baumhart, who dealt with ethics and business before the 1970s. Ethical problems were frequently considered in conjunction with social difficulties. Men of faith and theologians continued to write and teach about commercial ethics. Professors at business schools wrote about corporate social responsibility (CSR), the handmaid of ethics, and continued to talk about it.

The introduction of various 'philosophers, who brought ethical theory and philosophical analysis to bear on a range of challenges,' however, was the trigger that led to the subject of business ethics. The first conference on business ethics was conducted at the University of Kansas in November 1974, according to Norman Bowie. Three anthologies on business ethics were published in 1979. They were (i) Tom Beauchamp and Norman Bowie's *Ethical Theory and Business*; (ii) Thomas Donaldson and Patricia Werhane's *Ethical Issues in Business: A Philosophical Approach*; and (iii) Vincent Berry's *Moral Issues in Business*. Richard De George released *Business Ethics* in 1982, and Manuel G. Velasquez wrote *Business Ethics: Concepts and Cases* in 1983. All of these publications sparked a lot of interest in the subject, and numerous management schools began offering business ethics

**Unit 01: Ethics**

courses. However, the development of business ethics was not limited to textbooks and B-school courses. Through papers and conferences, corporate ethics had become institutionalised at various levels by 1975. The subject was taught at various colleges across the United States and Europe by the 1980s. Aside from the centres and associations founded to promote ethical behaviour, there were several periodicals of business ethics by this time.

By 1990, business ethics had established itself as a management discipline. 'Although academicians strove to create ties with the business community from the beginning, the history of the formation of business ethics as a commercial movement, while tied to academic advancements, can be viewed to have its own history.'

Parallel to these scholarly endeavours, the Consumers' Association in the United Kingdom grew in membership and fought aggressively on issues such as consumer rights, quality, safety, pricing, customer service, and environmental concerns from the 1960s through the 1980s. Environmental concerns grew in the late 1980s and early 1990s, and by 1989, the environment was the most pressing problem in the United Kingdom. In 1988, more than half of West Germans identified as green customers, or those who favoured one product over another for environmental grounds. The United States came in second with 45 percent, followed by Australia with 27 percent, and the United Kingdom with 14 percent, which jumped to 42 percent in a year.

Religion offered its loud voice in tandem with, or even predicting, these events. As in Pope Leo XIII's *Rerum Novarum*, Catholic doctrines such as Papal Encyclicals highlighted the need of morality in business, such as workers' rights and decent wages. Ethics became an element of the curriculum at certain Protestant seminaries. During the 1960s, social concerns in business became more prevalent, and many commercial activities were scrutinised by the public. The Consumer Bill of Rights, proposed by President John F. Kennedy, marked a new era of consumerism. During the 1970s, business academics began to write about business ethics, and philosophers were involved in the subject's theoretical development. Businessmen grew increasingly concerned with their public image, and ethics became a more direct topic of discussion. We can see from this timeline that business ethics as a topic of study and inquiry is still in its infancy.

## 1.5 Classification of Ethics

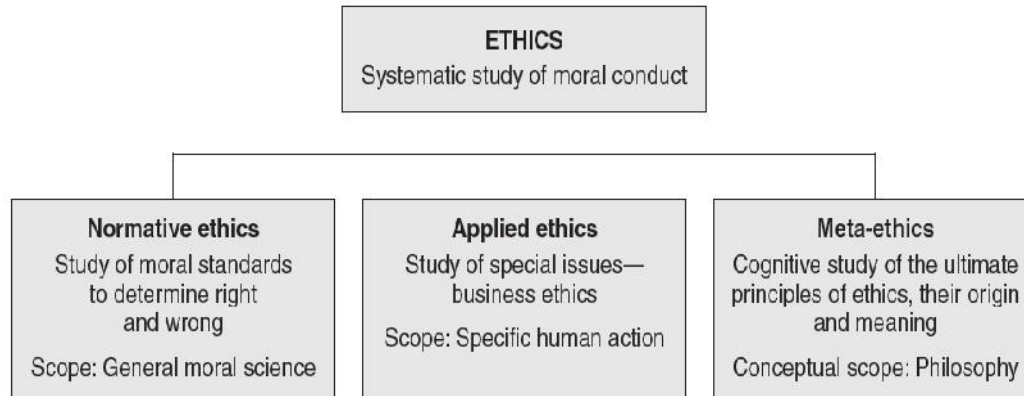


Figure 1.1 Albuquerque, D. (2010). *Business Ethics*. New Delhi: Oxford University Press.

Nowadays, philosophers split ethical theories into three categories: metaethics, normative ethics, and practical ethics. Metaethics enquires into the origins and meanings of our ethical ideals. Is it just a case of social inventions? Are they more than just manifestations of our personal feelings? The concerns of universal truths, God's will, the role of reason in ethical judgements, and the meaning of ethical terminology themselves are all addressed in metaethical responses to these topics. Normative ethics takes on a more practical task: determining moral rules that govern what is proper and incorrect behaviour. This might include explaining the excellent habits we should develop, the responsibilities we should fulfil, or the implications of our actions on others. Finally, applied ethics include looking into specific contentious subjects including abortion, infanticide, animal rights, environmental concerns, homosexuality, capital punishment, and nuclear weapons.

Discussions in applied ethics attempt to settle these contentious questions by employing the conceptual tools of metaethics and normative ethics. The distinctions between metaethics, normative ethics, and practical ethics are frequently blurred. The subject of abortion, for example, is an applied ethical concern since it involves a specific sort of contentious behaviour. However, it is



## Business Ethics

also contingent on more general normative concepts, like as the right to self-determination and the right to life, which serve as litmus tests for judging the procedure's morality. Metaethical questions such as "where do rights come from?" and "what sort of creatures have rights?" are also at the heart of the debate.

### **Normative Ethics**

Values or codes are other names for norms or standards. In a society, norms establish unambiguous standards for social engagement. Students study moral principles in normative ethics, which is a discipline of study. These moral guidelines can be used to assess the moral nature of human behaviours, that is, whether they are good or bad. Utility, obligation, conscience, use of proper means for right goals, fairness, wisdom, and stewardship are examples of moral norms. There are various criteria for judging whether an action is proper or bad, just as there are several standards for measuring distance, such as metre, yard, mile, and so on. In the next chapters, we'll go through these requirements in further detail.

Normative ethics is the process of determining moral norms that govern what is acceptable and improper behaviour. In some ways, it's a quest for the perfect litmus test of right behaviour. The Golden Rule is a well-known example of a normative principle: we should treat others as we would like to be treated. It is immoral for me to steal her automobile since I do not want my neighbour to steal my car. I should help feed starving people because I would want others to feed me if I were hungry. I can potentially assess if each feasible action is right or bad using the same rationale. As a result, I would be breaking the Golden Rule if I lied to, harassed, victimised, assaulted, or killed people. The Golden Rule is an example of a normative theory in which a single standard is established against which all acts are judged. Other normative theories concentrate on a set of fundamental principles or a collection of desirable personality attributes.

In normative ethics, the essential premise is that there is only one final criteria of moral behaviour, whether it is a single rule or a set of principles. There are three types of theories: virtue theories, obligation theories, and consequentialist theories, which will be discussed later on

### **1.6 Applied Ethics**

Because it deals with the specific application of ethics to problems related to a specific sphere of human relationships, business ethics is classified as applied ethics. Commercial managers apply normative moral judgement criteria to the business decisions they make. The ethical component is a vital aspect of the decision-making process for a company management challenge. As a result, business ethics is concerned with the application of normative principles to specific business situations. A businessman's study of business ethics is just as important as a medical practitioner's study of professional norms. We expect a doctor to provide an accurate diagnosis and prescribe the appropriate prescription. There's a potential he'll diagnose a minor sickness but describe it as a significant one in order to financially abuse the patient. A client invests faith in a businessman for a transaction and trusts that he would not betray him. As a result, professional ethics is called as applied ethics.

Applied ethics is a discipline of ethics that examines specific, contentious moral concerns such as abortion, animal rights, and euthanasia. Medical ethics, corporate ethics, environmental ethics, and sexual ethics have all been separated into handy categories in recent years. In general, two characteristics are required for a problem to be classified as a "applied ethical concern." First, the topic must be contentious in the sense that it must elicit strong reactions from both proponents and opponents. For example, the topic of drive-by shooting is not an applied ethical issue because everyone agrees that it is unethical. The problem of gun control, on the other hand, would be an applied ethical issue because there are considerable groups of individuals who support and oppose gun control.

A specifically moral issue is the second need for an issue to be an applied ethical concern. Every day, the media confronts us with a variety of delicate subjects, including affirmative action programmes, gays in the military, involuntary commitment of the mentally ill, capitalistic vs socialist corporate practises, public versus private health care systems, and energy conservation.

These are not all moral concerns, despite the fact that they are all contentious and have a significant influence on society. Some are purely social policy concerns. The goal of social policy is to create norms such as traffic regulations, tax laws, and zoning ordinances to aid in the effective operation of a society. Moral concerns, on the other hand, are more universally binding practises, such as our

*Unit 01: Ethics*

obligation to avoid lying, and are not limited to certain civilizations. Frequently, questions of social policy and morality collide, as in the case of murder, which is both socially and morally illegal. However, the two types of problems are frequently separate. Many individuals would argue that sexual promiscuity is unethical, but they may not believe that societal regulations controlling sexual behaviour or laws penalising us for it are necessary. Similarly, some social norms prohibit people from holding yard sales in particular areas. However, hosting a yard sale in one of these communities is not sinful in and of itself, as long as the neighbours are not insulted. As a result, in order to qualify as an applied ethical concern, it must be more than just a matter of social policy: it must also be ethically important.

Theoretically, resolving specific applied ethical dilemmas should be simple. When it comes to abortion, for example, we would simply consult our normative principle of choice, such as act-utilitarianism, to establish its morality. If the benefit of an abortion outweighs the disadvantage, it is ethically permissible to have the abortion, according to act-utilitarianism. Unfortunately, there are hundreds of competing normative standards from which to pick, many of which produce contradictory results. As a result, we are unable to use a single conclusive technique for judging the morality of a given situation due to the deadlock in normative ethics between contradictory theories. Today's standard response to this impasse is to consult multiple representative normative principles on a specific topic and evaluate where the evidence weighs in.

## 1.7 Meta Ethics

Meta is a Greek word that means "beyond." As a result, meta-ethics literally means "beyond ethics," implying a thorough examination of the subject. In other terms, it is a scientific investigation of ethical notions. These principles may not seem realistic to you since there is no such thing as a perfect human being who is perfectly decent, perfectly joyful, completely duty-bound, and so on. These are abstract notions that may be conceptualised as completely as perfection itself and are termed supra-standards. These notions are studied as ultimate principles, such as good and evil, right and wrong. We study them in the same manner as we study theoretical physics when dealing with gravitational, energy, or light concepts. These concepts have a universal application to them. For example, if we treat 'obligation' as an ethical concept, it may be used as a norm of ethical assessment in any duty situation. As a result, meta-ethics is the study of the broad principles that govern what is good and wrong in human behaviour. Meta ethics covers issues from moral semantics to moral epistemology. However, two difficulties stand out: (1) philosophical questions about whether morality exists independently of humans, and (2) psychological questions about the mental basis of our moral judgements and actions.

## 1.8 Metaphysical issues: objectivism & Relativism

The study of the many types of things that exist in the cosmos is known as metaphysics. Some objects in the cosmos are formed of physical matter, such as rocks, but others, such as ideas, spirits, and gods, may be nonphysical in nature. Metaethics' metaphysical component is determining if moral standards are everlasting truths found in a spirit-like world or merely human conventions. There are two broad approaches in which this issue is discussed: otherworldly and this worldly.

Moral values, according to proponents of the other-worldly viewpoint, are objective in the sense that they exist in a spirit-like realm beyond subjective human standards. They also believe that they are absolute, or eternal, in the sense that they never change, and that they are universal in the sense that they apply to all rational creatures throughout history. Plato, who was motivated by mathematics, is the most striking illustration of this viewpoint. When we consider numbers and mathematical relationships, such as  $1+1=2$ , we find that they appear to be timeless notions that apply everywhere in the universe. Humans don't make numbers, and they can't change them. Plato explained the everlasting nature of mathematics by claiming that they are abstract entities that reside in a world similar to that of spirits. Moral ideals, he pointed out, are absolute truths and hence abstract, spirit-like things. Moral values are spiritual objects for Plato in this way. All moral principles were typically collected together by mediaeval thinkers under the category of "eternal law," which was also usually viewed as spirit-like things. They were defined as spirit-like interactions rather than spirit-like things by British philosopher Samuel Clarke in the 17th century. They do, however, live in a spirit-like dimension in any circumstance. Divine mandates emanating from God's will are a distinct otherworldly approach to the metaphysical position of morality. This viewpoint, also known as voluntarism (or divine command theory), was influenced by the idea of an all-powerful God who is in charge of everything. God just wills things to happen, and they

### Business Ethics

do. He wills the physical universe to exist, human life to exist, and all moral principles to exist as well. Proponents of this viewpoint, such as mediaeval philosopher William of Ockham, think that God wills moral concepts such as "murder is immoral," and that they exist as orders in God's mind. God communicates these directives to humanity by instilling moral intuitions in us or exposing them in scripture.

The second, more earthly, view to morality's metaphysical character adheres to the sceptical philosophical tradition, such as that stated by Greek philosopher Sextus Empiricus, and rejects moral values' objective validity. Sceptics did not deny that moral values exist as spirit-like things or as divine commandments in God's mind; rather, they rejected that values exist as spirit-like objects or as divine orders in God's mind. Moral principles, they maintained, are solely human constructs, a stance known as moral relativism since then. Moral relativism may be divided into two types. Individual relativism is the first, according to which individuals construct their own moral standards. For example, Friedrich Nietzsche believed that the superhuman develops his or her morality independently of and in opposition to the slave-like value system of the masses.

The second is cultural relativism, which holds that morality is based on the acceptability of one's culture, rather than on individual preferences. Sextus, as well as Michel Montaigne and William Graham Sumner in later decades, endorsed this viewpoint. This-worldly views to the metaphysical state of morality, in addition to promoting scepticism and relativism, reject the absolute and universal character of morality, arguing instead that moral ideals shift from civilization to society across time and around the world. They typically defend their stance by offering examples of cultural norms that differ considerably, such as attitudes against polygamy, homosexuality, and human sacrifice.

## **1.9 Ethics as moral values**

### *What are values?*

"Things that have an inherent worth in utility or importance to the possessor," meaning of values according to the dictionary, or "principles, norms, or traits regarded worthy or desirable." However, while we may think of a value as something good, almost all values are morally relative - or, to put it another way, neutral - unless they are qualified by asking, "How is it good?" or "Good to whom?" The "good" might be a matter of taste or opinion, or it can be influenced by culture, religion, habit, situation, or environment, among other factors. Almost all values are relative, once again. The worth of life, of course, is an exception. Life is an objective, universal value. We may take this for granted, yet we all have worth in our lives; otherwise, we would not be living. Life has a dual worth: we cherish our own lives as well as the lives of others.

Values are guiding or motivating ideas that steer or encourage attitudes and behaviours. They assist us in determining our priorities. Values are the traits we choose to embody to guide our actions; they characterize the type of person we want to be, how we treat ourselves and others, and how we interact with the world around us. They lay down the groundwork for proper behaviour.

## **1.10 Relationship between Ethics & Values**

Ethics is impossible without values. Ethics is concerned with human acts and the decisions that are made as a result of those activities. Ethics assesses the acts as well as the principles that behind them. It establishes which values should be pursued and which should be avoided. For example, those that respect bravery are prepared to stand up for their beliefs, even if it is met with harsh criticism. When it comes to good and wrong behaviour, courage is a moral value.

### **Ethics are moral values in action**

A moral person is one who understands the difference between right and wrong and chooses the latter. An ethical person is one whose morals is expressed in his willingness to do the right thing, even if it is difficult or risky. Ethics is the moral values in action.

### **Sample story: "The Bully"**

You're a school kid in the playground. You come across a bully. He considers himself to be the "top dog." That's all right. That impression has a relative worth. However, when his relative worth

Unit 01: Ethics

outweighs the life value of another child – in other words, when the bully targets and/or hits the other child - this is inappropriate and must be addressed. The rule is that relative values, no matter how "great," cannot trump the worth of a person's life.

The bully is picking on the other youngster, as you can see. You have a gut feeling that something is amiss. You are moral, so congrats. (By the way, most individuals are moral; they understand what is good and evil.) The bully is now picking on the other youngster. You get over the "freeze," the shame, and goes tell a teacher about it. Congratulations! You are ethical. (Ethics is the moral values in action.)

The bully is now picking on the other youngster. You overcome your "freeze," your dread, and you come to the help of the bullied child. You placed yourself at risk. Congratulations! You've got the makings of an Ethical Warrior on your hands. It doesn't stop at the playground, either. Almost all of our society's and world's issues are produced by bullies – people who would place their own relative values above the lives of others.

(Source: <https://managementhelp.org/blogs/business-ethics/2012/01/02/what-are-values-morals-and-ethics/>)

### 1.11 Conflict between Values and Ethics

Personal values serve as a guide to what is good, helpful, important, useful, attractive, desired, and constructive on a personal level. Law, custom, and tradition have all been built on the foundations of public expression of human views over time. In this sense, personal values exist in relation to cultural values, either in accord with or in opposition to established standards.

Personal values are formed in a variety of ways:

The families with whom we grow up have the greatest effect on our values. Long before other influences come into play, the family is responsible for teaching children what is good and wrong. A kid is considered to be a mirror of his or her parents in this way.

During the school years, teachers and peers have an important role in shaping children's values.

Religion (or the absence thereof) has a role in instilling values in youngsters.

In adulthood, personal values take on more significance since they are intended to affect how we carry out our obligations to others. This is especially true in the workplace, where managers and leaders are responsible for controlling resources for the benefit of others. Organizations may have a significant impact on their workers due to their authority structures, social conventions, and cultures. Employers make every effort to employ people who are compatible with the company's conventions and values. They are attempting to promote their ethical ideals in this manner.

Conflicts might arise between an individual's values and what she thinks to be the moral values of others in their organization or ethics. Moral judgements require interpretations and evaluations since they are founded on the understanding of the consequences of conduct. Someone may be asked to do something that goes against their personal values yet is seen acceptable by others. One must have a firm grasp of one's personal values in order to make ethical and moral decisions. It can be difficult to explain a decision on ethical or moral grounds in a way that others would find compelling without such insight.



**Example:** If you value equal rights for all and you go to work for an organization that treats its managers much better than it does its workers, you may form the attitude that the company is an unfair place to work; consequently, you may not produce well or may even leave the company. It is likely that if the company had a more egalitarian policy, your attitude and behaviors would have been more positive.

### 1.12 Difference between Law and Ethics

Ethics and law are not synonymous. Both exist to influence conduct, but following the law is required, whereas following an ethical code is optional. What is allowed is defined by laws, but what right, good is, and just is defined by ethics. When there is uncertainty or when a topic is up to

**Business Ethics**

interpretation, lawyers and judges are responsible for defining the meaning of the law. When it comes to ethics, it is up to each individual to take responsibility. Employees in companies might refer to the code of ethics or the statement of principles for assistance on how to deal with ethical ambiguity.

<b>Basis for Comparison</b>	<b>Law</b>	<b>Ethics</b>
Meaning	The law refers to a systematic body of rules that governs the whole society and the actions of its individual members.	Ethics is a branch of moral philosophy that guides people about the basic human conduct.
What is it?	Set of rules and regulations	Set of guidelines
Governed By	Government	Individual, Legal and Professional norms
Expression	Expressed and published in writing.	They are abstract.
Violation	Violation of law is not permissible which may result in punishment like imprisonment or fine or both.	There is no punishment for violation of ethics.
Objective	Law is created with intent to maintain social order and peace in the society and provide protection to all the citizens.	Ethics are made to help people to decide what is right or wrong and how to act.
Binding	Law has a legal binding.	Ethics do not have a binding nature.

Source: <https://keydifferences.com/difference-between-law-and-ethics.html>

There is considerable overlap between ethics and the law. In fact, the law is essentially an institutionalization or codification of ethics into specific social rules, regulations, and proscriptions. Nevertheless, the two are not equivalent. Perhaps the best way of thinking about ethics and the law is in terms of two intersecting domains (see Figure 1.1). The law might be said to be a definition of the minimum acceptable standards of behaviour. However, the law does not explicitly cover every possible ethical issue in business—or for that matter outside of business. For example, just as there is no law preventing you from being unfaithful to your significant other (although this is perceived by many to be unethical), so there is no law in many countries preventing businesses from testing their products on animals, selling landmines to oppressive regimes, or preventing their employees from joining a union—again, issues that many feel very strongly about. Similarly, it is possible to think of issues that are covered by the law but which are not really about ethics. For example, the law prescribes whether we should drive on the right or the left side of the road. Although this prevents chaos on the roads, the decision about which side we should drive on is not an ethical decision as such.



Figure 1.2 Relationship between law and ethics

Source: Crane, A., & Matten, D. (2016). *Introducing Business Ethics*. In A. Crane, & D. Matten, *Business Ethics* (pp. 5-6). Oxford University Press.

It is not always unethical to break an unjust law. During his Dandi Yatra, Gandhiji defied a British-imposed rule in India that required anybody who produced salt to pay a fee. His civil disobedience campaign was similarly intended to defy, if not outright breach, British laws. By no stretch of the imagination, the Father of the Nation's actions could be described as immoral. Similarly, the legality of an activity does not imply that it is ethically correct.

In his book *Business Ethics*, William Shaw focuses on two scenarios to demonstrate this situation:

1. It is possible for an activity to be unlawful yet ethically correct.

During the liberation movement, for example, many wanted freedom fighters (criminals in the eyes of the colonial rulers) hid in the homes of patriotic Indians to avoid prosecution and incarceration. Despite the fact that it was against British law in India, this patriotic gesture by freedom-loving Indians was undeniably bold and noble.

2. It is possible for a legal activity to be ethically wrong.

For example, a profit-making corporation that wants to keep its top executives may fire hundreds of workers in order to save enough money to compensate the former in exchange for their advice and management experience. This behaviour may be completely legal, yet it is ethically wrong.

So, how do we comprehend the connection between law and morality? Law codifies a nation's beliefs, conventions, practises, and moral values in general. Changes in the law, on the other hand, might occur to reflect the circumstances of the period in which they are enacted. Several laws were passed under British rule in India that favoured the colonial power and its preservation while militating against the interests of indigenious. Keeping those rules in place after independence would be not only antiquated, but also completely inappropriate. Furthermore, even if a country's laws are both reasonable and ethically good, they may not be enough to set moral norms that will lead its citizens. The law cannot cover all potential individual and collective behaviour, therefore it is often an insufficient instrument for providing moral direction.

As a result, there is a clear distinction between law and morality. An act might be lawful but not ethically right in a certain context. It will be allowed, for example, for a company that is losing money to lay off a few people in order to stay in business. However, this is not ethically correct because the employees would struggle to make ends meet. An action, on the other hand, might be unlawful yet ethically correct. For example, it was unlawful in Hitler's Germany during WWII to assist Jewish families in hiding from the Nazis, yet it was a morally commendable conduct.

## Summary

- Ethics is a systematic science that study moral behavior of society or group

**Business Ethics**

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- Morals is concerned with individual's sense of right and wrong
- Ethics and morals although used synonymously are distinct terms implying different meaning
- Ethics have evolved from time as society has evolved from time, the actions which are considered ethical in earlier times are at present time considered unethical
- Ethics can be classified as normative ethics, applied ethics, & meta ethics
- Normative ethics is based upon norms or moral standards
- Applied ethics is the application of normative principles or moral standards to a particular field of study e.g. business ethics, environmental ethics, legal ethics, medical ethics, etc.
- Meta ethics is the study of origin of ethics i.e. why a particular action is good and why a particular action is bad
- Values are beliefs that an individual holds to be important or possessing value
- Ethics are moral values in action
- Conflict can happen between personal values and ethics
- Law and ethics are different terms and ethics is the principal cause of law

**Keywords**

Ethics, Morals, values, law, meta ethics, normative ethics, applied ethics, evolution of ethics

**Self Assessment**

1. A lawyer defending an alleged rapist would accuse the victim as
  - A. ethically fallen
  - B. morally fallen
  - C. physically fallen
  - D. none of these
  
2. Define morality
  - A. What is considered as correct within a society
  - B. Making the right decisions where there is a chance to do wrong
  - C. Defining what is right and wrong for an individual
  - D. Where individuals have a conscious choice to make a right and ethical decision
  
3. Ethics had been a part of theological discussions prior to 1960
  - A. True
  - B. False
  
4. The first conference on the subject of Business Ethics was held at University of Kansas in
  - A. November, 1984
  - B. October, 2014
  - C. November, 1974
  - D. October, 2004

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*Unit 01: Ethics*

5. Which of the following classification of ethics is a scientific study of the concepts of ethics in itself?
- A. Meta ethics
  - B. Normative ethics
  - C. Applied ethics
  - D. Cognitive ethics
6. Business Ethics can be classified as
- A. Normative ethics
  - B. Applied ethics
  - C. Meta ethics
  - D. Cognitive ethics
7. The Greek word meta stands for
- A. different
  - B. similar
  - C. beyond
  - D. None of these
8. Which type of ethics comes under the classification that concerns itself with the special application of ethics to problems related to a particular field/profession?
- A. Normative ethics
  - B. Applied ethics
  - C. Meta ethics
  - D. Cognitive ethics
9. Norms set clear guidelines for social interaction in community
- A. True
  - B. False
10. Define business ethics.
- A. The systematic study of ethics in business
  - B. Reputation management
  - C. A Christian view of business
  - D. none of these
11. Our Values come from
- A. Parents and Family
  - B. Culture & Tradition
  - C. Religion
  - D. All of these



**Business Ethics**

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12. There is a compelling argument that the authority can regulate human behavior, that the authority is sufficient to regulate any professional discipline. This statement is supporting which domain of society?
  - A. Ethics
  - B. Moral
  - C. Law
  - D. Values
  
13. Obeying the law is a business's
  - A. right.
  - B. economic responsibility.
  - C. legal responsibility.
  - D. ethical responsibility.
  
14. Ethics and Law Overlap
  - A. True
  - B. False
  
15. One of the difference between ethics and law is that Law is abstract and ethics is expressed and published in writing
  - A. True
  - B. False

**Answers for Self Assessment**

- |       |       |       |       |       |
|-------|-------|-------|-------|-------|
| 1. B  | 2. C  | 3. A  | 4. A  | 5. A  |
| 6. B  | 7. C  | 8. B  | 9. A  | 10. A |
| 11. D | 12. C | 13. C | 14. A | 15. B |

**Review Questions**

1. Differentiate between ethics and morals and illustrate your answer with examples
2. Discuss the evolution of ethics with examples
3. How ethics can be classified? Explain each classification in detail.
4. "Business ethics is an applied ethics" Justify this statement referring to meaning of applied ethics
5. "Ethics is moral value in action" Illustrate the meaning of this statement with any example from your personal life
6. Illustrate the statement that everything legal might not be ethical and everything ethical might not be legal with examples



## Further Readings

- M. G. Velasquez, (2014) *Business Ethics Concepts and Cases*. Pearson
- Crane, & D. Matten, (2016) *Business Ethics*. Oxford University Press.
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## Web Links

- <https://iep.utm.edu/ethics/>
- <https://managementhelp.org/blogs/business-ethics/2012/01/02/what-are-values-morals-and-ethics/>
- <https://courses.lumenlearning.com/boundless-management/chapter/ethics-an-overview/>
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- <https://keydifferences.com/difference-between-law-and-ethics.html>

## Unit 02: Business Ethics

### CONTENTS

Objectives

Introduction

- 2.1 Meaning of Business Ethics
- 2.2 Features of Business Ethics
- 2.3 Systemic Ethical Issues
- 2.4 Corporate Ethical Issues
- 2.5 Individual Ethical Issues
- 2.6 Importance of Business Ethics
- 2.7 Challenges of Business Ethics
- 2.8 Argument against Business Ethics
- 2.9 Business Ethics in Private, Public, and Civil Society Organizations

Summary

Keywords

Self Assessment

Answers for Self Assessment

Review Questions

Further Readings

### Objectives

After studying this unit, you will be able to:

- Define business ethics
- Identify the features of business ethics
- Discuss the importance of business ethics
- Analyze the challenges of business ethics

### Introduction

Business ethics is concerned with following the social norms that govern the situations in which business is conducted. The situations have changed with time, for example, there were proponents of business for profit, according to which the only concern for business was to earn profit. As Adam Smith, the father of modern economics says "People of the same tradeseldom come together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices". When it comes to business, people look for ways to make the most money possible. No one holds it against a worker who asks for a raise in pay or a landlord who raises the rent. Their behaviour is neither unlawful nor immoral. Profits are the appropriate reward for putting money into a business. As a result, they should not be disliked and should be left alone outside of ethical norms. Profit is the just reward for conducting business; the excess returns on investment are the just reward for doing business. Again, as Goethe (1809) said: "Everything which is properly business, we must carefully separate from life.' This is because business requires definite strategies; lifemust be led in freedom."

On the other hand, we can say that now situation have changed and now there are proponents of business with ethics as Mahatma Gandhi (1948) said, "It is difficult but not impossible to conduct

strictly honest business. What is true is that honesty is incompatible with amassing of large fortune." Because it is concerned with people's livelihoods, the business world is an essential aspect of society. The code of conduct applies to all business activities without exception. People expect businesspeople to be as sensible as the rest of the population. As a result, there is no distinct business ethics for businesspeople, because ethics apply to all human activity. As a result, we must conduct business in a morally sound manner.

We investigated the difference between normative and practical ethics and discovered that business ethics falls within the category of practical ethics and is applied to a specific activity. A firm is controlled by corporate rules, much as a community is governed by social codes of behaviour and a country is governed by its constitution. In other words, any firm has a professional code of behaviour. As the world around us changes and evolves, so do these codes. As a result, not only should business be characterised by ethics, but it should also be practised precisely according to its own professional code of conduct.

Whether at work or at home, a real professional's character stays undivided. Our responsibilities may shift over time and from place to place, but we must retain the integrity of our character. As a result, business ethics adheres to a code of behaviour that is consistent with normative norms. Professionals also have the following distinguishing characteristics: (i) educational qualifying competency, (ii) professional abilities, and (iii) pay (salary/remuneration, etc.).

Business ethics is a professional activity, not a pure science, and society expects businesspeople to follow the norms of a civil society, just as it does other professions in fields like medical, administration, politics, and sports. As a result, we have a value-loaded or value-based business practise rather than a value-free business ethics.

## **2.1 Meaning of Business Ethics**

Business ethics is a branch of moral philosophy that studies business institutions, organisations, and activities. Business ethics is the study of moral principles and how they relate to the social structures and organisations that generate and distribute products and services in modern society, as well as the behaviours of the individuals who work within them. In other words, business ethics is a type of applied ethics. It not only examines moral standards and ideals, but also attempts to apply the findings of this examination to the diverse set of structures, organisations, and activities that we refer to as business.

It is frequently asserted that business ethics is an oxymoron (Duska 2000). An oxymoron is a phrase that combines two seemingly opposing elements, such as "a joyful pessimist" or "a deafening quiet." To state that business ethics is an oxymoron implies that there aren't, or can't be, ethics in business: that business is either fundamentally immoral (i.e., terrible) or, at most, amoral (i.e., outside of our typical moral considerations). For instance, it has been suggested that the 'game' of business is not held to the same moral standards as the rest of society, but rather should be compared to a game of poker, in which fraud and lying are entirely acceptable (Carr 1968).

To a degree, it's unsurprising that some individuals believe this. A lengthy succession of scandals has exposed the unethical practises of several businesses. However, just because such wrongdoings occur does not rule out the existence of values or principles that guide such judgments. After all, even what we consider to be "poor" ethics are still ethical in some way. And it's obvious that it's worthwhile to attempt to figure out why those judgments are taken in the first place, as well as to see whether more acceptable business decisions and approaches may be produced.

As a result, revelations of corporate wrongdoing should not be used to imply that thinking about ethics in business contexts is completely unnecessary. After all, many common business actions, as several writers have demonstrated (Collins 1994; Watson 1994; Duska 2000), need the upholding of basic ethical values such as honesty, trustworthiness, and cooperation. If corporate leaders constantly lied, buyers and sellers never trusted each other, and staff refused to support one other, business would be impossible. Similarly, basic principles of fairness assist to guarantee that employees in business feel fairly rewarded for their efforts rather than being judged on irrelevant factors like how excellent they are at golf or how lovely their hair is.

It would also be incorrect to conclude that corporate scandals indicate that the issue of business ethics is naive or idealistic. Indeed, it may be claimed that the primary purpose of business ethics is to offer us with some explanations as to why particular actions should be classified as ethical or immoral, or right or wrong. How can we give anything more than hazy impressions or hunches about whether certain economic operations are appropriate without a systematic study?

Whatever perspective one takes, there appears to be strong reason to believe that business ethics as a phenomena and as a subject is not oxymoron. While there will always be debates over what constitutes "ethical" corporate behaviour, it is feasible to provide a pretty uncontroversial definition of the term itself. As a result, we consider business ethics to be the study of business circumstances, actions, and decisions that involve concerns of right and wrong. It is important noting that when we say 'right' and 'wrong,' we're talking about ethically right and wrong, not commercially, tactically, or financially right or wrong. Furthermore, we don't only mean commercial firms when we say 'business' ethics; we also mean government agencies, pressure groups, not-for-profit businesses, charities, and other organisations.

## **2.2 Features of Business Ethics**

As this definition of business ethics implies, the concerns covered by business ethics span a wide range of topics. To bring some order to this chaos, we may divide the three types of concerns that business ethics studies into three categories: systemic, corporate, and individual issues.

### **2.3 Systemic Ethical Issues**

The ethical challenges raised concerning the economic, political, legal, and other structures within which corporations operate are known as systemic issues in business ethics. Questions regarding the morality of capitalism, as well as the laws, regulations, industrial structures, and social practises that firms work under, are among them.

### **2.4 Corporate Ethical Issues**

In business ethics, corporate problems refer to ethical concerns regarding a certain corporation. These include concerns concerning the morality of an individual company's operations, policies, practises, or organisational structure as a whole.

### **2.5 Individual Ethical Issues**

Finally, individual issues in business ethics are ethical concerns expressed regarding a single person or a group of people inside a corporation, as well as their actions and choices. These include inquiries concerning the morality of an individual's decisions, actions, or character.

When examining the ethical difficulties produced by a specific circumstance or case, it is important to categorise the issues as systemic, corporate, or individual issues. Frequently, the world confronts us with options involving a huge number of exceedingly sophisticated connected types of concerns, which can be confusing unless the various types of issues are thoroughly separated and identified from one another. Furthermore, the types of solutions ideal for dealing with systemic or corporate difficulties differ from the types of solutions appropriate for dealing with individual concerns. If a corporation is attempting to address a systemic issue, such as a government culture that tolerates bribery, the problem must be addressed on a systemic level, which means that it must be addressed via the coordinated efforts of many different social groups. Corporate ethical difficulties, on the other hand, can only be resolved by corporate or firm solutions. If a company's culture supports moral misbehaviour, for example, altering that culture will require the cooperation of the company's many diverse individuals. Individual ethical difficulties must, in the end, be resolved via individual decisions and acts, as well as, maybe, individual reform.

Let us discuss the difference between systemic, corporate and individual issues through the case study that was discussed in Unit I. The case study for reference is reproduced here

B. F. Goodrich, a car parts company, obtained a military contract a few years ago to design, test, and produce aircraft brakes for the A7-D, a new light jet being developed by the US Air Force. To save weight, Goodrich engineers promised that their compact brake would weigh no more than 106 pounds, have no more than four tiny braking discs or "rotors," and be capable of stopping the plane repeatedly within a set distance. The deal had the potential to be quite valuable for the firm, therefore its executives were eager to provide a brake that was "qualified," that is, passed all of the testing necessary by the US Air Force for the A7-D. The brake was invented by John Warren, an elder Goodrich engineer. Searle Lawson, a junior engineer, was tasked with selecting the appropriate material for the brake lining and testing the brake to ensure it "certified." Searle Lawson was a young man in his twenties at the time. He had recently graduated from college with

**Business Ethics**

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a bachelor's degree in engineering, and Goodrich had only recently employed him. To test lining materials, Lawson developed a "prototype" – a functional model – of the little brake. The linings on the four rotors heated up to 1500 degrees and began to disintegrate when the brake was applied, he discovered.

Lawson checked over Warren's design and determined it was based on a mistake after trying alternative linings and getting the same results. According to his estimates, the rotors did not have enough surface area to stop an aeroplane in the appropriate distance without creating too much heat, causing the linings to break. Warren's design should be updated with a new design for a bigger brake with five rotors, according to Lawson, who presented Warren his calculations. Warren dismissed the notion that his design was based on a blunder found by a "green youngster" fresh out of engineering school. He advised Lawson to keep experimenting with different brake lining materials until he found one that worked.

Lawson, on the other hand, was not ready to quit up. He went to the project manager to speak with him and show him his calculations. The project manager had frequently assured his bosses that the brake's development was on track, knowing that if the brake did not arrive on time, he would be punished. Furthermore, he was probably under the impression that he should entrust Warren, one of his top engineers, rather than someone fresh out of engineering school. Lawson was informed by the project manager that if Warren stated the brake would work, it would. He should just keep experimenting with new materials, as Warren said.

Lawson had spent several weeks looking for a brake lining that would not deteriorate. He had another conversation with his project manager. This time, his project manager instructed him to simply put the brake through the necessary tests in order to "qualify" it for use on the A7-D. The management then informed him flat out that he had to make the brake pass all of its qualification tests no matter what. Lawson was shaken by his manager's directives, and he subsequently discussed his feelings with Kermit Vandivier, a technical writer hired to prepare a report on the brake.

Lawson built a production model of the brake and put it through a dozen rounds of testing. Every time, it failed. Lawson "nursed" the brake through the tests on the thirteenth attempt, using special fans to cool the brake and dismantling it at each stage, cleaning it thoroughly, and repairing any distortions produced by the extreme heat. A measurement equipment was reportedly intentionally miscalibrated at one time, indicating that the brake pressure was 1000 pounds per square inch (the highest accessible to the pilot in the A7-D aircraft) when it was actually 1100 pounds per square inch.

Kermit Vandivier, who was supposed to write the test's final report, was also concerned. He discussed the tests with Lawson, who stated that he was only following the project manager's orders. Vandivier made the decision to speak with the section's senior executive. "It's none of my business and it's none of yours," the executive remarked after listening. Vandivier inquired if his conscience would be troubled if something went wrong during flight testing on the brake, leading in the death or injury of the test pilot. "Why should my conscience concern me?" said the Goodrich CEO. "I just do what I'm told, and I'd recommend that you do the same."

Kermit Vandivier refused to submit a report concluding that the brake had passed all qualification testing. He believed that such a report would be "deliberate falsifications and misrepresentations" of the facts. But, after a short while, he changed his mind.

So, once Searle Lawson and Kermit Vandivier submitted their report and the US Air Force installed Goodrich brakes on planes flown by their test pilots, what happened? Lawson was dispatched to Edwards Air Force Base in California as Goodrich's representative for the test flights. When the pilots attempted to land the planes, the brakes caused many near-collisions. In one example, he witnessed an aeroplane rolling down the runway after the pilot's braking caused the brake's pieces to fuse together and the wheels to lock up. None of the pilots were killed, which was a pleasant surprise. When Lawson and Vandivier went home, they both quit and informed the F.B.I. about what had happened; this was their method of dealing with the *individual issues* that their actions had caused. A few days later, Goodrich said that company will replace the little brake with a bigger five-disk brake at no additional cost to the US government, attempting to address the *corporate issues* raised by the brake incident. A year later, Lawson and Vandivier testified in front of the United States Congress about their experiences at Goodrich. Shortly after, the US Department of Defense modified the method it allowed businesses to test equipment, making it more difficult for them to submit false findings. These modifications were in reaction to a major *systemic issue* that became apparent after the truth was revealed.

(The case study is adapted from Velasquez, M. G. (2014). Ethics and Business. In M. G. Velasquez, Business Ethics Concepts and Cases (pp. 8-16). Pearson)

## 2.6 Importance of Business Ethics

Let us discuss the importance of business ethics by discussing how a real company had incorporated ethics into its operations. Consider the case of Merck & Co., Inc., and how it dealt with the issue of river blindness.

River blindness is a crippling illness that has plagued around 18 million underprivileged people living in rural settlements along riverbanks in tropical Africa and Latin America. The disease is caused by a parasitic worm that is transmitted from person to person by the biting of a black fly that breeds in fast-moving river waters. The worms burrow beneath a person's skin, growing up to 2 feet long coiled up within unsightly spherical nodules half an inch to an inch in diameter.

The female worms breed inside the nodules by producing millions of minute eggs called microfilariae, which wiggle their way throughout the body, discolouring it as they migrate and causing sores and acute itching to the point that sufferers commit suicide. The microfilariae eventually infiltrate the victim's eyes and cause blindness. The parasite has already blinded more than 60% of inhabitants over the age of fifty-five in certain West African villages. According to the World Health Organization, the illness has blinded 270,000 individuals and left another 500,000 with vision impairment.

Because the black fly has evolved resistance to pesticides, they are no longer effective. Furthermore, before the events detailed below, the only medications available to cure the parasite in humans were prohibitively costly, had terrible side effects, and necessitated extended hospital stays, making treatment unfeasible for the poor victims living in remote rural settlements. Young people deserted the areas around rivers in numerous nations, abandoning vast swaths of lush, arable land. Villagers who remained beside the rivers accepted the nodules, excruciating itching, and ultimately blindness as an unavoidable part of life.

Dr. Bill Campbell and Dr. Mohammed Aziz, Merck research experts, uncovered evidence in 1980 that Ivermectin, one of the company's best-selling animal medications, may eradicate the parasite that causes river blindness. Dr. Aziz proceeded to Dakar, Senegal, where he tested the medicine on people with active illnesses. He had previously worked in Africa and was familiar with river blindness. He discovered that a single dose of the medicine not only killed all the microfilariae, but also rendered the female worms infertile and rendered the host resistant to fresh infections for months. Dr. Campbell and Aziz visited Merck's chief of research and development, Dr. P. Roy Vagelos, a former physician, when they returned to the United States. They presented him with their findings and advised Merck to produce a human version of the medication.

It cost far over \$100 million at the time to create a new medicine and test it in the large-scale clinical trials needed by the US government. "It was evident that we would not be able to offer the treatment to these individuals, who would not be able to buy it even at a price of pennies per year," Roy Vagelos recognised, even if they succeeded in generating a human version of the therapy for patients of river blindness. Even if the treatment were inexpensive, most persons with the condition would be unable to obtain it since they lived in rural places with no access to doctors, hospitals, clinics, or drug stores. Furthermore, if the medicine has negative human side effects, it might jeopardise sales of the animal version, which are estimated to be worth \$300 million each year. Finally, if a low-cost version of the human medicine became available, it might be smuggled into the country and resold for use on animals, undercutting the company's Ivermectin sales to vets.

Merck's net income as a percentage of sales had been declining due to rapidly rising costs of developing new drugs, increasingly restrictive and costly regulations imposed by government agencies, a lull in basic scientific breakthroughs, and a decline in the productivity of company research programmes, despite having global sales of \$2 billion per year.

The United States Congress was about to enact the Drug Regulation Act, which would increase competition in the pharmaceutical sector by allowing competitors to more swiftly copy and distribute medications produced by others. Medicare had just capped drugs reimbursements and mandated the use of less expensive generic pharmaceuticals in place of Merck's main source of revenue, branded-name drugs. Was it a smart idea for Merck to embark on a costly initiative with little economic prospects in the midst of these deteriorating conditions in the pharma industry?

*Business Ethics*

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Vagelos was well aware that he was confronted with a decision that "had a significant ethical component," as he put it. Whatever the cost to the corporation and his career, it was evident that millions would be doomed to a life of agony and partial or total blindness if the medication was not developed. Vagelos came to the opinion that the potential human advantages of a medicine for river blindness were too big to ignore after consulting with Campbell, Aziz, and other management. He authorised a budget in late 1980 that included funds for the development of a human counterpart of Ivermectin.

Merck spent seven years developing a human version of Ivermectin. The human version was given the name Mectizan by the company. A single Mectizan tablet taken once a year might eliminate all remnants of the parasite that causes river blindness from the human body and prevent future infections. Unfortunately, no one came forward to buy the amazing new drug, just as Vagelos had predicted. Over the next several years, Merck officials—particularly Vagelos, who was then the company's CEO—pleading with the World Health Organization (WHO), the US government, and governments of countries affected by the disease, pleading for someone—anyone—to come forward and buy the drug to protect the 100 million people who were at risk. None of the candidates replied to the company's appeals.

When it became evident that no one would pay for the medicine, the business decided to offer Mectizan to illness victims for free. Even still, putting this idea into action proved challenging because, as the business had predicted, there were no established distribution routes to bring the medicine to those who needed it. As a result, in collaboration with the WHO, the business funded an international committee to build the infrastructure needed to securely deliver the medicine to people in the Third World while also ensuring that it would not be diverted to the black market for use on animals. Without accounting for the cost of producing Mectizan, the company's investment in creating, testing, and now selling the medicine was well over \$200 million.

Merck had handed away more than 2.5 billion Mectizan pills worth \$3.5 billion by 2010, and the medicine was being given away for free to 80 million individuals each year in Africa, Latin America, and the Middle East. The corporation has expanded the initiative to include the treatment of elephantiasis, a parasitic condition, in addition to relieving the extreme miseries of river blindness that often coexist with river blindness that could also be treated with Mectizan. Mectizan has been given to approximately 300 million individuals to treat elephantiasis by 2010, with another 70 million receiving it the following year.

When asked why the company invested so much money and effort into researching, developing, manufacturing, and distributing a drug that makes no money, Dr. Roy Vagelos, the business's CEO, explained that once the company discovered that one of their animal treatments may heal a deadly human disease that was destroying people, the only ethical choice was to develop it. Furthermore, he stated that people in the Third World "would remember" Merck's assistance to them and will respond kindly to the corporation in the future. The corporation had learnt through time that such acts offer significant long-term strategic benefits. "When I first visited Japan 15 years ago, I was informed by Japanese businesspeople that Merck was the company that delivered streptomycin to the country after WWII to combat TB, which was ravaging their society. "That's what we did. We weren't able to make any money. But it's no accident that Merck is the largest American pharmaceutical company in Japan today."

(The case study is adapted from Velasquez, M. G. (2014). *Ethics and Business*. In M. G. Velasquez, *Business Ethics Concepts and Cases* (pp. 1-6). Pearson)

Although many organisations have engaged in unethical activity at some point in the past, engaging in unethical behaviour on a regular basis is not always a viable long-term business plan. Consider if you are more inclined to buy from a company that you know is honest and trustworthy or one that has a reputation for being dishonest and crooked as a consumer. Consider if you are more likely to remain loyal to a firm that treats you and other employees fairly and respectfully or one that treats you and other employees unfairly and disrespectfully on a regular basis. When firms compete for customers and the best employees, the company with a reputation for ethical behaviour clearly has an edge over one with a reputation for unethical behaviour.

Ethics is the best long-term strategy for a firm, according to a growing body of evidence over the last few years. This isn't to say that there aren't times when doing the right thing costs a corporation money. Such events are regular throughout a company's life, and we'll see numerous instances in this work. It also does not imply that ethical or immoral action is always rewarded or penalised. On the contrary, unethical action might pay off in the long run, and the good person can lose. To state that ethical behaviour is the best long-term strategy simply implies that, over time and in most



cases, ethical behaviour may provide a firm with considerable competitive advantages over non-ethical enterprises.

Business ethics is a highly debated topic in the business world right now, and disputes about it have gotten a lot of attention from a variety of sources, including customers, the media, non-governmental organisations (NGOs), and, of course, businesses themselves. Organizations, regardless of their type of business, are confronted by this focus on ethics.

There are a variety of reasons why business ethics is becoming a more significant subject to study, whether for students interested in analysing company operations or for managers looking to enhance their decision-making abilities.

Take into account the following:

### **1. Business has huge power within society.**

Business has an effect on practically every area of our lives, and it may even have a significant impact on the democratic process. Many members of the public, according to evidence, are concerned about such trends.



For example, according to a recent study, a vast majority of Americans feel lobbyists (71%) have too much influence, as do major corporations (67%) and banks and financial organisations (67%). This presents a slew of ethical issues, implying that we need to come up with new ways to either control this power or guarantee that it is used for societal benefit rather than exploitation of the less fortunate.

### **2. Business has the ability to make a significant contribution to our societies.**

Business can be a wonderful force for good in terms of generating the things and services that we desire, giving jobs, paying taxes, functioning as an engine for economic progress, and solving complicated societal problems. The dispute over corporate ethics is centered on how, or even whether, this contribution is actually accomplished in reality. According to a McKinsey worldwide poll, just around half of business leaders feel businesses make a mainly or somewhat beneficial contribution to society, while the other quarter say they make a largely or somewhat negative impact (McKinsey Quarterly 2006).

### **3. Individuals, Communities, and the environment can all suffer greatly as a result of business malpractice**

When the Rana Plaza building in Bangladesh collapsed in 2013, over 1,000 textile workers who were sewing clothing for Western retailers' suppliers perished after being compelled to return to work after the building was evacuated and declared dangerous (Yardley 2013). Business ethics aims to 'better the human condition' by assisting us in learning more about the causes and repercussions of these wrongdoings, as the founding editor of the Journal of Business Ethics put it (Michalos 1988).

### **4. The pressures on business to be ethical from its numerous stakeholders are getting increasingly complicated and difficult to meet**

Understanding these problems and developing remedies that fulfill stakeholder needs while still allowing enterprises to perform their economic roles efficiently is crucial. Managers continue to face a difficult task in finding the correct balance.

### **5. Employees are under a great deal of pressure to lower their ethical standards**

For example, a survey of 500 financial services professionals in the United Kingdom and the United States found that more than one-quarter had witnessed workplace wrongdoing, and a quarter agreed that financial services professionals may need to engage in unethical or illegal conduct in

order to be successful. Studying business ethics gives us a lens through which we may examine the causes for such transgressions, as well as the methods in which managers, regulators, and others engaged in ethical activity can address them.

### **There is a lack of trust in the business world.**

Only 18% of the general public believes corporate executives to speak the truth, and only 19% trust them to make ethical judgments globally. Improving company ethics will be important to regaining that trust in the future. After identifying some of the reasons why business ethics is vital, it's crucial to note that this does not negate the fact that the subject of business ethics is not without flaws. For decades, the boundaries of business ethics have been debated (e.g., Stark 1994; Sorrell 1998), causing one group of business ethics textbook authors to declare that "we are not especially fond of "business ethics" (Jones et al. 2005: 1). After all, despite decades of research and teaching on business ethics at colleges and universities, ethical issues persist, and the public remains sceptical of business ethics. However, rather than disputing the value of business ethics as a discipline, these objections are mostly addressed at how theories of business ethics have been produced and implemented.

There appears to be a growing consensus among students, professors, governments, customers, and, of course, companies on the significance of addressing issues of corporate ethics. Business ethics modules are currently taught at universities all around the world. As *Businessweek* magazine phrased it, "the new slogan of B-Schools" is "ethics and profits" (Stonington 2011). There has also been a flood of books, magazine, journal, and newspaper articles on the subject, as well as web pages, blogs, and other electronic publications – amazon.com currently lists over 26,000 books related to business ethics. Business ethical concerns are reaching a large audience through television and film. Films like *The Wolf of Wall Street* raise a number of important corporate ethical questions.

Similarly, the business ethics industry, which includes corporate ethics officers, ethics consultants, ethical investment trusts, ethical goods and services, and activities related to ethics audits, monitoring, and reporting, has seen tremendous expansion in recent years. According to one yearly UK poll, the country's 'ethical market' (i.e. consumer expenditure on ethical products and services) is worth over £78 billion each year. Organic and fair-trade foods, responsible vacations, energy-efficient goods, ethical finance, and ethical clothing are all part of the ethical market. What is evident is that, over the last decade or two, corporate ethics has not only been more widely acknowledged, but has also experienced tremendous changes and advances. This has been true not only in huge corporations, but also in small and medium-sized businesses (SMEs), as well as in government and non-profit organisations.

## **2.7 Challenges of Business Ethics**

There are numerous challenges to business ethics. Few of those challenges are discussed here as follows:

### **Applying Ethical Concepts to Corporations**

The claim that business ethics applies ethical or moral notions to corporations poses an intriguing question. Can we truly argue that organisations' activities are moral or immoral in the same way that human individuals' actions are? Is it possible to state that companies have moral responsibility for their actions in the same way that individuals have moral responsibility for their actions? Or do we have to declare that applying moral notions to organisations as a whole makes no sense, but only to the individuals who make up the organisation? Employees of the accounting firm Arthur Andersen, for example, were found destroying records that may have proven that Arthur Anderson accountants helped Enron disguise its debt through the use of many accounting gimmicks a few years ago. Instead of charging the workers who shredded the records, the US Justice Department prosecuted Arthur Andersen, a now-defunct accounting company, with obstruction of justice. After that, critics contended that the US Justice Department should have charged Arthur Andersen's individual workers, not the firm, since "companies don't commit crimes, people do." Is it possible to apply moral concepts like duty, wrongdoing, and obligation to groupings like corporations, or are people the only true moral agents?

In answer to this question, two points of view have formed. At one extreme, some believe that if we can state that something acted and that it behaved purposefully, then we may call that object a "moral agent"; that is, an agent with moral rights and responsibilities and moral responsibility for

its acts, much like humans. This viewpoint is supported by the following argument: We can plainly state that businesses participate in acts and that they do so on purpose. Companies, for example, can "merge," form contracts, compete against one another, and produce goods. And these things don't just happen; they appear to be done "deliberately" by businesses. However, if an agent can act deliberately, it may be held morally responsible for its acts and punished when it does something morally wrong.

On the other hand, some argue that holding firms "morally responsible" or claiming that they have "moral" obligations is absurd. These individuals claim that businesses are machines whose members must mindlessly follow formal regulations that have nothing to do with morality. As a result, holding corporations "decently accountable" for failing to meet moral norms makes no more sense than criticising a computer for failing to act morally. The primary flaw with this second viewpoint is that, unlike machines, at least some members of organisations are typically aware of what they are doing and have the freedom to obey or even modify the organization's rules. When an organization's members collectively, yet freely and deliberately pursue immoral goals, it's reasonable to conclude that the activities they took on behalf of the business were "immoral" and that the organisation is "morally accountable" for them.

Which of these two points of view is the correct one? Neither is likely to be right. The underlying problem with which both points of view are attempting to grapple is this: Even though we argue that corporations "exist" and "act" like humans, they are clearly not human beings. Our moral categories, on the other hand, are primarily meant to cope with human beings who feel, reason, and deliberate, and who act on the basis of their own feelings, reasoning, and deliberations. So, how may these moral categories be applied to business entities and their "acts"? We can find a way out of these problems if we first recognise that business entities and their actions are dependent on human beings. Human persons are the main bearers of moral responsibilities and duties since corporate activities are the result of their decisions and actions. Because corporate operations are entirely dependent on human decisions and behaviours, people are held accountable for what the company accomplishes.

If a company does something wrong, it is because some people or individuals within the corporation chose to do so; if a business does something right, it is because some individual or individuals within the corporation opted to have the corporation behave right. The assumption that a corporation's acts are the actions of some "person" who is apart from the persons who carry out those actions, as various courts have concluded, is a "legal fiction." When justice demands that those persons who really carried out the activities of the corporation be held accountable for the damage "the corporation" inflicted, this deception is set aside (by "breaking the corporate veil"). Nonetheless, it is completely reasonable to assert that a corporation has moral obligations and is morally accountable for its actions. Organizations, on the other hand, have moral responsibilities and are morally accountable in a secondary or derived sense. A company only has a moral obligation to accomplish something if some of its members also have a moral obligation to ensure that it is done.

The essential argument is that we must not allow the illusion of "the company" disguise the truth that human persons govern what the corporation does when we apply ethical norms to business. As a result, these human beings are the main bearers of the moral obligations and responsibilities that we ascribe to the company in a secondary sense. Of course, this isn't to suggest that the people who make up a firm aren't impacted by one another and their surroundings. Company rules, corporate culture, and corporate conventions all have a significant impact on employee behaviour. A corporation's rules, culture, and norms, on the other hand, do not determine the employee's decisions for him (or her), and so they are not liable for that employee's conduct.

## 2.8 Argument against Business Ethics

Among many challenges of business ethics is the view that the sole purpose of business is to earn profits. In this section, three different assumptions that make up this argument along with "reality" are discussed in this section.

**Argument 1:** In perfectly competitive free markets, the pursuit of profit will by itself ensure that the members of society are served in the most socially beneficial ways.

The argument is based upon following assumptions:

**Assumption 1:** Most industrial markets are "perfectly competitive."

*Business Ethics*

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**Reality:** most industrial markets are not “perfectly competitive” as the argument assumes. To the extent that firms do not have to compete, they can maximize profits despite inefficient production.

**Assumption 2:** Any steps taken to increase profits will necessarily be socially beneficial

**Reality:** In fact, however, several ways of increasing profits actually injure society such as: allowing harmful pollution to go uncontrolled, deceptive advertising, concealing product hazards, fraud, bribery, tax evasion, price fixing, and so on.

**Assumption 3:** By producing whatever the buying public wants (or values), firms are producing what all the members of society want.

**Reality:** the wants of large segments of society (the poor and disadvantaged) are not necessarily met when companies produce what buyers want, because these segments of society cannot participate fully in the marketplace.

**Argument 2:** A second kind of argument sometimes advanced to show that business managers should single-mindedly pursue the interests of their firms and should ignore ethical considerations is embodied in what Alex C. Michalos called the “loyal agent’s argument.”

The argument can be paraphrased as follows:

- (1) As a loyal agent of his or her employer, the manager has a duty to serve the employer as the employer would want to be served (if the employer had the agent’s expertise).
- (2) An employer would want to be served in whatever ways will advance his or her interests.
- (3) Therefore, as a loyal agent of the employer, the manager has a duty to serve the employer in whatever ways will advance the employer’s interests.

This is a common argument used by unethical supervisors to excuse unethical behaviour. For example, Scott Sullivan, a former finance officer at WorldCom, was charged in 2005 with orchestrating a \$11 billion accounting scam that wiped out the retirement funds of thousands of employees. Bernie Ebbers, Sullivan’s employer, had told him to “hit the figures,” Sullivan said. Sullivan did what he was ordered, despite raising an objection: “I told Bernie, ‘This isn’t right.’” Betty Vinson, a former WorldCom accounting executive, said that Sullivan had directed her to “alter” the books to hide the company’s terrible financial situation from investors. Both Sullivan and Vinson believed that being loyal to their boss justified their ignoring the fact that what they were doing was wrong, something they both stated they were aware of. If we substitute employer with government and manager with officer in the Loyal Agent Reasoning, we get the type of argument that Nazi officials employed during WWII to justify the murder of around 16 million Jews and others branded “undesirables” by Hitler’s regime. “I had to do it because I had a duty to serve my nation by implementing its commands,” the Nazi commanders often said when they were captured and brought to trial.

**Reality:** It merely takes a moment of thought to recognise that the loyal agent’s argument is based on dubious assumptions. First, the argument assumes an unproven moral norm (“the manager should serve the employer in any manner the employer wishes to be served”). However, there is no reason to believe that this moral norm is acceptable in its current form, and there is cause to believe that it would be acceptable only if it were properly qualified (e.g., “the manager should serve the employer in whatever moral and legal manner the employer desires”).

Second, the loyal agent’s argument presupposes that the manager’s duty to serve the employer have no boundaries, whereas in reality, such constraints are an explicit component of the legal and social structures that these duties originate from. The law of agency (i.e., the law that describes the obligations of persons—“agents”—who undertake to act on behalf of another party—the “principal”) defines an agent’s responsibilities. In this sense, lawyers, managers, engineers, stockbrokers, and other professionals work as agents for their companies. By willingly agreeing to act as someone’s agent, a person undertakes a legal (and moral) responsibility to serve the client loyally, diligently, and confidentially, as defined by agency law. The law of agency, on the other hand, stipulates that “in assessing whether or whether the [client’s] commands to the agent are reasonable..., business or professional ethics should be considered.

“In no instance would it be suggested that an agent has an obligation to do unlawful or immoral activities,” they add. The manager’s obligations to serve the employer are thus restricted by moral limitations, because the duties of a loyal agent are defined with this knowledge. Third, the loyal agent’s argument assumes that if a manager agrees to serve an employer that agreement somehow justifies whatever the manager does on his employer’s behalf. This assumption, however, is

incorrect: An agreement to serve an employer does not immediately imply that you will act in his or her best interests. If it's wrong for me to deliberately endanger people's lives by selling them defective items, it's still wrong when I'm doing it on behalf of my employer. Agreements and the argument "I was following orders" do not modify the moral character of unjust conduct.

**Argument 3:** A third issue to incorporating ethics into business is that it is enough for entrepreneurs to follow the law to be ethical: if it is legal, it is ethical. Managers at Goldman Sachs, for example, were recently accused of assisting Greece in concealing debts greater than European Union standards permitted by disguising the loans as currency transactions that did not have to be recorded as debt. Greece's debt grew to the point that it plunged Greece, and subsequently the European Union, into financial catastrophe in 2010. Managers at Goldman Sachs have been accused of acting unethically by assisting Greece in concealing debt that it couldn't handle. However, the executives justified their activities by claiming that "these transactions were in accordance with European principles [rules] controlling their usage and use at the time." Since it was legal, they were saying, it was ethical.

**Reality:** It is true that some kinds of law compel behaviour that is similar to what our moral standards demand. Murder, rape, theft, fraud, and other crimes are examples of these laws. In such instances, law and morality are one and the same, and the duty to observe such laws is the same as the duty to be moral. Law and morality, on the other hand, do not totally overlap. Because they do not deal with significant issues, some laws have nothing to do with morality. Parking rules, clothing codes, and other laws dealing with comparable issues are examples. Other laws may even contravene our moral norms, making them morally reprehensible. Pre-Civil War slavery laws, for example, forced Americans to regard slaves as property, whereas Nazi Germany's laws mandated anti-Semitism. The laws of some Arab countries today require that businesses discriminate against women and Jews in ways that most people would say are clearly immoral. So it is clear that ethics is not simply following the law.

## **2.9 Business Ethics in Private, Public, and Civil Society Organizations**

While private sector companies will tend to be responsible primarily to their shareholders or owners, the main responsibilities of civil society organizations (CSOs) are to the constituencies they serve (and to a lesser extent their donors). In the public sector, more attention is paid to higher-level government and the general public. Typical ethical issues prioritized by government agencies will be those of rule of law, corruption, conflict of interest, public accountability, and various procedural issues involved in ensuring that resources are deployed fairly and impartially (Moilanen and Salminen 2007). This is usually reflected in a formalized and bureaucratic approach to ethics management. CSOs, on the other hand, will often be more informal in their approach, emphasizing their mission and values. CSOs may be limited in terms of the resources and training they may typically be able to deploy in relation to managing ethics, whereas government organizations are often restricted by a heavy bureaucracy that breeds inertia and a lack of transparency to external constituencies. A summary of some of the differences in business ethics across organizational contexts is provided in Figure 2.1

	Large corporations	Small businesses	Civil society organizations	Public sector organizations
Main priorities in addressing ethical issues	Financial integrity, employee/customer issues	Employee issues	Delivery of mission to clients; integrity of tactics; legitimacy and accountability	Rule of law, corruption, conflicts of interest; procedural issues, accountability
Approach to managing ethics	Formal, public relations and/or systems-based	Informal, trust-based	Informal, values-based	Formal, bureaucratic
Responsible and/or accountable to	Shareholders and other stakeholders	Owners	Donors and clients	General public, higher level government organizations
Main constraints	Shareholder orientation; size and complexity	Lack of resources and attention	Lack of resources and formal training	Inertia, lack of transparency

Figure 2.1 Differences in business ethics across organization types

(Source:CRANE, A., & MATTEN, D. (2016). *Introducing business ethics*. In A. CRANE, & D. MATTEN, *business ethics* (4th ed., p.17). Glasgow: Oxford University Press.)

## Summary

- Business ethics is the study of moral rules standards and principles related to business institutions
- Business ethics deal with three kinds of issues systemic issues, corporate issues and individual issues
- Systemic issues are related to systemic problems like corruption in society, government rules and regulations etc.
- Corporate issues are related to corporate like corporate culture, corporate policies and procedures etc.
- Individual issues are related to individual like individual character, values, individual decision making etc.
- Systemic problem requires solution at system level, corporate problem requires solution at corporate level and individual problem will require individual transformation
- Business ethics is the long term strategy for any business to survive and flourish
- Business ethics is also important because of growing influence of business in society and more reported incidents of pressurizing employees to behave unethically
- Business ethics challenges are assumptions that business people make about business that are different from reality, for example the only purpose of business is to earn profit, business ethics means to follow law etc.

## **Keywords**

Business ethics, systemic issues, corporate issues, individual issues, importance of business ethics, challenges of business ethics

## **Self Assessment**

1. How do the terms business ethics and social responsibility differ from each other?

- A. Business ethics concerns the impact of the entire business's activities on society, whereas social responsibility relates to an individual's decisions that society evaluates as right or wrong.
- B. Business ethics concerns the impact of the entire business's activities on society, whereas social responsibility relates to a work group's decisions that society evaluates as right or wrong.
- C. Business ethics relates to an individual's or a work group's decisions that society evaluates as right or wrong, whereas social responsibility concerns the impact of the entire business's activities on society.
- D. Business ethics and social responsibility can be used interchangeably because they mean the same thing.

2. Which among the following are advantages of managing business ethics in the workplace?

- A. Cultivate strong team work and productivity
- B. Avoid criminal acts
- C. Lower fines
- D. All of these

3. A(n) \_\_\_\_\_ is a problem, situation, or opportunity requiring an individual, group, or organization to choose among several actions that must be evaluated as right or wrong.

- A. crisis
- B. ethical issue
- C. indictment
- D. fraud

4. Business ethics deals with three kinds of issues systemic, corporate and individual issues

- A. True
- B. False

5. Which of the following statements is MOST ethical?

- A. We did not have this conversation
- B. Be sure to double check all of the data.
- C. Don't put it in writing.
- D. We want you to be a team player.

6. Though business ethics covers a variety of topics, three basic types of issues are:

- A. Systematic, corporate and public

- B. Systematic, corporate and individual  
C. Individual, group and social  
D. None of the above
7. Ethical behaviour for companies is the best long -term strategy.  
A. True  
B. False
8. Dr. P. Roy Vagelos, Merck's head of research and development, decided to fund the money required to develop Ivermectin to cure river blindness because of its large profit potential.  
A. True  
B. False
9. Businesses have \_\_\_\_ within society and have the potential to provide a \_\_\_\_ to society while \_\_\_\_ has the potential to inflict enormous harm on individuals, communities and the environment.  
A. Little power, Small contribution, Business malpractice  
B. Little power, Major contribution, Corporate social responsibility  
C. Huge power, Small contribution, Corporate social responsibility  
D. Huge power, Major contribution, Business malpractice
10. Which of the following statements is correct?  
A. Business ethics is not a real concept as the rules and ethics of everyday life don't apply to the world of business.  
B. Business Ethics is the study of business situations, activities and decisions where issues of right and wrong are addressed.  
C. Business ethics cannot be defined as a real concept as it is an oxymoronic term.  
D. Business ethics is concerned with the study of assessing the activities of a business based on their profitability.
11. In reality, most industrial markets are “perfectly competitive.”  
A. True  
B. False
12. Adam smith (1779), the father of modern economics says: “Every individual... neither intends to promote the public interest, nor knows how much he is promoting it... he intends only his own security; and by directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention. This concept comes in which principle of ethics  
A. Business for profit  
B. Business for esteem  
C. Business for social work  
D. Business for Pleasure



13. The assumption that any steps taken to increase profit will be socially beneficial is
- True
  - False
14. The "Loyal Agent Argument" assumption: An employer would want to be served in whatever ways will advance his or her self-interests. Therefore, as a loyal agent of his or her employer, the manager has a duty to serve his or her employer in whatever ways will advance the employer's self-interests.
- True
  - False
15. Organizations are morally responsible in a secondary or derivative way. Human individuals are the primary carriers of moral responsibility.
- True
  - False

### **Answers for Self Assessment**

- |       |       |       |       |       |
|-------|-------|-------|-------|-------|
| 1. C  | 2. D  | 3. B  | 4. A  | 5. B  |
| 6. B  | 7. A  | 8. B  | 9. D  | 10. B |
| 11. B | 12. A | 13. B | 14. B | 15. A |

### **Review Questions**

- Discuss the meaning of the term business ethics in detail
- Illustrate with examples the features of business ethics
- "Business Ethics is the long term strategy of the organizations" Justify this statement with examples
- Discuss the importance of business ethics
- "The sole purpose of business is to earn profits" Do you agree or disagree with this statement? Justify your stand with examples
- What are the various challenges to business ethics? Explain them in detail



### **Further Readings**

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**Web Links**

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- <https://www.smartcapitalmind.com/what-are-the-different-challenges-in-business-ethics.htm>

## **Unit 03: Eastern and Western Ethical Thought and Business Practices**

### **CONTENTS**

Objectives

Introduction

- 3.1 Ethics across Geographically Different Cultures
- 3.2 Difference between American and Indian Culture
- 3.3 Globalization and Universal Norms
- 3.4 Cultural Values
- 3.5 Manners – Indicator of Values
- 3.6 Business and Ethical Relativism
- 3.7 Suitability Of Eastern Values to Western Business
- 3.8 Integrated Business
- 3.9 Do Indian Values Hinder Business
- 3.10 Progressive Business Dharma
- 3.11 Dharma – The Fundamental Principle
- 3.12 Hofstede Cultural Dimensions

Summary

Key words

Self assessment

Answers for Self Assessment

Review Questions

Further Readings

### **Objectives**

After studying this unit, you will be able to:

- Understand how ethics varies across geographically different cultures
- Identify universal norms
- Identify suitability of eastern values to western business
- Discuss if values hinder business
- Identify Hofstede culture dimensions
- Analyze Hofstede culture dimensions across cultures

### **Introduction**

The world of political economy may be divided into two kinds of people – global fans and local fanatics. Take the example of people migrating from the East to the West. Western governments are under pressure from two groups at home – the professional establishments who are running short of personnel want to have them, but the locals protest, since they feel that their jobs will be taken away. The world is a much traversed planet, and yet there are serious cultural differences among the nations, Sportsmen soon forget their sportsmanship and indulge in racial slur. Western

businessmen look askance at the way their Eastern counterparts conduct business and cast doubts about the integrity of the deals to be signed. There are several trade barriers, taxes, and tariffs that hinder fair trade practices. The question we will deal with is, whether it is possible to have global business ethics practices in a multicultural world, much unified and yet divided.

### **3.1 Ethics across Geographically Different Cultures**

Indeed, it would seem that the universal norms are confined to the geographical hemispheres, because culture shapes our values. Cultures are geographically diverse. The European culture is different from the Asian culture, whereas the African culture is different from both the European and Asian cultures. Cultures are confined to territories. Even the old civilizations of Egypt, Mesopotamia, China, and India were geographical pockets. Each of these cultural centres developed their own ethos, where the social relations that developed were typical to their environment.

### **3.2 Difference between American and Indian Culture**

There are no two civilizations alike. The civilizations of the United States and the Indians are vastly different. While American culture is a mash-up of several civilizations, Indian culture is distinct and has its own set of ideals.

Family relationships are one of the most noticeable variations between American and Indian culture. While the Indians place a high value on family, the Americans place a high value on individualism. Individual ideals are given less weight in Indian society than family values. Indians hold family values in high regard. Individual values, on the other hand, take precedence in American society above familial values. Indians are more dedicated to their families, whilst Americans are primarily concerned with themselves.

In another sense, the Indian culture is more people or family focused, whereas the American society is more goal driven. For the sake of their families, Indians may even forego their personal aspirations and pleasure. However, this trend is not visible in American society. The Americans, unlike the Indians, plan ahead. The American way of life is based on conquering nature and managing the environment. Indians, on the other hand, believe in living in harmony with nature.

Another distinction between Indian and American culture is that the Indians prefer stability to the Americans' preference for movement.

Individuals in American society conceive of themselves as self-sufficient and independent. Indians, on the other hand, are more reliant on others. While children in the United States are raised to be self-sufficient, children in India are not raised in this manner. Elders are revered in Indian society, and they are the ones who make choices. However, in American society, each person chooses his or her own choices. Indians are more competitive than Americans when it comes to competition. When it comes to working, the Indians focus on addressing the requirements of their families. An American, on the other hand, will only work to improve himself or get wealthy. Another noticeable distinction is that Americans place a high importance on time and its worth.

### **3.3 Globalization and Universal Norms**

Globalization has become one of the most prominent buzzwords of recent times. Whether in newspaper articles, politicians' speeches, or business leaders' press conferences, the 'G-word' is frequently identified as one of the most important issues in contemporary society. In the business community, in particular, there has been considerable enthusiasm about globalization. Businesses search for new employees worldwide, supply chains span multiple continents, and global brands such as Coca-Cola, Adidas and Toyota are now an everyday feature even in the remotest African village. But as much as many businesses (as well as many consumers and employees) have enjoyed the fruits of globalization, they have also experienced a downside. As William Parrett, the former Chief Executive Officer of Deloitte Touche Tohmatsu (one of the 'Big Four' accounting firms), commented at the World Economic Forum (WEF) in Davos:

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### Unit 03: Eastern and Western Ethical Thought and Business Practices

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One effect of globalization has been that risk of all kinds – not just fiscal, but also physical – have increased for businesses, no matter where they operate. Information travels far and fast, confidentiality is difficult to maintain, markets are interdependent and events in far-flung places can have immense impact virtually anywhere in the world.

So, globalization clearly has some negative effects, even for the business community. But beyond this, it is significant that over the past two decades a significant ‘anti-globalization’ protest movement has also emerged. Some meetings of global organizations such as the WEF, the World Trade Organization (WTO), or the G8, for example, have been accompanied by criticism and occasionally even violent protest. Hackers have targeted global companies such as Amazon and Sony, while successive battles over fair trade, poverty, food prices, water access, and financial stability have kept the ethical spotlight on the process of globalization. The ‘Occupy’ movement, which itself morphed into a global phenomenon within just a few weeks in 2011, also revitalized a strident critique of ‘corporate globalization’.

In the context of business ethics, this controversy over globalization plays a crucial role. After all, corporations – most notably multinational corporations (MNCs) – are at the centre of the public’s criticism on globalization. They are accused of exploiting workers in developing countries, destroying the environment, and, by abusing their economic power, engaging developing countries in a so-called ‘race to the bottom’. However true these accusations are in practice, there is no doubt that globalization is the most current and demanding arena in which corporations have to define and legitimize the ‘rights and wrongs’ of their behaviour.

**Race to the Bottom:** A process whereby multinational firms pitch developing countries against each other by allocating foreign direct investment to countries that can offer them the most favourable conditions in terms of low tax rates, low levels of environmental regulation, and restricted workers’ rights.

### 3.4 Cultural Values

Indeed, it would seem that the universal norms are confined to the geographical hemispheres, because culture shapes our values. Cultures are geographically diverse. The European culture is different from the Asian culture, whereas the African culture is different from both the European and Asian cultures. Cultures are confined to territories. Even the old civilizations of Egypt, Mesopotamia, China, and India were geographical pockets. Each of these cultural centres developed their own ethos, where the social relations that developed were typical to their environment.

### 3.5 Manners – Indicator of Values

Let us specify where the ethical values get translated into good manners or etiquette. If you go to a European wedding in a *kurta pyjama*, it may be construed as being rude. Chances are that you may be thrown out for not wearing a decent dress, and for having dared to come in straight from the bed, in night clothing. Likewise, when half-clad European tourists visit Indian temples with their shoes on, they hurt the religious sentiments of the Indians. There have been instances in business where Western products have exhibited the Eastern religious symbols of gods and goddesses on their footwear or undergarments, and this has led to angry protests that have cost many lives.

It is therefore wise to understand and respect the cross-cultural differences and conduct ourselves in an appropriate and friendly manner, rather than put up the false pretence of global business ethics.

#### **Manners**

Good manners and etiquettes, although very edifying, are not the essence of ethical behaviour. Whether one holds a fork in one’s right hand or left hand is totally insignificant when compared to the value of telling the truth. Truth is appreciated beyond boundaries and all cultures have the same definition for the fundamental values such as truth, justice, love, and respect. -

#### **Universal versus Particular Values**

The above example places before us a distinction in human behavior universal principles and their particular values. Problems arise when we universalize our particular values as universal principles. We are formed by particular instances and exclusive cultures and pursue definite

interests. This is because our beliefs are influenced by our parents and elders, by the communities we belong to and the religions we follow, our definite political convictions, our professional rules, and personal ambitions. These are causes for dreadful disagreements and even wars. Thus, we should not be surprised that the values that we hold so dear collide and we lose faith in ourselves. That is why when people say that 'ethics is an oxymoron', they are not to be charged as cynics.

On the other hand, the principles of right and wrong are definitely universal, only if we can rise above our individual and treasured behaviour patterns. For instance, if honesty is our universal principle, then it translates into not to cheat, tell lies, or mislead. Through the practice of honesty, one's conscience is formed, which guides with simple 'dos' and 'don'ts' and the person turns habitually into a good person. One cannot hold a good person down, irrespective of the territorial boundaries and ideological chasms. Good leaders such as Mahatma Gandhi and Nelson Mandela have become the conscience of mankind beyond all geographical, racial, and cultural boundaries.

### **Differences among Nations**

Globalization has also forced companies to operate in nations whose laws, governments, practices, levels of development, and cultural understandings are sometimes much different from those with which the multinational's managers are familiar. This creates significant dilemmas for their managers. For example, the laws that the managers of Dow Chemical Company are used to in the United States, are very different from the laws they find in Mexico and other host countries. Laws regulating workers' exposure to workplace toxins and other safety hazards are stringent in the United States, whereas they are vague, lax, or altogether lacking in Mexico. Consumer product safety and labeling laws, which require careful quality controls, rigorous product tests, and warnings of risk in the United States, are very different in Mexico, which allows lower levels of quality control, much less testing of products, and fewer warnings directed at consumers. The environmental pollution laws of the U.S. government are strict and set at very high levels, whereas those of Mexico are virtually nonexistent or unenforced. Even entire governments can be completely different from the kind of government managers are accustomed to in industrialized nations. Although the U.S. government has its shortcomings, it is responsive to the needs of its citizens for instance. The same cannot be said for the governments of many other nations. Some governments are so corrupt that their legitimacy is questionable. The former government of Haiti, for example, was notoriously corrupt and consistently promoted the interests and wealth of a small group of government elites at the expense of the needs of the general population.

Managers also often find themselves in countries that are very undeveloped compared to their home country. Industrialized countries have relatively high levels of technological, social, and economic resources available, whereas the resources of poorer countries can be quite undeveloped. Technological sophistication, unions, financial markets, unemployment insurance, social security, and public education are widespread in more developed nations, but are lacking in some undeveloped countries.

The lack of these things mean that managerial actions can affect people in undeveloped countries very differently from the way those same actions affect people in developed countries. Worker layoffs in developing nations that do not provide unemployment insurance, for example, inflict greater pains on workers there than in the United States, which provides unemployment insurance (at least for a period of time). A warning fixed on a product label may be suitable when it is sold to educated consumers in Japan, but it may be inadequate when the same product is sold to illiterate consumers in a developing nation.

When in a foreign country whose laws, government, level of development, and culture are significantly different from what the manager is used to, what should the manager of a multinational do? Some scholars have suggested that when operating in less developed countries, managers from developed nations should try to stick to the higher standards that are typical in their home countries. But this suggestion ignores the real possibility that introducing practices that have evolved in a developed country may do more harm than good in a less developed nation. For example, if an American company operating in Mexico pays local workers U.S. wages, it may draw all the skilled workers away from local Mexican companies that cannot afford to pay the same high salaries. Other scholars have gone to the opposite extreme and argued that multinationals should always follow local practices and laws. But going along with a local practice or law may be worse than trying to operate by the higher standards of a developed country. The lower environmental standards of Mexico, for example, may permit pollution levels that seriously harm the health of local residents. Moreover, the governments of many countries, as we have noted, are corrupt and their laws serve the interests of ruling elites and not the public interest.

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*Unit 03: Eastern and Western Ethical Thought and Business Practices*

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It is clear, then, that both a blanket rule to always go along with local practices, as well as one that always tries to adhere to the higher standards of developed nations, are both inadequate. Instead, managers who want to operate ethically in foreign countries must judge each case as it comes along. When judging the ethics of a particular policy, practice, or action in a foreign country, they must take into account the nature of the country's laws, how corrupt and how representative its government is, what the country's level of technological, social and economic development is, and what cultural understandings affect the meaning of the policy, practice, or action that is being judged. In some cases, going along with local practices may be what is right, while in other cases it may be better to adopt the standards found in more developed nations. And in some cases, managers may have to choose between staying in a country and going along with a local practice that is clearly and seriously evil, or doing what is right and leaving the country.

### 3.6 Business and Ethical Relativism

There are certain cultural differences that create a special problem for managers. Managers of multinationals often find it hard to know what to do when they encounter *moral* standards that are different from the ones they personally hold and that are accepted in their home country. Nepotism and sexism, although condemned as morally wrong in the United States, for example, are accepted as a matter of course in some foreign business environments. The people of certain Arab societies hold that business bribery is morally acceptable, although Americans believe that it is immoral. What should a manager do when a government official in such a society asks for a bribe to perform some routine duty the official is supposed to provide for nothing? Or when the hiring department of a U.S. factory in Thailand seems to hire only relatives of those already working for the factory? Or when a group of South American managers refuse to accept a woman as a manager because they feel that women cannot be good managers?

The fact that different cultures have different moral standards, leads many people to adopt the theory of ethical relativism. **Ethical relativism** is the theory that there are no ethical standards that are true absolutely, i.e., that the truth of all ethical standards depends on (is relative to) what a particular culture accepts. Consequently, there are no moral standards that should be used to evaluate the ethics of everyone's actions no matter what culture they belong to. Instead, the ethical relativist holds that a person's action is morally right if it accords with the ethical standards accepted in that person's culture, and is wrong if it violates the ethical standards accepted in that person's culture. To put it another way: Ethical relativism is the view that, because different societies have different moral beliefs, there is no rational way of determining whether a person's action is morally right (or wrong) other than by asking whether the members of the person's own society believe it is morally right (or wrong). The ethical relativist will say, for example, that it is wrong for a U.S. manager to engage in nepotism in the United States because everyone there believes that it is wrong, but it is not wrong for a person in Thailand, for example, to engage in nepotism there because people there do not see it as wrong. The ethical relativist would advise the manager of a multinational who works in a society whose moral standards are different from her own, that she should follow the moral standards prevalent in the society in which she works. Since moral standards differ and since there are no absolute standards of right and wrong, the best a manager can do is follow the old adage, "When in Rome, do as the Romans do." But is ethical relativism a reasonable view to hold?

The ethical relativist is clearly right to claim that there are numerous practices that are judged immoral by people in one society that people of other societies believe are morally acceptable. Some examples of practices societies disagree about include polygamy, abortion, infanticide, slavery, bribery, homosexuality, racial and sexual discrimination, genocide, patricide, and the torture of animals. Yet critics of ethical relativism have pointed out that it does not follow that there are *no* moral standards which are binding on people everywhere. Although societies disagree about some moral standards, they agree on others. Critics of ethical relativism have argued, in fact, that there are certain basic moral standards that the members of any society must accept if that society is to survive and if its members are to interact with each other effectively. Thus, all societies have norms against injuring or killing their own members, norms about using language truthfully among themselves, and norms against taking the goods that belong to other members of society. Moreover, anthropologists have found numerous moral values and norms that are universal, i.e., that all known human groups recognize. Among these universals are: the appropriateness of reciprocity, the appropriateness of cooperation, the prohibition of incest, the prohibition of rape, empathy, friendship, the difference between right and wrong, fairness, the requirement to compensate injuries, the goodness of courage, the requirement that parents care for their children,

restrictions on some forms of violence, the prohibition of murder, the prohibition against breaking promises, the appropriateness of feeling guilt and shame for wrongdoing, the appropriateness of having pride for one's achievements, and the requirement that actions one could control should be treated differently from those one could not control.

In addition, many apparent moral differences among societies turn out on closer examination to mask deeper underlying similarities. For example, anthropologists tell us that in some Alaskan Inuit societies it was morally acceptable for families to abandon their aged to die outdoors during times of hardship, whereas other Indian societies have felt that abandoning someone to freeze to death outdoors is akin to murder. Yet on closer examination, it can turn out that underlying this difference between Inuit society and other Indian societies is the same moral standard: the moral duty of ensuring the long-term survival of one's family. In their harsh environment, Inuit people may have had no way of ensuring the family's survival when food supplies ran short other than by abandoning their aged. Other Indian societies have believed that family survival required protecting the elders who carried within them the knowledge and experience the family needed. The differences between Inuits and other Indians is not due to a real difference in values, but is due, rather, to the fact that one and the same value can lead to two different moral judgments when the value is applied in two very different situations.

Other critics of ethical relativism have pointed out that when people have different moral beliefs about some issue, it does not follow that there is no absolute truth about that issue nor that all beliefs about it are equally acceptable. All that follows when two people or two groups have different beliefs is that at least one of them is wrong. For example, the late philosopher James Rachels points out:

The fact that different societies have different moral codes proves nothing. There is also disagreement from society to society about scientific matters: in some cultures it is believed that the earth is flat, and that disease is caused by evil spirits. We do not on that account conclude that there is no truth in geography or in medicine. Instead, we conclude that in some cultures people are better informed than in others. Similarly, disagreement in ethics might signal nothing more than that some people are less enlightened than others. At the very least, the fact of disagreement does not, by itself, entail that truth does not exist. Why should we assume that, if ethical truth exists, everyone must know it?

Perhaps the most important criticism of ethical relativism is that it has incoherent consequences. If ethical relativism were true, opponents claim, then it would not make sense to criticize the practices of other societies so long as their practices conformed to their own standards. For example, we could not say that child slavery, as practiced in many societies around the world, is wrong, nor that the discrimination practiced in the society of apartheid South Africa in the twentieth century was unjust, nor that it was immoral for the Germans to kill Jews in the Nazi society of the 1930s. For, in each of these societies, people were just doing what the standards of their societies said they should do.

Critics of ethical relativism also argue that if ethical relativism were correct, then it would make no sense—in fact it would be morally wrong—to criticize any of the moral standards or practices accepted by our own society. If our society accepts that a certain practice—such as slavery—is morally right, then as members of this society, we too must accept that practice as morally right, at least according to ethical relativism. For example, ethical relativism implies that it was wrong for Southern abolitionists to object to slavery since slavery was accepted in Southern society before the Civil War. According to critics, then, the theory of ethical relativism implies that whatever the majority in one's society believes about morality is automatically correct and so their beliefs cannot be criticized.

The fundamental problem with ethical relativism, critics allege, is that it holds that the moral standards of a society are the only standards by which actions in that society can be judged. The theory gives the moral standards of each society a privileged place that is above all criticism by members of that society or by anyone else: For the relativist, a society's moral standards cannot be mistaken. Clearly, opponents say, this implication of ethical relativism indicates that the theory is wrong; we all know that at least some of the moral standards of our own society as well as those of other societies may be mistaken. The theory of ethical relativism, then, does not seem to be correct. But even if the theory of ethical relativism is ultimately rejected, this does not mean that it has nothing to teach us. The ethical relativist correctly reminds us that different societies have different moral beliefs and that we should not simply dismiss the moral beliefs of other cultures when they do not match our own. However, ethical relativism seems to be mistaken in its basic claim that all moral beliefs are equally acceptable and that the only criteria of right and wrong are the moral



standards prevalent in a given society. And if ethical relativism is wrong, then there are some moral standards that should be applied to the behaviors of everyone, regardless of what society they live in.



### Case Study: Business Ethics in Saudi Culture

In 1936, Standard Oil Company of California (Socal) found oil in Saudi Arabia and the following year it joined with Texaco to form Casoc—renamed Aramco in 1948—a jointly owned subsidiary staffed by American managers and formed to drill for oil in Saudi Arabia. Saudi Arabia's oil became, and re-mains today, an economic necessity for the United States. The managers of Socal and Texaco, however, were unsure how much of Saudi culture they should accept or go along with.

Saudi Arabia is the birthplace of Islam, and its legal, political, and social systems, which are based on the "Sunni" version of Islam, are viewed by Saudis as divinely inspired. For the Saudis, Islam is the only legitimate source of morality. This morality, however, does not recognize basic rights such as freedom of speech, freedom of the press, the right to vote, or the right to run for office. It does not recognize the right to a trial by jury; crimes are tried before Islamic judges who base their decisions on the teachings of Islam. It does not recognize freedom of religion: Every Saudi must be Muslim under penalty of death. The Saudi brand of Islam treats women in ways that Westerners would label discriminatory. Women cannot supervise men, must wear in public a black veil covering the entire body including the head and face, must have a husband's or father's permission to travel and must be accompanied by a male relative, and must enter buses by the rear door and sit in special sections. Men can have up to four wives but women only one husband. Although man can divorce without giving cause, women can only divorce only for cause. Saudi Arabia does not recognize the right of free association nor the right to unionize.

Saudis repeatedly asserted that Saudi morality did not accept Westerners' understanding of human rights. Saudis claimed that Islam set the moral norms people should follow, and apart from these other moral standards have no validity.

(Adapted from Velasquez, M. G. (2011). *Ethics and Business*. In M. G. Velasquez, *Business Ethics Concepts and Cases*. Pearson.

### How to solve an ethics case (Wisdom of Socrates)

Socrates met an acquaintance who said, 'Do you know what I just heard about your friend?' 'Hold on a minute,' Socrates replied. 'Before telling me anything, I'd like you to pass a little test. It's called the Triple Filter Test.' 'Triple filter?' 'That's right, Socrates continued. 'Before you talk to me about my friend, it might be a good idea to take a moment and filter what you're going to say. That's why I call it the triple filter test. The first filter is Truth. Have you made absolutely sure that what you are about to tell me is true?' 'No', the man said, actually, I just heard about it and...' 'All right', said Socrates. So you don't really know if it's true or not. Now let's try the second filter, the filter of Goodness. 'Is what you are about to tell me about my friend something good?' 'No, on the contrary...' 'So,' Socrates continued, 'you want to tell me something bad about him, but you're not certain it's true. You may still pass the test though, because there's one filter left—the filter of Usefulness. Is what you want to tell me about my friend going to be useful to me?' 'No, it is not.' 'Well,' concluded Socrates, 'if what you want to tell me is neither true nor good nor even useful, why do you want to tell it to me at all?'

## 3.7 Suitability Of Eastern Values to Western Business

### Western Models

Eastern values will not be helpful for western businesses because history proves that modern business management is a western development and has been adopted successfully by the rest of the world. There are several fundamental value theories on which the western business is based, such as utilitarianism. This theory professes a normative value defined as 'the greatest happiness of the greatest number', which is quite a democratic principle where both the self-interest of the individuals and the welfare of the greatest number of people are legitimately pursued.

Further, facts bear that Indians who migrated to the US have adopted the Western models such as market economy, competition, and self-actualization and have realized their wildest dreams of possessing wealth and prosperity. The same is happening in India now. American management education and business models have been brought into the country and in a very short time, India has made a giant leap in economic development. The ethical dimension is concretely fulfilled by the practice of corporate social responsibility, thus helping individuals and communities alike to participate with equity and dignity in economic prosperity.

### **Eastern Values**

It is clear from the above argument that Eastern values are really successful when applied to Western business models. Why did expatriate Indians succeed so quickly, while indigenous businessmen took scores of years to succeed, irrespective of the best of business models? Why has India suddenly made a giant leap with Western business models but Indian ethos?

Utilitarianism is a value that seeks happiness in numbers, and sacrifices the legitimate and inviolable rights of those who are not a part of the greatest number. The business models of competition, market economy, and self-actualization suit it perfectly. The entire business machinery rolls mercilessly. Those who cannot stand it must succumb to it. Only the fittest will survive!

The entire Indian ethos revolves around the single value of *karuna* or compassion. It is that principle which unites people into a society in which the individual is brought UP in a culture to care for the community, and the community makes it its responsibility to take care of the individual. This is the dual character of the Indian ethos, where both the individual and the community are two inseparable parts of one reality. This is also reflected in the Indian theology, where the Atman or the soul and the Paramatman or the Almighty God, although dual in their manifested nature, are actually one entity. Thus, the ethics of care stems from the depths of spirituality. Such a value suits both the East and the West.

### **Social Dilemma**

It now becomes obvious that utilitarianism does present an ethical dilemma, when an individual's personal interest clashes with the social interest. A young man's personal duty may be to stay home and look after his ailing mother, but the larger interest for which he would be called upon to do his duty would be to join the army to defend the country.

On the other hand, it is a fact that the Indian cultural trappings were not business friendly. Indians have experienced the scourges of the caste system, the feudal mindset, and an undesirable attitude towards dignity of labour. It is the socialist revolution from the West that shook the foundations of the Indian society, more than any economic benefits from the colonial regime that introduced the Western business models and education.

Presently, a movement is sweeping across the world towards an integration of business models and social value systems. The concept of an integrated business is taking shape. Multinational companies are striving to see a common ground where both their employees and customers come to share one culture. American food chains in India have adapted to the Indian palate, but have successfully introduced their efficient and effective management practices.

## **3.8 Integrated Business**

From the above discussion, we may deduce the fundamental aspirations in man for integration and unity. There are business values and business models. Business values are the guiding principles of business models.

What is the place of business values in a free-market economy? This is an obvious question that some suggest should preclude any value system because market forces will determine our actions. Such a *laissez-faire* attitude may actually do more harm than good. Without a legitimate regulation that bespeaks of the responsibility of every member of a society and all its civic bodies, there is going to be a political, economic, and social chaos.

Business is done with people; if business has to exist, then it must co-exist with people and should be beneficial to them. Business models work fairly within the context of values that maintain harmonious relationships, such as justice, fair means to attain set goals, prudence, and good citizenship.

**Unit 03: Eastern and Western Ethical Thought and Business Practices**

The welfare of civil society is the goal of the government. It is within its rights to regulate business, as people mandate it. Business must submit itself to the will of the people, which is supreme.

	Europe	North America	Asia
Who is responsible for ethical conduct in business?	Social control by the collective	The individual	Top management
Who is the key actor in business ethics?	Government, trade unions, corporate associations	The corporation	Government, corporations
What are the key guidelines for ethical behaviour?	Negotiated legal framework of business	Corporate codes of ethics	Managerial discretion
What are the key issues in business ethics?	Social issues in organizing the framework of business	Misconduct and immorality in single decisions situations	Corporate governance and accountability
What is the dominant stakeholder management approach?	Formalized multiple stakeholder approach	Focus on shareholder value	Implicit multiple stakeholder approach, benign managerialism

Figure 3.1 Regional differences in business ethics

(Source: CRANE, A., & MATTEN, D. (2016). *Introducing business ethics*. In A. CRANE, & D. MATTEN, *business ethics* (4th ed., p.24). Glasgow: Oxford University Press.)

### 3.9 Do Indian Values Hinder Business

#### Caste System

It would seem that Indian values are a hindrance to business practices. The image of the Indian businessman, whose caste in ancient India was known as Vaisya, has been a negative one. Manu, the lawgiver, spoke of businessmen as 'deceivers in open day light' and equated them to the Sudras, the lowest caste. The Indian society further battered their image. The trade name of bania, the businessman, became synonymous with that of a black-marketer, exploiter of the employees, shady dealer, and adulterator. In other words, the businessman was someone who was ready to sell his soul for profit. The image of the businessman in India is taking a beating even today when small investors are deceived in the stock market. Hence, there must be something in the Indian social fabric that makes business a stranger to the principles of ethics.

#### Negative Image

We often read about shipped cargo being rejected abroad for substandard quality. Recently, in the last quarter of 2008, Ranbaxy, the reputed pharmaceutical company, faced an embarrassing situation when the US banned some drugs that were exported by the company. The garment industry has also been at the receiving end. There is a persistent, negative image of Indians in general, and their businesses in particular, as being dishonest, corrupt, substandard, unprofessional, and having no value for time, which is so fundamental to business. It further shows that others cannot trust us – and trust is the cornerstone of business.

Understandably, one may defend Indian values by saying that there is nothing wrong with them; it is the people who do not practice it that are at fault. Yet, what is it in those values that is so difficult for some to practice, while others have no difficulty in abiding?

#### Augmentation of Values

The above argument is a confusion of categories, a case of mistaking material for virtual. There are social, cultural, and historical reasons for the deterioration of the Indian businessman's character; moral values are not the cause for its loss.

We have established earlier that expatriate Indians have succeeded in the West because they got opportunities and the business models of the West to function. These successful businessmen

vouchsafe for the fact that the real secret of their success was the family values that they had imbibed in India. Opportunity and business models were both not created by our political economy. However, once the economic reforms started, the indigenous businessman took the initiative to adopt new business models in an environment of great opportunity. India has become the second fastest growing economy, globally. Today, the Indian corporate sector is keen on its social responsibility and has been investing in people's projects, and conducts its programmes efficiently. China is the only country that is ahead of India. However, it is to be noted that China had started its reforms about two decades before India did. We must also remember that both these countries have much of their ethical values in common.

One of the outstanding values that Indians possess is patience. The West considers it as procrastination and laziness. But with the right environment, this quality has borne fruits and Indians have become unstoppable globally. Spirituality is another unmistakable value of the Indians, which even the worst critics admit that Indians possess in abundance. Today, many Western companies acknowledge that spiritual anchoring gives purpose and direction to business.

Finally, let us review a contrast of values and businesses that are closer home. While industry and commerce are marching ahead, it is agriculture that is lagging behind. Is it because our farmers are low on moral values, or is it because of the faulty policies that our successive governments have been dishing out? Given the same opportunities and models of free-market enterprise as commerce and industry, our rural areas too will become the perfect examples of balanced development.

Thus, Indian values and Western business models are the right ingredients for a successful and value-based business management.

### **Clash of Cultures**

The contemporary debate on the clash of cultures puts forth the challenges of the integration of cultures rather than their clashes. Conflicts originate when people's views differ. For instance, the value of honesty is not questioned but what constitutes honesty in a given instance is debated upon. Again, no one objects to clothing that is modest. Problems arise when a piece of clothing offends the sentiments of the people because it conflicts with their culture. In Turkey, the Islamic dress is forbidden in the Parliament House, to symbolize that it is a secular state. France has forbidden religious symbols like crosses, Islamic garments, and turbans in schools. It is mandatory for those riding two-wheelers to wear helmets. The Sikhs face a problem because they cannot wear one over their turbans. So, in the West, the Sikhs often have to fight for their religious right to wear the turban.

There are many reasonable ways to sort out these ambiguous situations. People can have peaceful discussions and hold dialogues and find suitable solutions to these conflicts. It is the uncompromising attitude rather than the ethical value that creates and sustains moral problems.

### **Values Withstand Challenges**

From the above discussion we may draw the following conclusions. It is a fact that political and economic realities have brought people of different cultures together. Their coming together has made them realize that they are different. Conflicts arise when each group tries to dominate the rest. Political, regional, ethnic, and religious aspects get involved in a very complex way. The above conflicting situations challenge us to rethink our actions and not revise our values. The changed world needs to have a new attitude, not-a- new value.

Successful businesses have successful values. The Indian values are no exception.

## **3.10 Progressive Business Dharma**

### **Values Are Static**

It appears that it is not possible to have progressive business ethics because ethical values are/static. Progressive means developing from small to large, or from simple to complex, just as in a biological process. But business ethics deals with the social behaviour of the people doing business. Business is a social activity of human interaction that involves economics. Definite standards are set. The integrity of the goods and services of the customers, as well as the employer–employee relationships, can be strictly and quantitatively maintained. There can be no discrepancy in the quantity of a kilogram of grain. If a doubt still prevails, it can be solved by referring to the standards of weights and measures.

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### Unit 03: Eastern and Western Ethical Thought and Business Practices

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Secondly, as the age old cliché goes, 'the business of business is business.' We have to avoid all ambiguous situations and ethical dilemmas. Many detractors of the above business dictum consider it a 'licence to kill', as it were. The dictum, however, simply states that business must be done the way it is meant to be done. One must follow the exact business rules which are laid down, just the way rules are laid down for any sport. One does not keep on changing the rules of the game as the game progresses. If we allow this to happen in business, people will manipulate it to such an extent that the business will die.

Hence, it is important that the codes are already established in business ethics. Managers learn these codes as a part of their terms and conditions of employment in an organization. Entrepreneurs have their set of codes enshrined in the Companies Act, according to which, companies come into existence as artificial, moral persons before the law. Thus, business ethics cannot be progressive. If a business has to be successful, the business ethics it holds has to be static.

#### Values Are Dynamic

It is fallacious to assert that business ethics is static. On the contrary, the discipline is extremely dynamic in nature and allows progress in a world of heightened business interaction. In business ethics, we deal with the practical concepts of good behaviour. We study behaviour in a systematic way. In other words, we try to analyse our behaviour in a given situation. Knowledge is not static. It is the awareness or familiarity gained by experience. The data we deal with are the business practices—the real cases, where business decisions have led to beneficial or harmful results. We try to come to conclusions and determine the morality of the entire process through analysis. Business ethics is a process-oriented discipline.

#### Codes Based on Values

In the earlier argument about progressive thought in business ethics, professional codes have been proposed as an alternative. The progressive thought is not contrary to the codes. The codes have been deduced from the fundamental values to suit particular professions. While doing so, the quantifiable activity is a logical conclusion. A grocer has to conform to the standards of weights and measures, as it is a part of the professional code of conduct. It is deduced from the value of honesty. Thus, the antagonist who argues that business ethics is not progressive fails to see the progress made in detail.

The assertion that managers have to learn the codes of conduct from the terms and conditions of employment is true. It is also true that these codes lay down boundaries within which a business person conducts himself/herself. Just as in any sport that is extremely competitive, a sports person can excel depending on his/her competency in the field, so also in any business a good businessperson can excel because he/she strictly abides by its codes.

#### Business Dharma

We saw earlier that progressiveness is viewed variously—as a natural development as is exemplified in nature, or as to do with the intellectual understanding of a concept through analysis.

It appears as though the term 'dharma' has not been used on purpose in the above debate. The classical way to seek our aim in life or *purushartha*, is a fourfold pursuit. Wealth or *artha*, physical love/fulfillment of desires or *kama*, righteousness or *dharma*, and spiritual liberation or *moksha* are the four pursuits of perfection of our lives. Dharma is, in fact, an all-pervading concept to these pursuits—the guide to goals, the regulator of actions, the principle of good character or *sucharita*, the source of virtue or *guna*. Whether it is the acquisition of wealth or the nurturing of physical love/desires or the transcendental pursuit, each is exercised according to the dharma applicable to it. Thus, dharma is a comprehensive governing phenomenon that embodies the spiritual virtues, as well as the physical laws and codes.

If business ethics is understood under the concept of dharma, then most of the confusion between ethical values and the laws of the state, and the precepts of society and the codes of the corporate world, could be eliminated. In the Upanishads, dharma is clearly interpreted in terms of the virtues that should be practiced. These are *ahimsa* (non-violence), *satya* (truth), *asteya* (non-stealing), *brahmacharya* (continence), *maitri* (friendship), *dharma* (professional duty), *karuna* (compassion), *dama* (self-control), and *saucha* (cleanliness).

Any individual, professional, corporation, or association can make one of the above values the focal point of their business. The rest of the values will fall in place automatically. Mahatma Gandhi

made the first virtue, ahimsa, the central point of his leadership. We see how the rest of the values such as satya, brahmacharya, saucha etc. fell in line and aided the freedom movement.

When one adheres to one of the virtues, an apparently insolvable dilemma is resolved. For instance, Arjuna was in a dilemma about going to war against his own people. But his teacher and charioteer, Krishna, told him that it is the dharma of a soldier to put up a good fight and not to worry about the outcome. We expect soldiers to wield guns and not play the fiddle; we expect teachers to impart good education; we expect doctors to treat with care; we expect businessmen to conduct commerce with fairness to all the parties involved. Likewise, people expect that the business dharma is followed in business transactions.

### **3.11 Dharma – The Fundamental Principle**

Dharma is the ultimate principle of all that is and that acts. It is not to be construed as a tenet of Hinduism because the concept is part and parcel of all the religions, communities, and regions of practically the whole of Asia. It refers primarily to the natural law that states that everything exists because of this principle. Social principles also have their basis in the natural order.



#### **Case Study: The Parable of the Sadhu**

##### **Part I**

The most exciting thing in the world is to climb the Everest is an understatement. The adventure is par excellence. Ever since Tenzing and Hillary conquered the pinnacle of the world, a procession of sorts has followed them and it has become the ultimate destination of all adventurers, as well as tourists around the globe. Some people had unique experiences, a few had mystical experiences, while others faced some home truths like there was life beyond family and work. It gave a new meaning to their existence. It is no wonder that the Himalayas is considered the abode of gods and is seen as a place where our *rishis*, the holy men, attained enlightenment.

When Mr. Bowen McCoy, the protagonist of this story, began trekking these mountains, enlightenment was the last thing on his mind. To the envy of his colleagues at Morgan Stanley and friends in the US, he was on a sabbatical and that too, trekking the Himalayas!

McCoy came across abandoned people along the way. He thinks that this experience has organizational relevance to the fact that individuals and groups do or do not take up responsibility in the face of acute ethical dilemmas.

McCoy and his fiend Stephen, who is an anthropologist, went on a six-day trekking programme. The object was to arrive at Muklinath, an ancient pilgrimage centre, by crossing a pass over a crest at 18,000 feet.

They camped at 14,500 feet. Their companions were four people from New Zealand, two couples from Switzerland, and a Japanese group belonging to a hikers club in Japan. In the early hours of the morning, at 3.30 am, the New Zealanders marched ahead. McCoy and Stephen followed them later. The Swiss followed them after a while, and the Japanese rested in the camp.

It was day break and McCoy and his friend decided to rest for a while. They were at 15,000 feet. Shortly afterwards, they were stunned to see one of the New Zealanders coming towards them, carrying the body of a man who was barely clad and had no footwear. The New Zealander told them that he had done his part and would like to get back to his team, so that they could cross over the pass before it became too hot and the ice began to melt. He said that now it was their duty to do something for this man because the Sherpas and the porters were there to help them.

The wretched man was a *sadhu*, an ascetic, on his way back from a pilgrimage to Muklinath. He had probably strayed away from the usual path that others take. They dressed him up and made him comfortable. McCoy reasoned that since he had problems with altitude, he must depart early so that he can make it to the summit. The Swiss left too. Stephen tried his best to help the sadhu, by asking the Japanese to lend their horse to take him to the base camp. They refused, but gave some food instead. He could not use the porters because the leader said that it would delay them and tire them and they would not be able to go across the pass. Stephen's pleas were finally answered when the porters helped him carry the sadhu to a sunny spot 500 feet below.

Stephen was the last man to reach the summit. McCoy ran to congratulate him. Stephen had this chilling retort, 'How do you feel about contributing to the death of a fellowman?'

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*Unit 03: Eastern and Western Ethical Thought and Business Practices*

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No one knows as to what happened to the sadhu. Only Stephen, who last saw him, could recollect that the sadhu was trying to ward off a dog of the Japanese party.

## Part II

Please pause here and discuss your position. Take a moral stand.

## Part III

The following is a summary of the discussion between McCoy and Stephen.

**Stephen:** What happened with the sadhu is an example of the breakdown of ethics between the individual and the corporation. As long as it suited them, they helped. When it became inconvenient, they passed the buck. No one was ready to take the ultimate responsibility.

**McCoy:** Everyone contributed as much as they could. Someone rescued and carried him down. Others clothed him, fed him, and put him in a comfortable place.

**Stephen:** It was a standard Western man's solution. Money, some food, some comfort, but not the solution to the fundamental problem!

**McCoy:** What more do you expect? Here we are from the US, Switzerland, Japan, and New Zealand—trying to fulfil our life's dream. The incident of the sadhu was unexpected. Given the circumstances, we have all done our best to help. Even the Sherpas, who helped as much as they could, did not want to risk their trip to the summit.

**Stephen:** What would the Sherpas do if the man were a well-dressed Nepali? What would the Japanese do if the man were a well-dressed Asian? What would you do if it were a Western woman?

**McCoy:** We fulfilled our responsibilities way beyond our limits. Did we have any other choice?

**Stephen:** Our choices were—firstly, the sadhu could have died in our care. Secondly, the sadhu could have recovered and walked down to the village that was a two-day descend. Thirdly, we could have carried the sadhu down to the village and made sure that he was taken care of well.

**McCoy:** The care that we took of him should to some extent satisfy the first two conditions. The third one is not called for. You cannot expect us to radically drop all that we yearned for, planned, and executed so meticulously just because of this unexpected incident!

## Part IV

The following are a summary of McCoy's reflections:

1. We pass over moral life situations as they occur, only to regret them later. We realize how ambiguous the dilemma was and console ourselves by saying that we did whatever we could.
2. The instant decision to take care of a fellow human being in need could not be met because of the stress of the mountains and the objective of the summit. Is it not true that we have to take instant decisions as managers among other pressing things like acute stress and targets that have to be met?
3. What is the limit of our responsibility as individuals and as a company?
4. How do we recognize that there is a moral dilemma? Only Stephen could recognize it. Or is it that we deliberately fail to do so, by giving practical reasons, and pass the buck?
5. One of the problems in right decision making in the sadhu incident was that we were a disparate group from different parts of the world, with different cultural backgrounds, and there was no leader to take the initiative. Although Stephen tried, he did not get support from the rest.
6. The fundamental reason was that the incident took place most unexpectedly, in a context that no one could have predicted. There were no precedents to look for. No one distributed circulars with directives and no theories were discussed. Right action was needed and it did not come forth.
7. Some organizations have ingrained good values that matter. The managers are able to see the ambiguous dilemmas and contribute to the organizations more than profitability could. Companies with doubtful value systems are not able to cope with the stress, such as acquisitions and mergers. But managers who are morally strong do not have to resort to golden parachutes.
8. Business ethics is not a constraint. It is a great force. Managers cannot run away from problems; they are there to solve them.

9. Corporate culture is nothing but ethics at its heart. Managers who imbibe the mission of the compass are a support to other individuals. In an organization, employees need to support each other and the organization must support each employee. Only then will the people grow and the company cultivates a moral culture.

10. All organizations have their stated lofty goals and they strive towards it as a team. But how many organizations are ready to drop their strategy suddenly on moral grounds? The people in the story helped the sadhu as much as was possible under the circumstances. But if they were to follow Stephen's moral directives, then they would not just have to change, but completely give up the lofty aim of reaching the mountain summit. What would have happened in case they did change their plan, and help the sadhu as Stephen had wanted? May be this act of theirs could have opened vistas they could never have imagined! Is this the way a company upon a new path?

### **Part V Significance**

The parable of the sadhu is a metaphor for human relationships, leadership, moral initiative, ethical issues raised by the individual in the organization, cultural management, individual and collective responsibility within the organization, openness to new and unexpected situations, readiness to learn from experience, to see opportunities where others see only problems, and to act responsibly and resolutely in unexpected situations.

### **3.12 Hofstede Cultural Dimensions**

Consider the following scenario: Sayid's supervisor has asked him to lead a large, international team. He'll be collaborating with folks from a variety of nations in this new position. He's looking forward to the chances that his newfound connectivity will provide, but he's also concerned about making a cross-cultural blunder. He understands that cultural differences may be a barrier to communication and can hinder his capacity to form bonds and encourage others. So, how can he begin to comprehend these distinctions and collaborate well with folks from various cultures?

We'll look at how to use Hofstede's Six Dimensions of Culture to work effectively with people from various cultural and geographic origins in this section.

Geert Hofstede established Hofstede's cultural aspects theory as a foundation for cross-cultural communication. It uses a structure drawn from factor analysis to highlight the influence of a society's culture on its members' values and how these values connect to behaviour.

Using factor analysis to analyse the findings of an IBM global survey of employee values conducted between 1967 and 1973, Hofstede built his initial model. Since then, it's been fine-tuned. Individualism-collectivism, uncertainty avoidance, power distance (strength of social hierarchy), and masculinity-femininity were identified as four dimensions along which cultural values may be studied in the original theory (task-orientation versus person-orientation). Hofstede added a fifth component, long-term orientation, based on independent research in Hong Kong, to encompass dimensions of values not covered in the original paradigm. In 2010, Hofstede added a sixth component to his model: indulgence vs. self-control.

Hofstede's work created a prominent research tradition in cross-cultural psychology, and it has been used by academics and consultants in a wide range of sectors related to international business and communication.

#### **1. Power Distance Index (PDI)**

This refers to the level of inequality that exists – and is tolerated – between persons in positions of power and those who do not. A high PDI score implies that a society supports an unequal, hierarchical power distribution and that people are aware of "their position" within the system. A low PDI score indicates that power is shared and widely distributed, and that society members do not accept unequal distribution of power.

According to the concept, team members in a high PDI nation like Malaysia (100) will not start any action and prefer to be steered and directed to finish a task. If a manager does not take leadership, the work may be dismissed as unimportant.



PDI	Characteristics	Tips
<b>High PDI</b>	<ul style="list-style-type: none"> <li>Centralized organizations.</li> <li>More complex hierarchies.</li> <li>Large gaps in compensation, authority and respect.</li> </ul>	<ul style="list-style-type: none"> <li>Acknowledge a leader's status. As an outsider, you may try to circumvent his or her power, but don't push back explicitly.</li> <li>Be aware that you may need to go to the top for answers.</li> </ul>
<b>Low PDI</b>	<ul style="list-style-type: none"> <li>Flatter organizations.</li> <li>Supervisors and employees are considered almost as equals.</li> </ul>	<ul style="list-style-type: none"> <li>Delegate as much as possible.</li> <li>Ideally, involve all those in decision making who will be directly affected by the decision.</li> </ul>

Figure 3.2 Characteristics of Power distance

(Adapted from [https://www.mindtools.com/pages/article/newLDR\\_66.htm](https://www.mindtools.com/pages/article/newLDR_66.htm))

## 2. Individualism vs. Collectivism (IDV)

This refers to the strength of people's bonds with one another in their community. A high IDV score implies that persons who are not part of a core "family" have poor interpersonal connections. People here accept less responsibility for the acts and effects of others. People in a collectivist society, on the other hand, are expected to be loyal to the group to which they belong, and the group will defend their interests in return. The group is usually bigger, and everyone is responsible for each other's well-being. Panama and Guatemala, both in Central America, have extremely low IDV ratings (11 and six, respectively).

A marketing campaign emphasising communal advantages, for example, would certainly be understood and well accepted in these nations, as long as the individuals targeted feel like they are part of the same group.

IDV	Characteristics	Tips
<b>High IDV</b>	<ul style="list-style-type: none"> <li>High value placed on people's time and their need for privacy and freedom.</li> <li>An enjoyment of challenges, and an expectation of individual rewards for hard work.</li> <li>Respect for privacy.</li> </ul>	<ul style="list-style-type: none"> <li>Acknowledge individual accomplishments.</li> <li>Don't mix work life with social life too much.</li> <li>Encourage debate and expression of people's own ideas.</li> </ul>
<b>Low IDV</b>	<ul style="list-style-type: none"> <li>Emphasis on building skills and becoming master of something.</li> <li>People work for intrinsic rewards.</li> <li>Maintaining harmony among group members overrides other moral issues.</li> </ul>	<ul style="list-style-type: none"> <li>Wisdom is important.</li> <li>Suppress feelings and emotions that may endanger harmony.</li> <li>Avoid giving negative feedback in public.</li> <li>Saying "No" can cause loss of face, unless it's intended to be polite. For example, declining an invitation several times is expected.</li> </ul>

Figure 3.3 Characteristics of Individualism

(adapted from [https://www.mindtools.com/pages/article/newLDR\\_66.htm](https://www.mindtools.com/pages/article/newLDR_66.htm))

## 3. Masculinity Vs Femininity (MAS)

This refers to the gender roles that men and women play. Males and women's duties overlap less in masculine society, and men are expected to be assertive. Demonstrating your achievement, as well as being powerful and quick, are considered excellent qualities. However, there is a lot of overlap between male and female duties in feminine civilizations, and modesty is seen as a virtue. Working with colleagues who collaborate well with one another or having good connections with your direct superiors is given more weight.

With MAS ratings of 95 and 79, respectively, Japan and Austria have the widest discrepancy between men's and women's values. Men score well in both nations for demonstrating "tough,"

male attitudes and actions, while women also score highly for possessing masculine ideals, albeit on a smaller scale than men.

**Application:** As previously stated, Japan has the highest MAS score of 95, while Sweden has the lowest measured value of 5. As a result, if you launch a business in Japan, you should be aware that you will be working in a hierarchical and patriarchal environment. Long hours are the norm, which might make it difficult for female team members to grow owing to family obligations.

At the same time, Japan has a society in which all children (male and female) are taught the importance of competition and winning from an early age. As a result, female team members are just as likely as their male counterparts to exhibit these masculine characteristics. In comparison, according to Hofstede's paradigm, Sweden is a strongly feminine culture. Discussion, consensus, compromise, and negotiation are all used to manage in this environment.

MAS	Characteristics	Tips
<b>High MAS</b>	<ul style="list-style-type: none"> <li>Strong egos – feelings of pride and importance are attributed to status.</li> <li>Money and achievement are important.</li> </ul>	<ul style="list-style-type: none"> <li>Be aware of the possibility of differentiated gender roles.</li> <li>A long-hours culture may be the norm, so recognize its opportunities and risks.</li> <li>People are motivated by precise targets, and by being able to show that they achieved them either as a group or as individuals.</li> </ul>
<b>Low MAS</b>	<ul style="list-style-type: none"> <li>Relationship oriented/consensual.</li> <li>More focus on quality of life.</li> </ul>	<ul style="list-style-type: none"> <li>Success is more likely to be achieved through negotiation, collaboration and input from all levels.</li> <li>Avoid an "old boys' club" mentality, although this may still exist.</li> <li>Workplace flexibility and work-life balance may be important, both in terms of job design, organizational environment and culture, and the way that performance management can be best realized.</li> </ul>

Figure 3.4 Characteristics of Masculinity vs. Femininity

(adapted from [https://www.mindtools.com/pages/article/newLDR\\_66.htm](https://www.mindtools.com/pages/article/newLDR_66.htm))

#### 4. Uncertainty Avoidance Index (UAI)

This dimension describes people's ability to deal with anxiety. People in communities where Uncertainty Avoidance is prevalent try to make life as predictable and controlled as possible. They may be tempted to give up if they discover that they are unable to govern their own life. These individuals may allude to place their fate "in God's hands." People in nations with a low UAI score are more easygoing, open, and inclusive. Keep in mind that minimising risk does not always imply avoiding uncertainty. According to Hofstede, people in high-scoring nations may be willing to participate in hazardous activity since it removes ambiguity or allows them to escape failure.

**Application:** According to Hofstede's model, Greece is at the top of the UAI scale with a score of 100, while Singapore is at the bottom with a score of eight. As a result, you could be eager to start a conversation during a meeting in Greece since you realise that, despite any emotional outbursts, team members have a cultural inclination to make the safest, most conservative conclusions. Although your goal is to encourage people to be more open to new ideas and methods, providing a restricted, defined set of alternatives or solutions may be beneficial.

UAI	Characteristics	Tips
<b>High UAI</b>	<ul style="list-style-type: none"> <li>• Conservative, rigid and structured, unless the danger of failure requires a more flexible attitude.</li> <li>• Many societal conventions.</li> <li>• People are expressive, and are allowed to show anger or emotions, if necessary.</li> <li>• A high energy society, if people feel that they are in control of their life instead of feeling overwhelmed by life's vagaries.</li> </ul>	<ul style="list-style-type: none"> <li>• Be clear and concise about expectations and goals, and set clearly defined parameters. But encourage creative thinking and dialogue where you can.</li> <li>• Recognize that there may be unspoken "rules" or cultural expectations you need to learn.</li> <li>• Recognize that emotion, anger and vigorous hand gestures may simply be part of the conversation.</li> </ul>
<b>Low UAI</b>	<ul style="list-style-type: none"> <li>• Openness to change or innovation, and generally inclusive.</li> <li>• More inclined to open-ended learning or decision making.</li> <li>• Less sense of urgency.</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure that people remain focused, but don't create too much structure.</li> <li>• Titles are less important, so avoid "showing off" your knowledge or experience. Respect is given to those who can cope under all circumstances.</li> </ul>

Figure 3.5 Characteristics of Uncertainty Avoidance Index

(adapted from [https://www.mindtools.com/pages/article/newLDR\\_66.htm](https://www.mindtools.com/pages/article/newLDR_66.htm))

### 5. Long-Term vs. Short-Term Orientation

"Pragmatic Versus Normative (PRA)" was the initial name for this dimension. Countries with a long-term outlook are more realistic, modest, and frugal. People in short-term oriented countries tend to value principles, consistency, and truth more, and are more religious and nationalistic.

**Application:** The United States has a short-term orientation. The significance of short-term benefits and quick reflects this (profit and loss statements are quarterly, for example). It also manifests itself in the country's strong sense of nationalism and social values.

PRA	Characteristics	Tips
<b>Long-Term Orientation</b>	<ul style="list-style-type: none"> <li>• People often wonder how to know what is true. For example, questions like "What?" and "How?" are asked more than "Why?"</li> <li>• Thrift and education are seen as positive values.</li> <li>• Modesty.</li> <li>• Virtues and obligations are emphasized.</li> </ul>	<ul style="list-style-type: none"> <li>• Behave in a modest way.</li> <li>• Avoid talking too much about yourself.</li> <li>• People are more willing to compromise, yet this may not always be clear to outsiders; this is certainly so in a culture that also scores high on PDI.</li> </ul>
<b>Short-Term Orientation</b>	<ul style="list-style-type: none"> <li>• People often want to know "Why?"</li> <li>• Strong convictions.</li> <li>• As people tend to oversell themselves, others will assess their assertions critically.</li> <li>• Values and rights are emphasized.</li> </ul>	<ul style="list-style-type: none"> <li>• Sell yourself to be taken seriously.</li> <li>• People are less willing to compromise as this would be seen as weakness.</li> <li>• Flattery empowers.</li> </ul>

Figure 3.6 Characteristics of Long-term vs. Short term orientation

(adapted from [https://www.mindtools.com/pages/article/newLDR\\_66.htm](https://www.mindtools.com/pages/article/newLDR_66.htm))

### 6. Indulgence vs. Restraint (IVR)

Countries with a high IVR score enable or encourage individuals to gratify their own desires and emotions, such as enjoying life and having fun, relatively freely. There is more focus on repressing

pleasure and more control of people's behaviour and behaviour, as well as stronger social standards, in a culture with a low IVR score.

**Application:** Eastern European nations, including Russia, have a low IVR score, according to the model. According to Hofstede, these countries are characterised by a conservative culture with a pessimistic bent. People place a low value on leisure time and, as the phrase indicates, endeavour to exercise extreme self-control.

IVR	Characteristics	Tips
<b>High Indulgence</b>	<ul style="list-style-type: none"> <li>• Optimistic.</li> <li>• Importance of freedom of speech.</li> <li>• Focus on personal happiness.</li> </ul>	<ul style="list-style-type: none"> <li>• Don't take life too seriously.</li> <li>• Encourage debate and dialogue in meetings or decision making.</li> <li>• Prioritize feedback, coaching and mentoring.</li> <li>• Emphasize flexible working and work-life balance.</li> </ul>
<b>High Restraint</b>	<ul style="list-style-type: none"> <li>• Pessimistic.</li> <li>• More controlled and rigid behavior.</li> </ul>	<ul style="list-style-type: none"> <li>• Avoid making jokes when engaged in formal sessions. Instead, be professional.</li> <li>• Only express negativity about the world during informal meetings.</li> </ul>

**Figure 3.7 Characteristic of Indulgence vs. Restraint**

(adapted from [https://www.mindtools.com/pages/article/newLDR\\_66.htm](https://www.mindtools.com/pages/article/newLDR_66.htm))

### Summary

- Ethical values varies across cultures a term called as ethical relativism
- In the midst of this ethical relativism, there are certain ethical norms which are universal
- The universal ethical norms are truth, honesty etc.
- There are social, cultural and historical reasons for the deterioration of Indian businessman's character
- Eastern values, specifically Indian values are not hindrance to the success of business
- There are six hofstede's dimensions that are used to study different cultures
- The six hofstede's dimensions are power distance, individualism vs. collectivism, uncertainty avoidance, masculinity vs. femininity, long term orientation vs short term orientation and indulgence vs. restraint.

### Key words

Ethical relativism, universal norms, Indian values, Hofstede cultural dimensions

**Self assessment**

1. In order to have effective inter-cultural communication, which of the following should be followed?
  - A. recognize and accept differences
  - B. be willing to discuss intercultural differences openly
  - C. cultural empathy
  - D. all of the above
  
2. The cultural environment of a country is best defined by which characteristics?
  - A. Standard of living and stage of economic development.
  - B. Degree of nationalism and economic community membership.
  - C. Values, attitudes, heroes, myths and symbols.
  - D. Production process and standards of measurement.
  
3. Under ethical \_\_\_\_\_, a person looks to an outside source for ethical rules or commands.
  - A. relativism
  - B. fundamentalism
  - C. rationalism
  - D. pragmatism
  
4. The problems that hinder any business are-
  - A. Compassion
  - B. Truth
  - C. Integrity
  - D. None of these
  
5. Who believe in punctuality in their lifestyle?
  - A. Western culture
  - B. Eastern culture
  - C. A & b
  - D. None of the above
  
6. The word *karma* refers to
  - A. Bad things that happen
  - B. The fruit of action
  - C. The result of previous mistakes
  - D. Action

7. An individual's behavior in a foreign society becomes noticeable when it \_\_\_\_\_ in relation to the foreign culture.
- A. Overlaps
  - B. Deviates
  - C. Irritates
  - D. Conforms
8. Which of the following is not one of the Four Ends of Life for Hindus?
- A. Fulfillment of desire
  - B. Acquiring wealth
  - C. Fulfillment of duty
  - D. None of these
9. There are social, cultural & historical reasons for the deterioration of Indian businessmen's character. Moral values are not the cause of the loss.
- A. True
  - B. False
10. Which of the dimensions Hofstede used to define differences between national cultures refers to the degree to which members of a culture are expected to act independently of other members?
- A. Individualism
  - B. Power distance
  - C. Masculinity
  - D. Uncertainty avoidance
11. A phrase that best illustrates a collectivistic culture is
- A. "We're all in it together."
  - B. "Two's company; three's a crowd."
  - C. "I got mine, you get yours."
  - D. "I did it my way."
12. Masculinity vs Feminity as Hofstede cultural dimension represents
- A. no. of males & females in a country/culture
  - B. representation of females in workforce in a country/culture
  - C. preference in society for achievement, heroism, assertiveness, and material rewards for success as compared to preference for cooperation, modesty, caring for the weak and quality of life.
  - D. none of these
13. Which culture is more comfortable with a controlling, directive leadership style?

Unit 03: Eastern and Western Ethical Thought and Business Practices

- A. masculine cultures  
 B. feminine cultures  
 C. high-context communication  
 D. all of the above
14. Hofstede argues that:  
 A. International firms can easily transfer their ways of working from one country to another.  
 B. Business does not need to take into account the norms and values of the countries where they operate.  
 C. Each country has a single culture.  
 D. National culture is more influential than organizational culture.
15. Which of the following sentences is not true?  
 A. In large power distance and collectivistic cultures, children remain dependent on their parents much more than those in small power distance and individualistic cultures.  
 B. Characteristic of weak uncertainty avoidance is resistance to change, a desire for stability.  
 C. In small power distance cultures, freedom means independence.  
 D. The norm, the desirable, in masculine societies is that one wants to show one's success.

### Answers for Self Assessment

1. D      2. C      3. A      4. D      5. A  
 6. D      7. B      8. D      9. A      10. A  
 11. A      12. C      13. A      14. D      15. B

### Review Questions

1. Illustrate with examples how ethics varies across geographically distinct cultures
2. Discuss the meaning of the term Ethical Relativism. Is this the best theory of ethics? Defend your view point with appropriate examples.
3. What do you mean by term Universal norms? Why those norms are called as universal? Illustrate with examples
4. "Indian values are not appropriate for business". Do you agree or disagree with this statement? Justify your stand with appropriate examples
5. Discuss the difference between Indian and American Values with respect to business
6. What is the significance of Hofstede Cultural dimensions? Discuss with example.
7. Illustrate the meaning of each Hofstede cultural dimensions



### Further Readings

- M. G. Velasquez, (2014) *Business Ethics Concepts and Cases*. Pearson
- Crane, & D. Matten, (2016) *Business Ethics* . Oxford University Press.

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- C. FERNANDO. (2013), BUSINESS ETHICS. New Delhi: Pearson.
- Ghosh, B. (2011). Business Ethics and Corporate Governance. Tata McGraw Hill India.



### **Web Links**

[https://en.wikipedia.org/wiki/Hofstede%27s\\_cultural\\_dimensions\\_theory](https://en.wikipedia.org/wiki/Hofstede%27s_cultural_dimensions_theory)

[https://www.mindtools.com/pages/article/newLDR\\_66.htm](https://www.mindtools.com/pages/article/newLDR_66.htm)

<http://www.differencebetween.net/miscellaneous/difference-between-american-and-indian-culture/>.

<https://jimmykeane.com/blather/blog/socrates-and-the-three-questions>



## Unit 04: Theories of Business Ethics

### CONTENTS

Objectives

Introduction

4.1 Egoism

4.2 Psychological Egoism

4.3 Criticism of the Theory of Psychological Egoism

4.4 Utilitarianism: Weighing Social Costs and Benefits

4.5 Traditional Utilitarianism

4.6 Measurement Problems

4.7 Kantianism Theory and its Application in Business Context

4.8 The Concept of a Right

4.9 A Basis for Moral Rights: Kant

4.10 Stockholder Theory And Its Application In Business Context

4.11 Meaning Of Social Contract Theory and Its Application In Business Context

Summary

Keywords

Self Assessment

Answers for Self Assessment

Review Questions

Further Readings

### Objectives

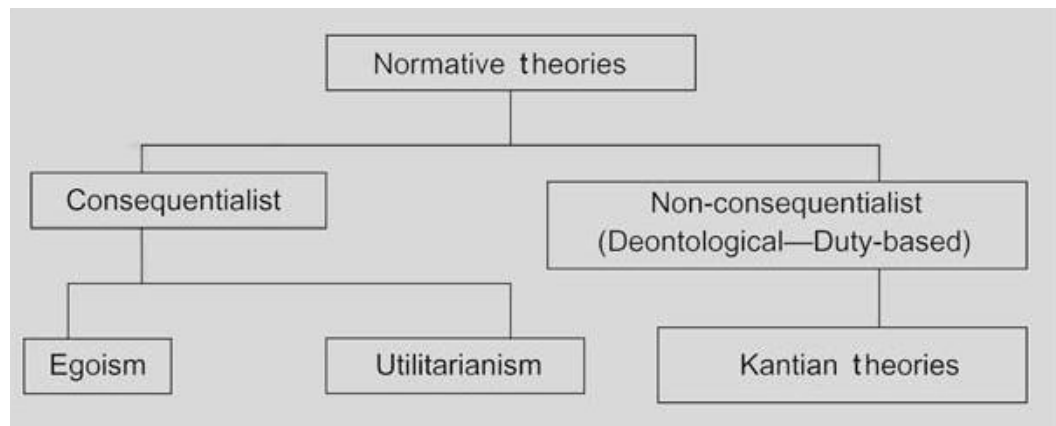
After studying this unit, you will be able to:

- Discuss the meaning of utilitarianism theory and its application in business context
- Discuss the meaning of Kantianism theory and its application in business context
- Discuss the meaning of stockholder theory and its application in business context
- Discuss the meaning of stakeholder theory and its application in business context
- Discuss the meaning of social contract theory and its application in business context

### Introduction

Ethics is a normative study, that is, an investigation that attempts to reach normative conclusions. It aims to arrive at conclusions about what things are good or bad, or what actions are right or wrong. In other words, a normative theory aims to discover what should be, and would include sentences such as 'companies should follow corporate governance standards' or 'managers ought to act in a manner to avoid conflicts of interests'. This is the study of moral standards which are correct or supported by the best reasons, and so 'attempts to reach conclusions about moral rights and wrong, and moral good and evil'. For instance, the stakeholder theory has a 'normative' thrust and is closely linked to the way that corporations should be governed and the way that managers should act. There are different normative perspectives and ethical principles that often contradict one another. There are consequentialist and non-consequentialist normative theories (Fig. 4.1). In the organizational context, we can identify the following ethical theories that have an impact on the

manner in which ethics or the lack of it could be identified in a business organization. These are, according to William H Shaw the following:



**Figure 4.1 Normative Theories of Business Ethics**

(Adapted from FERNANDO, A. C. (2013). Concepts and Theories of Business Ethics. In A. C. FERNANDO, BUSINESS ETHICS (pp. 29-50). New Delhi: Pearson.)

1. Egoism, both as an ethical theory and as a psychological theory.
2. Utilitarianism, the theory that a morally right action results in the greatest good to the largest number of people.
3. Kant's ethics, with his emphasis on moral motivation and respect for persons.
4. Other non-consequentialist normative themes: duties, moral rights and *prima facie* principles.

#### **4.1 Egoism**

'The view that associates morality with self-interest is referred to as egoism.'<sup>15</sup> Therefore, it can be said that egoism is an ethical theory that treats self-interest as the foundation of morality. Egoism contends that an act is morally right if and only if it best promotes an agent's (persons, groups or organizations) long-term interests. Egoists make use of their self-interest as the measuring rod of their actions. Normally, the tendency is to equate egoism with individual personal interest, but it is equally identified with the interest of the organization or of the society. Decisions based on egoism mainly are intended to provide positive consequences to a given party's interest without considering the consequence to the other parties. Philosophers distinguish between two kinds of egoism: personal and impersonal. The personalist theory argues that persons should pursue their long-term interest, and should not dictate what others should do. Impersonal egoists argue that everyone should follow their best long-term interest. It does not mean that an egoist will act against the interest of the society. They may be able to safeguard their interest without hurting the interest of others. When an organization performs or safeguards its interest without hurting the interest of others, then we can say that the organization acts ethically.

#### **4.2 Psychological Egoism**

Egoism asserts that the only moral obligation we have is to ourselves, though it does not openly suggest that we should not render any help to others. However, we should act in the interests of others, if that is the only way to promote our own self-interest. Ethicists who propose the theory of egoism have tried 'to derive their basic moral principle from the alleged fact that humans are by nature selfish creatures'.<sup>16</sup> According to these proponents of psychological egoism, human beings are so made that they must behave selfishly. They assert that all actions of men are motivated by self-interest and there is nothing like unselfish actions. To them, even the so-called self-sacrificial act like, say, whistle-blowing in an organization to bring to the notice of the top brass the unethical acts practiced down the line, or by top executives, is an attempt by the whistle-blower to either take revenge or become a celebrity.

### 4.3 Criticism of the Theory of Psychological Egoism

Though there are a few advocates of the theory of egoism even today, one would hardly come across philosophers who would propose it as the basis for personal or organizational morality. Generally, the theory is criticized on the following grounds:

**1. Egoism as an ethical theory is not really a moral theory at all.** Those who espouse egoism have very subjective moral standard, for they want to be motivated by their own best interests, irrespective of the nature of issues or circumstances. They never try to be objective, and everything is viewed subjectively based on whether it would promote their own self-interests or not.

**2. Psychological egoism is not a sound theory inasmuch as it assumes that all actions of men are motivated by self interest.** It ignores and undermines the human tendency to rise above personal safety as proved in thousands of examples of personal sacrifices at times of calamities such as floods, earthquakes and other natural disasters.

**3. Ethical egoism ignores blatant wrongdoings.** By reducing every human act to self-interest and self-serving, the theory does not take a clear stand against so many personal or organizational vices such as corruption, bribery, pollution, gender and racial discrimination.

### Utilitarianism Theory And Its Application In Business Context

In order to understand utilitarianism and other theories of business ethics, let us discuss a case study.



#### Case Study: Apartheid in South Africa

It was the middle of the last century, 1948, when the whites-only National Party first won control of the government of South Africa. Earlier racial laws had decreed that only whites, who were 10 percent of the population, had the right to vote, and denied political participation to blacks, who were about 80 percent of the population, as well as to "mixed-race coloreds" and Indians who together made up the remaining 10 percent. The whites-only National Party passed stringent apartheid legislation as soon as they gained power. Apartheid laws were designed to preserve the racial purity and supremacy of whites by keeping other races socially and physically separated from them, restricting nonwhites to inferior jobs, housing and farmlands, and strengthening earlier laws that made whites the effective rulers of South Africa's diverse population. The apartheid system deprived the entire black population of all civil rights. They had no right to freedom of speech, no right to unionize, and no right to freedom of assembly. Blacks, coloreds, and Indians had to live in racially segregated areas, received grossly discriminatory wages, could not intermarry with whites, could not supervise whites, had to attend separate and inferior schools, use separate bathrooms, enter public buildings by separate entrances, eat in separate dining rooms, and avoid socializing with whites.

These oppressive racial laws incited black resistance that the white government met with force. Over the years, as blacks repeatedly demonstrated against the increasingly brutal regime, the government responded with ever more violent killings, arrests, and repression. Beginning with the leadership of Prime Minister Strijdom, known as an honest but inflexible and belligerent hardline racist, the government ruthlessly killed hundreds of young black activists and jailed thousands more. Among those imprisoned was the energetic (some said "hotheaded") activist, Nelson Mandela, an inspiring, charismatic, resilient, and brave son of a black tribal chief. Opposition political parties were outlawed and their leaders were imprisoned. These white supremacy policies of the apartheid government remained in place until the 1990s. While the apartheid regime was in power, Caltex, an American oil company located in South Africa, operated a chain of gas stations and several oil refineries that it supplied with oil it imported from other countries. Jointly owned by Texaco and Standard Oil, Caltex had repeatedly expanded its operations in South Africa, giving the South African government greater access to the oil it needed. The South African economy relied on oil for 25 percent of its energy needs, and South African law required refineries to set aside some of their oil for the government. In addition, stiff corporate taxes channeled a high percentage of Caltex annual revenues into the hands of the apartheid government.

Many stockholders of Texaco and Standard Oil bitterly opposed Caltex's operations in South Africa. In 1983, 1984, and 1985, they introduced shareholder resolutions requiring Caltex to either break off relations with the South African government or leave South Africa altogether.

The management of Caltex, however, did not feel that it should stop selling petroleum products to the South African government or leave South Africa. The company acknowledged that its operations provided a strategic resource for South Africa's government and that the government was racist. Nevertheless, the company claimed that its operations ultimately helped black South Africans, particularly the company's black workers toward whom the company had special responsibilities. In a statement opposing one of the many stockholders' resolutions, Caltex managers made their position clear:

Texaco believes that continuation of Caltex's operations in South Africa is in the best interests of Caltex's employees of all races in South Africa. . . . In management's opinion, if Caltex were to withdraw from South Africa in an attempt to achieve political changes in that country, as the proposal directs, . . . such withdrawal would endanger prospects for the future of all Caltex employees in South Africa regardless of race. We are convinced that the resulting dislocation and hardship would fall most heavily on the nonwhite communities. In this regard, and contrary to the implications of the stockholders' statement, Caltex employment policies include equal pay for equal work and the same level of benefit plans for all employees as well as a continuing and successful program to advance employees to positions of responsibility on the basis of ability, not race.

Caltex managers argued that foreign corporations in South Africa had helped black incomes rise by more than 150 percent during the 1970s. Moreover, they claimed that U.S. corporations with internal policies of "equal pay for equal work," had narrowed the gap between black and white incomes by a significant amount. Among those who vigorously supported the resolutions asking U.S. companies to leave the country was Desmond Tutu, an outspoken black South African bishop of the Anglican Church who won the Nobel Peace Prize in 1984. Described as a "modest, cheerful man of faith, with a great passion for justice," Tutu advocated nonviolent opposition to apartheid. Tutu led numerous peaceful protests, marches, and boycotts against the racist regime and against what he would later call its "human rights abuses."

Although in constant danger for his life, Tutu was described as "courageously" calling on the world's multinationals to exert economic pressure on South Africa's white government by leaving and staying away until apartheid was ended. To suggest that U.S. companies should stay in South Africa because they paid higher wages and provided other economic benefits, Tutu said, was to "attempt to polish my chains and make them more comfortable. I want to cut my chains and cast them away."

The debate over whether Caltex should have continued to operate in South Africa during the apartheid regime was a moral debate. The debate was not about what the laws of South Africa required. The requirements of the law were clear. Instead, the debate centered on whether apartheid laws were morally acceptable and whether companies should help support the government responsible for those laws. The arguments on both sides of these issues appealed to moral considerations. They appealed, in fact, to four basic kinds of moral standards: utilitarianism, rights, justice, and caring.

At several points, moreover, the debate referred to the virtues and vices of various people involved in the struggle over apartheid. Those who argued that Caltex should leave South Africa, for example, argued that the company was actively supporting policies of inequality that were unjust because they discriminated against blacks and laid burdens on blacks that whites did not have to bear.

They also argued that these government policies violated black people's human rights, including their right to participate in the political life of their nation, to speak freely, to come and go as they wanted, to unionize, and to be free of the humiliations of racial segregation. And they claimed that the apartheid regime divided families and communities thereby destroying morally significant human relationships. These arguments were appeals to two distinct kinds of moral principles. Judgments about *justice* are based on moral principles that identify fair ways of distributing benefits and burdens among the members of a society. Judgments about human *rights* are based on moral principles that advocate respect for people's freedom and well-being. And judgments about the importance of human relationships can be based on what is called an *ethic of care*.

The arguments of Caltex managers also appealed to moral considerations. They argued that if the company stayed in South Africa, then black as well as white Caltex employees would be better off

because the company would provide them with economic and social benefits that would allow them to have richer and more satisfying lives. On the other hand, they argued, if the company left, blacks would suffer greatly and be burdened with “dislocations and hardship” because they would be deprived of the many economic benefits the company provided. In these arguments, Caltex’s managers were appealing to what is called a *utilitarian* standard of morality. Utilitarianism is the moral view that in any situation the right course of action is the one that will provide people with the greatest amount of benefits while minimizing harms. In addition, Caltex managers also argued that they took special care of their black workers and that the company’s special responsibility for the well-being of its workers implied that it should not abandon them. These additional considerations are closely linked to an *ethic of care* that emphasizes the value of human relationships and of caring for the well-being of those who are dependent upon us.

Finally, embedded in the debate were references to the moral virtues and vices of various persons involved in the struggle around apartheid. Archbishop Tutu, for example, was described as modest, courageous, nonviolent, cheerful, and passionate for justice. Prime Minister Strijdom, who used violent force to protect apartheid, was known as an honest, but inflexible and belligerent racist who could also be ruthless. Nelson Mandela was characterized as energetic, hotheaded, inspiring, courageous, resilient, and charismatic. The character traits attributed to these people are examples of the kind of virtues that are encouraged and the vices that are discouraged by an *ethic of virtue*.

Embedded in this discussion is reference to theories of ethics that is to be discussed in this chapter, for example Utilitarianism view was already discussed. Kantianism right Theory is based upon respecting the right of workers and looking at duties of the corporation. For example, the duty of corporation is look after its workers, however, the duty of corporation is also to make a positive change in society. Thus, if Caltex followed Kantianism Rights approach, then also, they might had decided to stay back in South Africa. Finally, the share holder activism as depicted in this case, represents the third ethical theory that is to be discussed in this chapter, according to which, the ethical thing for the corporation is to follow what shareholders want and following which, the Caltex, might had decided to leave South Africa. Then there is a stakeholder theory of business ethics, which states that the ethical duty of the organization is to look at what all the stake holders of the corporation want it to do. For example South African Government is the stakeholder of Caltex, Similarly, local community is the stakeholder of Caltex. Following this approach, The Caltex again will like to stay in the South Africa. Also, we have Social Contract theory of business ethics, according to which, Caltex organization have a Social Contract with the South African community and they should follow that contract and do what is best for their development.

#### 4.4 Utilitarianism: Weighing Social Costs and Benefits

We begin by looking at an approach to moral decision-making the Caltex manager took. They claimed that one of the reasons that Caltex should remain in South Africa was because that course of action would have the most beneficial consequences and the fewest harms, at least in comparison to the results of abandoning South Africa. This approach is sometimes referred to as a *consequentialist* approach to ethics and, more specifically, as a *utilitarian* approach. To see more clearly what the approach involves, let’s look at a situation where this approach was a basic consideration in a business decision that had a dramatic impact on the lives of many people.



##### Case Study: Ford Motor Company

During the last decades of the twentieth century, Ford Motor Company began losing market share to Japanese companies who were making compact, fuel-efficient cars. Lee Iacocca, Ford’s president at the time, determined to regain its share of the market by quickly developing a small car called the Pinto. The Pinto would weigh less than 2,000 pounds, cost less than \$2,000, and be on market within 2 years instead of the normal 4 years. Because the Pinto was a rush project, styling considerations dictated engineering design to a greater degree than usual. In particular, Pinto’s styling required that the gas tank be placed behind the rear axle that had protruding bolts. In that position, the tank could be punctured by the rear-axle bolts if a rear-end collision pushed it against the axle.

When an early model of the Pinto was crash-tested, it was found that, when struck from behind at 20 miles per hour or more, the gas tank would sometimes break open. Gas would then spray out and enter the passenger compartment as well as under and around the car. In a real accident, stray

sparks could explosively ignite the spraying gasoline and fire might engulf and burn the occupants, particularly if, as often happened in accidents, the doors jammed, trapping the victims.

Ford managers decided, nonetheless, to go ahead and manufacture the Pinto without changing the gas-tank design. There had several reasons for their decision. First, the design met all the legal and government standards then in effect. At the time, government regulations required that a gas tank only remain intact in a rear-end collision of less than 20 miles per hour. Second, Ford managers felt that the car was comparable in safety to several of the cars other companies were making and putting on the market. Third, according to an internal cost-benefit study by Ford, modifying the Pinto would be more costly than leaving its design unchanged. The study stated that approximately 12.5 million of the autos would eventually be built. Modifying the gas tank of each Pinto would cost about \$11 a unit. The total costs of modifying all the Pintos the company planned to build, then, were simple to calculate:

**Costs:**

$$\$11 * 12.5 \text{ million autos} = \$137 \text{ million}$$

What benefits would customers derive from the \$137 million they would have to pay if the Pinto's gas tank was modified? Statistical data showed that modifying the gas tank could prevent the future loss of about 180 burn deaths, 180 serious burn injuries, and 2,100 burned vehicles. At the time (1970), the government valued a human life at \$200,000, a figure it needed to use to decide whether to spend money on a project that might save several lives or spend it on some other project that might save several million tax dollars.; Insurance companies valued a serious burn injury at \$67,000 when they paid for losses due to burns (including the losses of pain and suffering); and the average residual value on subcompacts was estimated at \$700. Therefore, in monetary terms, modifying the gas tank would have the benefit of preventing losses that added up to a total value of only \$49.15 million:

**Benefits:**

$$(180 \text{ deaths} * \$200,000) + (180 \text{ injuries} * \$67,000) + (2,100 \text{ vehicles} * \$700) = \$49.15 \text{ million}$$

Thus, if the car's gas tank was modified, customers would have to pay \$137 million for a benefit worth \$49.15 million, for a net loss of \$87.85 million. It was not right, the Ford study argued, to have society invest in a "fix" of the Pinto's gas tank that would result in a greater loss than leaving things as they were. That is, although making no changes to the Pinto's design would result in losses of about \$49.15 million, this was less than the net loss of \$87.85 million that would be the consequence of changing the design.

Ford managers went ahead and produced the Pinto without modifying its gas tank. It is estimated that in the decade that followed about 60 persons died in fiery accidents involving Pintos and that at least twice that many suffered severe burns over large areas of their bodies, many requiring years of painful skin grafts. Ford, however, kept the Pinto on the market until 1980.

The kind of analysis that Ford managers used in their cost-benefit study is a version of what has traditionally been called utilitarianism. **Utilitarianism** is a general term for the view that actions and policies should be evaluated on the basis of the benefits and costs they produce for everyone in society. Specifically, utilitarianism holds that the morally right course of action in any situation is the one that, when compared to all other possible actions, will produce the greatest balance of benefits over costs for everyone affected.

Ford managers reduced costs and benefits primarily to economic costs and benefits (such as medical costs, loss of income, and damage to buildings) and these were measured in monetary terms. But the benefits of an action may include any desirable goods (pleasures, health, lives, satisfactions, knowledge, happiness) produced by the action, and costs may include any of its undesirable evils or harms (such as pain, which the Ford study took into account, as well as sickness, death, dissatisfaction, ignorance, unhappiness). The inclusive term used to refer to the net benefits of any sort produced by an action is **utility**. Hence, the term *utilitarianism* is used for any theory that advocates selection of that action or policy that maximizes utility.

It is important to understand that Ford's managers were not saying that making no changes to the Pinto's gas tank would save them money. That is, their claim was not that leaving the design unchanged was in Ford's best interests (recall that the buyers of the Pinto would ultimately pay all costs). If that had been their claim, then it would have been based on self-interest and not on utilitarian ethics. Their claim, instead, was that leaving the car's design unchanged was best for *society as a whole*. From society's point of view, and considering everyone's best interests, it was

better to keep the design. Utilitarianism is not a theory of calculated selfishness: it is a theory that says that we should strive to do what is best for everyone in society, and that we do what is best for everyone when we take into account all the benefits and harms that everyone will bear as the result of our actions.

Many business analysts hold that the best way to evaluate the ethical propriety of a business decision—or any other decision—is by relying on utilitarian cost-benefit analysis. The socially responsible course for a business to take is the one that will produce the greatest net benefits for society or impose the lowest net costs. Several government agencies, many legal theorists, numerous moralists, and a variety of business analysts advocate utilitarianism.

## 4.5 Traditional Utilitarianism

Jeremy Bentham (1748–1832) and John Stuart Mill (1806–1873) are generally considered the founders of traditional utilitarianism. Bentham and Mill sought an objective basis for making value judgments that would provide a common and publicly acceptable norm for determining the best social policy and social legislation, as well as the morally best course of action. The most promising way to reach such an objective basis of moral and social decision-making, they believed, is by looking at the various policies or courses of action that could be chosen, and comparing their beneficial and harmful consequences. The right course of action from an ethical point of view would be to choose the policy or action that would produce the greatest amount of utility. The utilitarian principle holds that:

An action is right from an ethical point of view, if and only if, the sum total of utilities produced by that act is greater than the sum total of utilities produced by any other act the agent could have performed in its place.

The utilitarian principle assumes that we can somehow measure and add together the quantities of benefits produced by an action and then measure and subtract from those benefits the quantities of harm the action will produce. Once we do this for every action we could take, we then choose the action that produces the greatest net benefits or the lowest net costs. That is, utilitarianism assumes that any benefits or costs an action can produce can be measured on a common quantitative scale and then added or subtracted from each other. The satisfaction that an improved work environment imparts to workers, for example, might be equivalent to 500 positive units of utility, whereas the resulting bills that arrive the next month might be equivalent to 700 negative units of utility. Therefore, the total combined utility of this act (improving the work environment) would be 200 units of *negative* utility.

There are three important mistakes to watch out for when using utilitarianism. Almost everyone makes these mistakes when they first start thinking about utilitarianism, so it is important to be aware of them at the start. First, when the utilitarian principle says that the right action for a particular occasion is the one that produces more utility than any other possible action, it does not mean that the right action is the one that produces the most utility for *the person performing* the action. Rather, an action is right if it produces the most utility for *all persons* affected by the action, including of course, the person who performed the action. As John Stuart Mill wrote:

The happiness which forms the utilitarian standard of what is right in conduct, is not the agent's own happiness, but that of all concerned. As between his own happiness and that of others, utilitarianism requires him to be as strictly impartial as a disinterested and benevolent spectator. In the golden rule of Jesus of Nazareth, we read the complete spirit of the ethics of utility: "To do as you would be done by," and "to love your neighbor as yourself," constitute the ideal perfection of utilitarian morality.

A second misunderstanding is to think that the utilitarian principle requires us to consider only the direct and immediate consequences of our actions. Instead, both the immediate and *all foreseeable future* costs and benefits that each alternative will provide for each individual must be taken into account, as well as any significant indirect effects.

However, the most important mistake to watch out for is a third common misunderstanding: the utilitarian principle does not say that an action is right so long as its *own* benefits outweigh its *own* costs. Instead, utilitarianism says that the right action is the one whose combined benefits and costs outweigh the combined benefits and costs of *every other action* the agent could carry out. In other words, utilitarianism holds that to determine the morally right action in any given situation, we *must compare* the utility of all of the actions that one could carry out in that situation; only then can

we determine which action will produce more utility than any of the others. Notice that if utilitarianism said that any action is right so long as its benefits outweigh its costs, then in any situation, several actions could be right because several actions could have benefits that outweigh their costs. However, utilitarianism claims that in any situation only one action is morally right: that one action whose utility is *greatest by comparison to the utility of all the other alternatives*.

To determine, then, how I should behave in a particular situation according to utilitarianism, I must do four things. First, I must determine what alternative actions or policies are available to me in that situation. The Ford managers, for example, were implicitly considering two alternatives: to redesign the Pinto by putting a rubber bladder around the gas tank or to leave it as originally designed. Second, for each alternative action, I must estimate the direct and indirect benefits and costs that the action will probably produce for each and every person affected by the action in the near future. Ford's calculations of the costs and benefits that all affected parties would have to bear if the Pinto design were changed, and those that all parties would have to bear if it were not changed, are examples of such estimates. Third, for each action I must subtract the costs from the benefits to determine the net utility of each action. This is what the Ford managers did when they calculated the net social costs of leaving the Pinto's design unchanged (\$49.15 million), and the net social costs of modifying it (\$87.85 million). Fourth, the action that produces the greatest sum total of utility must be chosen as the ethically appropriate course of action. The Ford managers, for example, decided that the course of action that would impose the lowest costs and the greatest benefits would be to leave the Pinto design unchanged.

Although it can easily be misunderstood and misused, utilitarianism is an attractive ethical theory in many ways. For one thing, it matches fairly nicely the views that we tend to advocate when discussing the choice of government policies and public goods. Most people agree, for example, that when the government is trying to determine on which public projects it should spend tax monies, the proper course of action would be for it to adopt those projects that objective studies show will provide the greatest benefits for the members of society at the least cost. Of course, this is just another way of saying that the proper government policies are those that would have the greatest measurable utility for people—or, in the words of a famous slogan coined by Bentham, those that will produce “the greatest good for the greatest number.”

Utilitarianism also seems consistent with the intuitive criteria that people use when discussing moral conduct. For example, when people explain why they have a moral obligation to perform some action, they often proceed by pointing out how the action will benefit or harm people. Moreover, morality requires that one impartially take everyone's interests equally into account. Utilitarianism meets this requirement insofar as it takes into account the effects actions have on everyone and insofar as it requires us to be impartial when we choose the action with the greatest net utility regardless of who gets the benefits or who gets the costs.

Utilitarianism also has the advantage of being able to explain why we hold that certain types of activities are generally morally wrong (lying, adultery, killing) while others are generally morally right (telling the truth, fidelity, keeping one's promises).

The utilitarian can say that lying is generally wrong because of the costly effects lying has on people. When people lie to each other, they are less apt to trust each other or to cooperate with each other. The less trust and cooperation, the more our welfare declines. Telling the truth is generally right because it strengthens cooperation and trust and thereby improves everyone's well-being. In general, then, it is a good rule of thumb to tell the truth and to refrain from lying. Traditional utilitarians would deny, however, that any kinds of actions are always right or always wrong.

They would deny, for example, that dishonesty or theft is necessarily always wrong. If, in a certain situation more good consequences would flow from being dishonest than from any other act a person could perform in that situation, then, according to traditional utilitarian theory, dishonesty would be morally right in that particular situation.

Utilitarian views have also been highly influential in economics. A long line of economists, beginning in the nineteenth century, argued that economic behavior could be explained by assuming that human beings always attempt to maximize their utility and that the utilities of commodities can be measured by the prices people are willing to pay for them. With these and other simplifying assumptions (such as the use of indifference curves), economists were able to derive the familiar supply and demand curves of sellers and buyers in markets and explain why prices in a perfectly competitive market gravitate toward an equilibrium. More important, economists were also able to demonstrate that a system of perfectly competitive markets would lead to a use of resources and price variations that would enable consumers to maximize their utility (defined in



terms of Pareto optimality) through their purchases. On utilitarian grounds, therefore, these economists concluded that such a system of markets is better than any other alternative.

#### 4.6 Measurement Problems

One major set of problems with utilitarianism is centered on the difficulties of trying to measure utility. One problem is this: How can the utilities of different actions for different people be measured and compared as utilitarianism requires? Suppose you and I would both enjoy getting a certain job: How can we figure out whether the utility you would get out of having the job is more or less than the utility I would get out of having it? Each of us may be sure that he or she would benefit most from the job, but because we cannot get "into each other's skin," we have no objective way of making this judgment. Comparative measures of the values things have for different people cannot be made, the critics argue, so there is no way of knowing whether utility would be maximized by giving me the job or by giving you the job. If we cannot know which actions will produce the greatest amounts of utility, then we cannot apply the utilitarian principle.

A second problem is that there are certain kinds of benefits and costs that seem impossible to measure. For example, critics say, how can you measure the value of health or life? Suppose that installing an expensive exhaust system in a workshop will eliminate a large portion of certain carcinogenic particles that workers might otherwise inhale. Suppose that as a result some of the workers will live 10 years longer than they would have. How can we calculate the value of those years of added life, and how can we compare this value to the costs of installing the exhaust system? Moreover, because we cannot predict all of the future benefits and costs of an action, there is no way we can measure them.

#### 4.7 Kantianism Theory and its Application in Business Context

On May 17, 2009 a 17-year-old boy, Yiu Wah, who had been hired at the age of 15, was crushed and killed while trying to clear a jammed machine in the factory of a Chinese supplier that was making products for the Walt Disney Company, the world's second-largest media conglomerate. 28 Witnesses claimed that the use of child labor was a human rights violation that was common at the factory of Disney's supplier.

This was not the first time that Walt Disney Company had been accused of having human rights violations in its supply chain. On March 3, 2004, executives of Walt Disney were confronted by a group of stockholders concerned about the company's human rights record in China. In addition to owning several theme parks, television and radio networks (ABC, the Disney Channel, ESPN), and film studios, Walt Disney markets merchandise based on its characters and films, including toys, apparel, watches, consumer electronics, and accessories. Much of this merchandise is manufactured in China in factories that contract with Disney to produce the merchandise according to Disney's specifications. The Congressional-Executive Commission on China, a group established by the U.S. Congress in 2001, reported in 2003, however, that:

China's poor record of protecting the internationally recognized rights of its workers hasn't changed significantly in the past year. Chinese workers can't form or join independent trade unions, and workers who seek redress for wrongs committed by their employers often face harassment and criminal charges. Moreover, child labor continues to be a problem in some sectors of the economy, and forced labor by prisoners is common.

In its March, 2003 *Country Reports on Human Rights Practices*, the U.S. State Department said China's economy also made massive use of forced prison labor. China's prisons contained large numbers of political dissidents who were forced to engage in unpaid, exhausting, and dangerous labor to "reform" or "reeducate" them. Factories often purchased materials made in these prisons and then incorporated them into their own products.

Even earlier, in 2001, the Hong Kong Christian Industrial Committee had made on-site undercover visits to a dozen of Walt Disney's Chinese factories and reported that it found "excessively long hours of work, poverty wages, unreasonable fines, workplace hazards, poor food and dangerously overcrowded dormitories." Another report issued in 2002 by the National Labor Committee, entitled, "Toys of Misery," noted horrific working conditions in the nineteen Disney factories the committee investigated. According to the report, not only were workers paid substandard wages, but they "face long hours of forced overtime that leave them with two or three hours of sleep a night," and "they are exposed constantly to chemicals that make them sick." In 2004, the National

Labor Committee reissued its report, now entitled “Toys of Misery, 2004,” in which they found that Disney factories were still engaged in the kind of practices they had found two years earlier.



### Case Study: Working for Eli Lilly & Company

Before a newly discovered drug is approved for sale, the U.S. Food and Drug Administration (FDA) requires that it be tested on healthy humans to determine whether it has dangerous side effects. Unfortunately, most healthy people will not take an untested substance that is not intended to cure them of anything and that may have crippling or deadly effects. Test subjects can die; suffer paralysis, organ damage, and other chronically debilitating injuries. Eli Lilly, a large pharmaceutical company, however, discovered a group of “volunteers” willing to take untested drugs for only \$85 a day plus free room and board: homeless alcoholics desperate for money recruited in soup kitchens, shelters, and jails. Since tests run for months, the men can make as much as \$4,500—a hefty sum to someone surviving on handouts. The tests provide enormous benefits for society and many tests might not be performed at all but for the pool of homeless alcoholics. Moreover, providing the men with a warm bed, food, and good medical care before sending them out drug- and alcohol-free and with money in their pockets seems beneficial.

The FDA requires that participants in such medical tests must give their “informed consent” and make a “truly voluntary and uncoerced decision.” Some question whether the desperate circumstances of hungry, homeless, and penniless alcoholics allow them to make a truly voluntary and uncoerced decision. When asked, one homeless drinker hired to participate in a test said he had no idea what kind of drug was being tested on him even though he had signed an informed-consent form.

1. Discuss Eli Lilly’s practice from the perspectives of utilitarianism and rights.
2. In your judgment, is the policy of using homeless alcoholics for test subjects morally appropriate?

Source: Laurie P. Cohen, “Stuck for Money,” *Wall Street Journal*, November 14, 1996, p. 1.

(Adapted from Velasquez, M. G. (2014). *Ethical Principles in Business*. In M. G. Velasquez, *Business Ethics Concepts and Cases* (pp. 80-160). Pearson.)

## 4.8 The Concept of a Right

In general, a *right* is an individual’s entitlement to something. A person has a right when that person is entitled to act in a certain way or is entitled to have others act in a certain way toward him or her. The entitlement may derive from a legal system that permits or empowers the person to act in a specified way or that requires others to act in certain ways toward that person; the entitlement is then called a **legal right**. The U.S. Constitution, for example, guarantees all citizens the right to freedom of speech, and commercial statutes specify that each party in a valid contract has a right to whatever performance the contract requires from the other person. Legal rights are limited, of course, to the particular jurisdiction within which the legal system is in force.

Entitlements can also derive from a system of moral standards independently of any particular legal system. The right to work, for example, is not guaranteed by the U.S. Constitution, but many argue that it is a right that all human beings possess. Such rights, which are called *moral rights* or *human rights*, are based on moral norms and principles that specify that all human beings are permitted or empowered to do something or are entitled to have something done for them. **Moral rights**, unlike legal rights, are usually thought of as being universal insofar as they are rights that all human beings of every nationality possess to an equal extent, simply by virtue of being human beings. Unlike legal rights, moral rights are not limited to a particular jurisdiction. If humans have a moral right not to be tortured, for example, then this is a moral right that human beings of every nationality have regardless of the legal system under which they live.

## 4.9 A Basis for Moral Rights: Kant

How do we know that people have rights? This question can be answered in a fairly straightforward way when it is asked about legal rights: A person has legal rights because the person lives within a legal system that guarantees those rights. However, what is the basis of moral rights?

Utilitarians have suggested that utilitarian principles can provide a basis for moral rights. They have argued that people have moral rights because having moral rights maximizes utility. It is doubtful, however, that utilitarianism provides an adequate basis for moral rights. To say that someone has a moral right to do something is to say that person is entitled to do it regardless of the utilitarian benefits it provides for others. Utilitarianism cannot easily support such a non-utilitarian concept.

A more satisfactory foundation for moral rights is provided by the ethical theory developed by Immanuel Kant (1724–1804). Kant, in fact, attempts to show that there are certain moral rights and duties that all human beings possess regardless of any utilitarian benefits that the exercise of those rights and duties may provide for others.

Kant's theory is based on a moral principle that he called the **categorical imperative** and that requires that everyone should be treated as a free person equal to everyone else. That is, everyone has a moral right to such treatment, and everyone has the correlative duty to treat others in this way. Kant provides more than one way of formulating this basic moral principle; each formulation serves as an explanation of the meaning of this basic moral right and correlative duty.

### The First Formulation of Kant's Categorical Imperative

Kant's first formulation of the categorical imperative is as follows: "I ought never to act except in such a way that I can also will that my maxim should become a universal law." A maxim for Kant is the reason a person in a certain situation has for doing what he or she plans to do. A maxim would "become a universal law" if every person in a similar situation chose to do the same thing for the same reason. Kant's first version of the categorical imperative, then, comes down to the following principle: An action is morally right for a person in a certain situation if, and only if, the person's reason for carrying out the action is a reason that he or she would be willing to have every person act on, in any similar situation.

An example may help clarify what Kant's principle of the categorical imperative means. Suppose that I am trying to decide whether to fire an employee because I do not like the employee's race. According to Kant's principle, I must ask myself whether I would be willing to have an employer fire any employee whenever the employer does not like the race of the employee. In particular, I must ask myself whether I would be willing to be fired myself should my employer not like my race. If I am not willing to have everyone act in this way, even toward me, then it is morally wrong for me to act in this way toward others. A person's reasons for acting, then, must be "reversible"; one must be willing to have all others use those reasons even against oneself. There is an obvious similarity, then, between Kant's categorical imperative and the so-called *golden rule*: "Do unto others as you would have them do unto you."

Kant points out that sometimes it is not even possible to *conceive* of having everyone act on a certain reason, much less be *willing* to have everyone act on that reason. To understand this, consider a second example. Suppose that I am thinking of breaking a contract because it is committed me to do something I do not want to do. Then, I must ask whether I would be willing to allow everyone to break any contract that they did not want to keep. But it is impossible to even conceive of everyone making contracts they do not have to keep. Why? Because if everyone knew that they were allowed to break any contract they did not want to keep, then people would not bother to make contracts. Why would anyone make a contract that no one had to keep? Consequently, because it is impossible to conceive of a world in which people make contracts they do not have to keep, it is also impossible for me to be willing to have everyone make contracts they do not have to keep. How can I will something I cannot even conceive? It would be wrong, therefore, for me to break a contract simply because I do not want to keep it. A person's reasons for acting, then, must also be *universalizable*: It must be possible, at least in principle, for everyone to act on those reasons.

The first formulation of the categorical imperative, then, incorporates two criteria for determining moral right and wrong – universalizability and reversibility:

**UNIVERSALIZABILITY:** The person's reasons for acting must be reasons that everyone could act on at least in principle.

**REVERSIBILITY:** The person's reasons for acting must be reasons that that person would be willing to have all others use, even as a basis of how they treat him or her.

How does Kant argue for the categorical imperative? To begin with, consider that Kant's categorical imperative focuses on a person's interior motivations and not on the external consequences of his or her actions. Moral right and wrong, according to Kant, are distinguished not by what a person

accomplishes, but by the reasons or motives the person has for doing what he or she does. Kant argues that an action “has no moral worth,” if a person does the action *only* out of self-interest or *only* because it gives him or her pleasure. In other words, morality is not about pursuing self-interest nor about doing what gives us pleasure; morality is about doing what is right whether or not it is in our self-interest and whether or not it makes us feel good. A person’s action has “moral worth” then, only to the degree that it is *also* motivated by a sense of “duty,” that is, a belief that it is the right way for all people to behave in similar circumstances. Therefore, Kant claims, to be motivated by a sense of “duty” is to be motivated by reasons that I believe everyone should act on when they are in similar circumstances. Consequently, Kant concludes, my action has “moral worth” (i.e., it is morally right) only to the extent that it is motivated by reasons that I would be willing to have every person act on when they are in similar circumstances. This consequence or conclusion is Kant’s categorical imperative.

### The Second Formulation of Kant’s Categorical Imperative

The second formulation Kant gives of the categorical imperative is this: “Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end.” Or never treat people *only* as means, but always *also* as ends. What Kant means by “treating humanity as an end” is that we should treat each human being as a free and rational person. This means two things: (1) Respect each person’s freedom by treating that person only as she has freely and rationally consented to be treated, and (2) contribute to each person’s ability to pursue those ends she has freely and rationally chosen to pursue. The phrase “freely and rationally” here refers to the kind of choices a person makes when her choices are not forced and she both knows and chooses what is in her best interests. On the other hand, to treat a person *only* as a means is to use the person as an instrument for advancing one’s own while disregarding the person’s choices and interests. This *neither* respects her freedom to choose for herself what she will do, *nor* contributes to her ability to pursue what she has freely and rationally chosen to pursue. Kant’s second version of the categorical imperative, then, can be expressed in the following principle:

An action is morally right for a person if, and only if, in performing the action, the person does not use others *only* as a means for advancing his or her own interests, but always (1) treats them as they have freely and rationally consented to be treated, and (2) contributes to their ability to pursue what they have freely and rationally chosen to pursue.

This version of the categorical imperative implies that human beings have a dignity that sets them apart from things such as tools or machines and that is incompatible with being manipulated, deceived, or otherwise unwillingly exploited to satisfy the self-interests of another. The principle in effect says that people should not be treated as objects incapable of free and rational choice. By this principle, an employee may legitimately be asked to perform the unpleasant (or even dangerous) tasks involved in a job if the employee freely and rationally consented to take the job knowing that it would involve these tasks. However, it would be wrong to subject an employee to health risks without the employee’s knowledge. In general, deception, force, and manipulation fail to respect people’s freedom to choose for themselves and are therefore unethical (unless, perhaps, a person first freely consented to have force used against him or herself).

### Problems with Kant

Despite the attractiveness of Kant’s theory, critics have argued that, like utilitarianism, it has limitations and inadequacies. A first problem that critics have traditionally pointed out is that Kant’s theory is not clear enough to always be useful. One difficulty lies in trying to determine whether one would (as the first formulation requires) “be willing to have everyone follow” a certain policy. Although the general thrust of this requirement is more or less clear, it sometimes leads to problems. For example, suppose I am a murderer: Would I then be willing to have everyone follow the policy that all murderers should be punished? In a sense, I would be willing to because I would want to be protected from other murderers. Yet, in another sense, I would not be willing because I do not want to be punished myself. Which sense is correct? It is also sometimes difficult to determine whether one person is using another “merely as a means” (as the second formulation states we should never do). Suppose, for example, that Ms. Jones, an employer, only pays minimum wages to her employees and refuses to install the safety equipment they want, yet she says she is “respecting their capacity to freely choose for themselves” because she is willing to let them work

elsewhere if they choose. Is she then treating them merely as means or also as ends? Critics complain that Kant's theory is too vague to answer such questions.

There are cases, then, where the requirements of Kant's theory are unclear. A second problem is that some critics claim that, although we might be able to agree on the kinds of interests that have the status of moral rights, there is substantial disagreement concerning what the limits of each of these rights are and concerning how each of these rights should be balanced against other conflicting rights. Kant's theory does not help us resolve these disagreements. For example, we all agree that everyone should have a right to associate with whomever they want, as well as a right not to be injured by others. However, how should these rights be balanced against each other when a certain association of people begins to injure others? For example, suppose the loud music of a group of trombone players disturbs others, or suppose a corporation (or just any association of people) pollutes the air and water on which the health of others depends. Kant's categorical imperative does not tell us how the conflicting rights of these persons should be adjusted to each other. Which right should be limited in favor of the other?

A defender of Kant, however, can counter this second criticism by holding that Kant's categorical imperative is not intended to tell us how conflicting rights should be limited and adjusted to each other. To decide whether one right should be curtailed in favor of a second right, one has to examine the relative importance of the interests that each right protects. What arguments can be given to show, for example, that a corporation's interest in financial gains is more or less important than the health of its neighbors? The answer to this question determines whether a corporation's right to use its property for financial gains should be limited in favor of its neighbors' right not to have their health injured. All that Kant's categorical imperative is meant to tell us is that everyone must have equal moral rights and everyone must show as much respect for the protected interests of others as they want others to show for their own. It does not tell us what interests people have nor what their relative importance is.

A third group of criticisms that have been made of Kant's theory is that there are counterexamples that show the theory sometimes goes wrong. Most counterexamples to Kant's theory focus on the criteria of universalizability and reversibility. Suppose that an employer can get away with discriminating against black employees by paying them lower wages than white employees for the same work. Suppose also that he is so fanatical in his dislike of blacks that he is willing to accept the proposition that if his or her own skin were black, employers should also discriminate against him.

Then, according to Kant's theory, the employer would be acting morally when he discriminates against blacks. Kant's theory here has clearly led us to a false conclusion because discrimination is obviously immoral.

Defenders of a Kantian approach to ethics, of course, would reply that it is the critics, not Kant, who are mistaken. If the employer genuinely and conscientiously would be willing to universalize the principles on which he is acting, then the action is, in fact, morally right for him. For us, who would be unwilling to universalize the same principle, the action would be immoral. We may also find that it would be morally right for us to impose sanctions on the employer to stop him from discriminating. Insofar as the employer is trying to remain true to his own universal principles, he is acting conscientiously and, therefore, in a moral manner.

#### **4.10 Stockholder Theory And Its Application In Business Context**

Presently, there are three normative theories of business ethics that have evolved over a period of time. They are (i) stockholder theory; (ii) stakeholder theory; and (iii) social contract theory (Fig. 4.2). Of these three, the oldest and one that has fallen into disrepute with business ethicists in recent times is the stockholder theory, though economists like Milton Friedman, following the footsteps of Adam Smith uphold the line of thinking pursued by the promoters of the theory. To most of the critics, the stockholder theory is an unwarranted hangover from the 'bad old days of capitalism'. The next theory evolved was the stakeholder theory, which, over the past three decades or so, has gained widespread acceptance among the business ethics community.

However, in recent years, the social contract theory has emerged as a strong contender to the stakeholder theory and occupies a pre-eminent position among the normative theories. It needs to be stressed here that each of these three normative theories upholds a distinctly different model of a businessman's ethical obligations to society, and hence only one of them can be found to be correct. This, of course, will depend upon the sensitivity of the analyst and the manner of his logical interpretation.

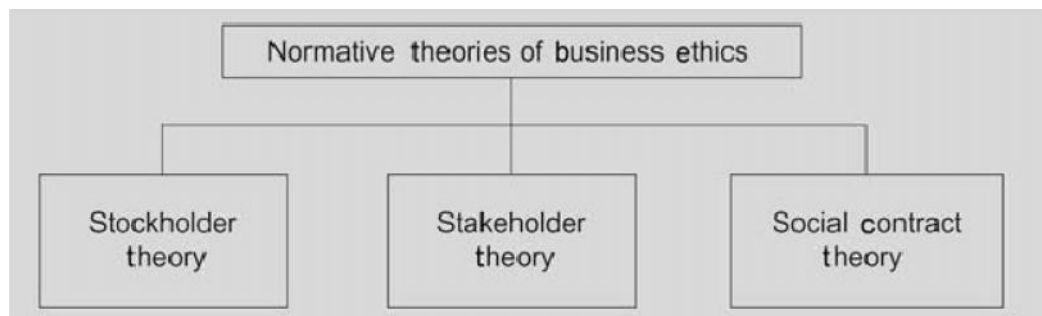


Figure 4.2 Contemporary Normative Theories of Business Ethics

### The Stockholder Theory

The stockholder theory, also known as the shareholder theory, expresses the business relationship between the owners and their agents who are the managers running the day-to-day business of the company. As per the theory, businesses are merely arrangements in which one group of people, namely, the shareholders advance capital to another group namely, the managers to realize certain ends beneficial to them. In this arrangement, managers (including the Board of Directors) act as agents for shareholders. The managers are empowered to manage the capital advanced by the shareholders and are duty bound by their agency relationship to carry on the business exclusively for the purpose outlined by their principals. This fiduciary relationship binds managers not to spend the available resources on any activity without the authorization from their owners, regardless of any societal benefits that could be accrued by doing so. This obviously implies, as per this line of thinking, that a business can have no social responsibilities.

According to the strict interpretation of the stockholder theory, managers have no option but to follow the dictates of their masters. If the stockholders vote by a majority that their company should not produce any obnoxious product—which in the perception of the managers would be a profitable business proposition—the managers still have to abide by the decision of the owners of the company. This may be a far-fetched example, as shareholders who buy stocks of a company to maximize their return on investment may not issue any such direction. There are companies that produce cigarettes, liquor, and pistols and make money to maximize stockholders' returns. In all such cases, stockholders seem to be happy with the high dividends they get apart from an increase in market capitalization of their stock and therefore, there is no reason for them to issue directions that negate the managers' actions. The stockholder theory has been succinctly summarized by economist Milton Friedman who asserted thus: 'There is one and only one social responsibility of business – to use its resources and engage in the activities designed to increase its profits so long as it stays within the rules of the game, which is to stay engaged in open and free competition without deception or fraud.'

A careful reading of the definitions of the stockholder theory provides us an understanding that it does not give the managers a *carte blanche* to ignore ethical constraints in the single-minded pursuit of profit. The theory stresses that managers should pursue profit only by *all legal, non-deceptive* means. A lot of adverse criticism against the theory could have been avoided had the critics appreciated the fact that the stockholder theory did not stress that managers were expected to pursue profit at all costs, even ignoring ethical constraints. The stockholder theory is also associated with the line of utilitarian argument adopted by liberal classical economists.

One's pursuit of profit, goaded by one's enlightened self interest in a free market economy leads collectively to the promotion of general interest as well, guided as it is by Adam Smith's 'invisible hand'. 'Invisible Hand' was a term coined by Adam Smith to express the idea that though each individual in his/her economic activities acts in his/her own interest such actions are guided by a sort of 'invisible hand' which ensures that they are also to the advantage of the community as a whole. Each individual by pursuing his own self-interest promotes the interest of the society more efficiently than when he really intends to promote it.

Such being the case, it is unwarranted to expect businesses to act directly to promote the common good. Therefore, there is no justification to make a claim that businesses 'have any social responsibilities other than to legally and honestly maximise the profits of the firm'. Apart from this 'consequentialist' line of thinking in support of the stockholder theory, there is another 'deontological' argument as well to buttress it. The argument runs like this: 'Stockholders

provide their capital to managers on the condition that they use it in accordance with their wishes. If the managers accept this capital and spend it to realize some social goals, unauthorized by the stockholders, does it not tantamount to a clear breach of the agreement?

### Criticism of the Stockholder Theory

Many business ethicists have been criticizing the stockholder theory for various reasons. It has been described, as part of corporate law that has outlived its usefulness; as one based on a 'myopic view of corporate responsibility' and as one that leads to 'morally pernicious consequences'. Robert C. Solomon in his *Ethics and Excellence* (1992) finds it 'not only foolish in theory, but cruel and dangerous in practice' and misled 'from its nonsensically one-sided assumption of responsibility to a pathetic understanding of stockholder personality as Homo Economicus' (The Economic Man). Many ethicists discard the theory as an outmoded relic of the past.

If so many ethicists wish to dismiss the theory as impractical and even foolish, it is because of its perceived association with the utilitarian supporting argument and neo-classical economists' faith in the 'invisible hand of the market forces'. Most modern day ethicists have little faith in *laissez-faire* capitalism (absolutely uncontrolled free enterprise system) that is beset by market failures. They believe that to the extent the stockholder theory is associated with that type of economic model (*laissez-faire* capitalism) that cannot be relied upon to secure the common good. The theory itself stands discredited because of its failures.

Another reason why the stockholder theory stands discarded today is because 'the contemporary economic conditions are so far removed from those of a true, free market'. In today's world, government—especially in its role in collecting huge taxes and spending the large sums that it earns on various welfare, people-centric, and even defence projects—influences the activities of corporations enormously. Besides, in the modern economies, as a producer the State itself has a significant stake in several utilities and environmental activities. In such a situation, it is very likely that the pursuit of private profit will not truly be productive for the public good.

Another criticism of the stockholder theory is based on a false analogy. It goes like this: if governments of democratic societies have a moral justification to spend the taxpayer's money for promoting the common welfare of people without taking their consent, then, it might mean, by inference, that businesses are also justified in carrying out social welfare activities without the consent of the shareholders. But then, this is based on a wrong and far-fetched assumption. The very objective of a government, apart from providing political governance, is to provide some basic utility services and also to ensure that the lot of the poor is improved over a period of time. Undertaking welfare measures is one of the generic functions of a government and on occasions such as natural calamities such as earthquakes, floods, tsunamis, etc., this may be the most important cause for its existence. Moreover, governments get a mandate from their electors to go ahead with the public welfare activities on the basis of promises made by political parties in their manifestos. However, in the case of a business organization, promoting social welfare is only incidental to its major function of increasing the profit of the company so as to enhance the long-term shareholder value. They give no undertaking to any shareholder that they would promote public welfare activities when they are formed. In recent times, many socially conscious companies such as Infosys, Dr. Reddy's Labs and Tata Steel do seek and get the approval of their shareholders to spend a part of their profit on social welfare activities.



#### Case Study: The U.S. Opioid Epidemic

##### Introduction

The United States is in the midst of one of its most serious drug crises in history. More than 1,300 individuals die each week from opioid overdoses, a number that has risen dramatically across the country in the wake of the COVID-19 outbreak. Meanwhile, millions more Americans are addicted to opioids. The situation has grown to the point where it is a burden on the economy and a national security danger.

Analysts believe the problem began with overprescribing legal painkillers, but it has gotten worse in recent years thanks to a flood of cheap heroin and synthetic opioids like fentanyl supplied by foreign-based drug gangs.

The US government has increased efforts in recent years to reduce both international and domestic opioid supply, reducing the number of prescriptions in the US while offering counternarcotics assistance to nations such as Mexico and China. Meanwhile, federal and state officials have sought to curb demand by concentrating on treatment rather than punishment for drug addicts. Other nations, such as Australia and Canada, where opioid usage has also increased, are experimenting with various measures.

#### **What are the causes of this epidemic?**

Many health experts blame the high death toll on years of overprescribing by doctors, according to them. Doctors began prescribing more opioids in response to rising concerns that pain was being undertreated, as well as pharmaceutical firms' increased marketing of the medications while maintaining they carried minimal danger. Patients have requested opioid medications, and other treatments, such as physical therapy or acupuncture, are often more expensive or less accessible. Health-care providers have reported feeling pressured to prescribe opioid medications rather than alternatives, such as physical therapy or acupuncture.

(adapted from Felter, C. (2021, July 20). *The U.S. Opioid Epidemic*. Retrieved August 17, 2021, from cfr.org: <https://www.cfr.org/backgrounders/us-opioid-epidemic>)

### **Stakeholder Theory and Its Application In Business Context**

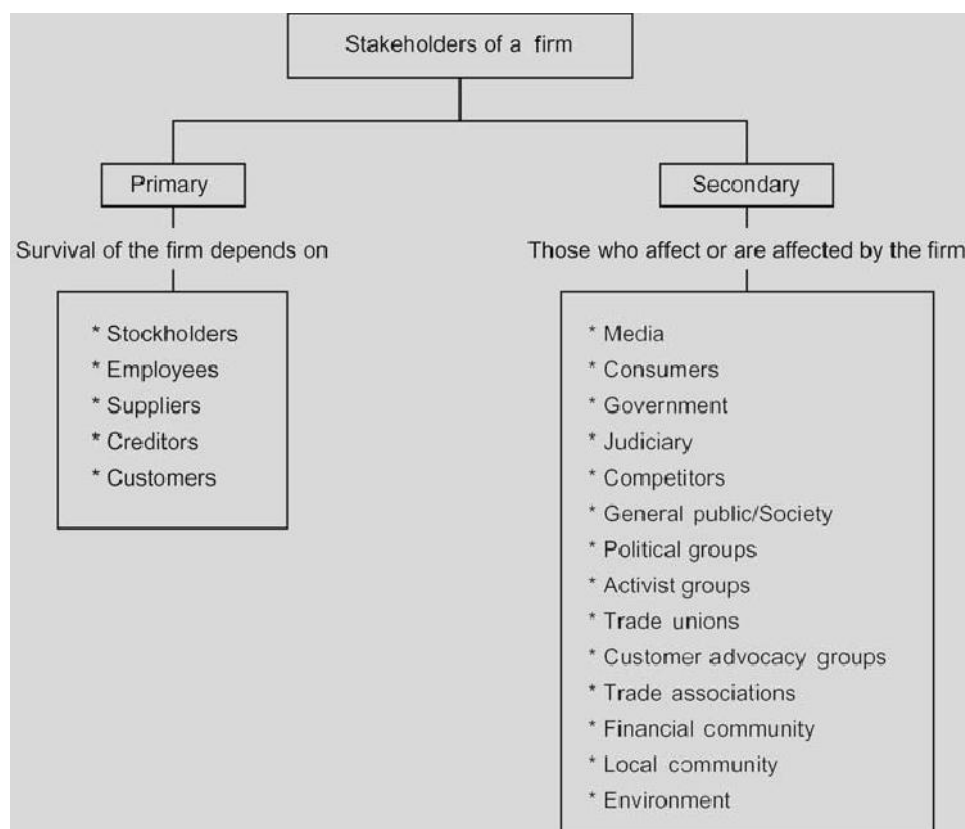
The stakeholder theory of business ethics has a lengthy history that dates back to 1930s. The theory represents a synthesis of economics, behavioural science, business ethics and the stakeholder concept. The history and the range of disciplines that the theory draws upon have led to a large and diverse literature on stakeholders.

In essence, the theory considers the firm as an input-output model by explicitly adding all interest groups – employees, customers, dealers, government, and the society at large – to the corporate mix. Figure 4.3 illustrates the different kinds of stakeholders.

The theory is grounded in many normative theoretical perspectives including ethics of care, ethics of fiduciary relationships, social contract theory, theory of property rights, theory of the stakeholders as investors, communitarian ethics, critical theory, etc. While it is possible to develop stakeholder analysis from a variety of theoretical perspectives, in practice much of the stakeholder analysis does not firmly or explicitly root itself in a given theoretical tradition, but rather operates at the level of individual principles and norms for which it provides little formal justification. In so far as stakeholder approaches uphold responsibilities to non-shareholder groups, they tend to be in some tension with the Anglo-American model of corporate governance, which generally emphasizes the primacy of 'fiduciary obligations' owed to shareholders over any stakeholder claims.

However, the stakeholder theory unfortunately carries some sort of an unclear label since it is used to refer to both an empirical theory of management and a normative theory of business ethics, often intermixed and without distinguishing one from the other. In this theory, the stakeholder is defined as anyone who has a claim or stake in a firm. In a wider sense, a stakeholder will mean any individual or group who can affect or is affected by the corporation. Interpreted narrowly, stakeholders would mean 'those groups who are vital to the survival and success of the corporation.' In its empirical form, therefore, the stakeholder theory argues that a corporate's success in the market place can best be assured by catering to the interests of all its stakeholders, namely, shareholders, customers, employees, suppliers, management and the local community. To achieve its objective, the corporation would have to adopt policies that would ensure 'the optimal balance among them'.





**Figure 4.3 Stakeholders of an Organization**

As a normative theory, the stakeholder theory stresses that regardless of the fact whether the management achieves improved financial performance or not, managers should promote the interests of all stakeholders. It considers a firm as an instrument for coordinating stakeholder interests and considers managers as having a fiduciary responsibility not merely to the shareholders, but to all of them. They are expected to give equal consideration to the interests of all stakeholders. While doing so, if conflicts of interests arise, managers should aim at optimum balance among them. Managers in such a situation may be even obliged to partially sacrifice the interests of shareholders to those of other stakeholders. Therefore, in its normative form, the theory does assert that corporations do have social responsibilities.

A serious reading of the theory will show that a manager's fundamental obligation is not to maximize the firm's profitability, but to ensure its very survival by balancing the conflicting claims of its multiple stakeholders. There are two principles that guide corporations to comply with this requirement. According to the first, called the principle of corporate legitimacy, 'the corporation should be managed for the benefit of its stakeholders: its customers, suppliers, owners, employees and the local communities. The rights of these groups must be ensured and, further, the groups must participate, in some sense, in decisions that substantially affect their welfare'. The second principle, known as the stakeholder fiduciary principle, asserts that 'management bears a fiduciary relationship to stockholders and to the corporation as an abstract entity. It must act in the interests of stakeholders as their agent, and it must act in the interests of the corporation to ensure the survival of the firm, safeguarding the long term stakes of each group'.

The stakeholder theory has received a wide acceptance among ethicists, perhaps due to the fact that the theory seems to accord well with many people's moral intuitions, and, to some extent, it may simply be a spillover effect of the high regard in which the empirical version of the stakeholder theory is held as a theory of management'.<sup>28</sup> However, the theory is not beyond reproach and criticism. It has been subject to many criticisms on many perfectly valid grounds.

### Criticism of the Stakeholder Theory

The stakeholder theory is often criticized, more often than not as 'woolly minded liberalism', mainly because it is not applicable in practice by corporations. Another cause for criticism is that there is

comparatively little empirical evidence to suggest a linkage between stakeholder concept and corporate performance. But there are considerable theoretical arguments favouring promotion of stakeholders' interests. Managers accomplish their organizational tasks as efficiently as possible by drawing on stakeholders as a resource. This is in effect a 'contract' between the two, and one that must be equitable in order for both parties to benefit.

The major problem with the stakeholder theory stems from the difficulty of defining the concept. Who really constitutes a genuine stakeholder? There is an expansive list suggested by authors, ranging from the most bizarre to include terrorists, dogs and trees, to the least questionable such as employees and customers.

Some writers have suggested that any one negatively affected by corporate actions might reasonably be included as stakeholder, and across the world this might include political prisoners, abused children, minorities and the homeless. However, a more seriously conceived and yet contested list of stakeholders would generally include employees, customers, suppliers, the government, the community, assorted activist or pressure groups, and of course, shareholders. Some writers of the theory opine that where there are too many stakeholders, it is better to categorize them as primary and secondary stakeholders 'in order to clarify and ease the burden it places upon directors'. Clive Smallman says: 'The case for including both the serious claimants and the more flippant are rooted in business ethics, in managerial morality and in best practice in business strategy.' Moreover, in his opinion, though the inclusion of a large number of claimants may be well-intentioned, it may not be practical for corporate managers to cater to such a large number of stakeholders.

It is also argued further that the 'intent of the theory is better achieved by relying on the hand of management to deliver social benefit where it is required' rather than suggesting a wide range and diversity of stakeholders to cater to. In modern corporations, stockholders are too many and scattered to wield any effective control over them. Hence, they delegate the powers of decision making and execution to their agents, salaried managers through the Board of Directors. The agency model specifies mechanisms which reduce agency loss, i.e., the extent to which shareholders are put to loss when the decisions and actions of agents differ from what they themselves would have done in similar situations.

In the assessment of Clive Smallman 'The stakeholder model also stands accused of opening up a path to corruption and chaos; since it offers agents the opportunity to divert wealth away from shareholders to others, and so goes against the fiduciary obligations owed to shareholders (a misappropriation of resources)'.

Thus, the stakeholder model of corporate governance leads to corrupt practices in the hands of management with a wide option (because of too many stakeholders) and also to chaos, as it does not differ much from the agency model, while increasing exponentially the number of principals the agents have to tackle.

The stakeholder theory also can be criticized on the ground that it extends the rights of stakeholders far too much. To draw ethical conclusions from observations of the state of law is as dangerous as to assume that what is legally required should be ethically justifiable. Moreover, to assume that all stakeholders who are impacted by a contract have a moral right to bargain about the distribution of its effects may also lead to an inference that they have a right to participate in the decision making process of business as well, which is absurd.

#### **4.11 Meaning Of Social Contract Theory and Its Application In Business Context**

The social contract theory is one of the nascent and evolving normative theories of business ethics. It is closely related to a number of other theories. In its most acknowledged form, the social contract theory stresses that all businesses are ethically duty bound to increase the welfare of the society by catering to the needs of the consumers and employees without in any way endangering the principles of natural justice. The social contract theory is based on the principles of 'social contract' wherein it is assumed that there is an implicit agreement between the society and any created entity such as a business unit, in which the society recognizes the existence of a condition that it will serve the interest of the society in certain specified ways. The theory is drawn from the models of the political-social contract theories enunciated by thinkers like Thomas Hobbes, John Locke and Jean Jacques Rousseau. All these political philosophers tried to find an answer for a hypothetical

situations as to what life would be in a society in the absence of a government and tried to provide an answer by imagining situations of what it might have been for citizens to agree to form one. 'The obligations of the government towards its citizens were then derived from the terms of the agreement.' As in normative theory of business ethics, the social contract theory draws much from the averments of these political thinkers. The social contract theory adopts the same approach as the one adopted by the political theories towards deriving the social responsibilities of a business firm. The theory assumes a kind of society that is bereft of any complex business organization such as the ones we have today. It will be a 'state of individual production'. They go on to pose such questions as 'what conditions would have to be met for members of such a society to agree to allow such businesses to be formed?' The moral obligations of business towards individual members of society are then drawn from the terms of such an implicit agreement between the two. Therefore, the social contract theory is based on an assumed contract between businesses and members of the society who grant them the right to exist in return for certain specified benefits that would accrue to them. These benefits are a result of the functioning of these businesses, both for their own sake and for that of the larger society.

When members of the society give the firms legal recognition, the right to exist, engage them in any economic activity and earn profit by using the society's resources such as land, raw materials and skilled labour, it obviously implies that the firms owe an obligation to the society. This would imply that business organizations are expected to create wealth by producing goods and services, generate incomes by providing employment opportunities, and enhance social welfare. The concept of 'social welfare' implies that the members of the society are interested to authorize the establishment of a business firm only if they gain some advantage by doing so. Such gains occur to them in two distinct ways, namely, as consumers and employees. As consumers, members of the society benefit from the establishment of business firms at least in three ways: (i) business firms provide increased economic efficiency. This they do by enhancing the advantages of specialization, improving decision making resources and increasing the capacity to acquire and utilize expensive technology and resources; and (ii) business firms offer stable levels of production and channels of distribution; and (iii) business firms also provide increased liability resources, which could be used to compensate consumers adversely affected by their products and services. As employees, people are assured by 'business firms of income potential, diffused personal legal liability for harmful errors, and income allocation schemes'.

However, business firms do not provide an unmixed blessing. The interests of the public as consumers can be adversely affected by business firms when they deplete the non-replenishable natural resources, pollute the environment and poison water bodies, help to reduce the personal accountability of its members and misuse political power through their money power and acquired clout. Likewise, the interests of the public as employees can be adversely affected by their alienation from the product of their own labour, by being treated as mere cogs in the wheels of production, being made to suffer from lack of control over their working conditions and being subjected to monotonously boring, sometimes damaging and dehumanizing working conditions.

Taking into account these respective advantages and disadvantages, business firms are likely to produce the social welfare element of 'social contract' and enjoin that business firms should act in such a manner so as to

1. benefit consumers to enable them reach maximization of their wants;
2. benefit employees to enable them secure high incomes and other benefits that accrue by means of employment; and
3. ensure that pollution is avoided, natural resources are not fast depleted and workers' interests are protected.

From the justices' point of view, the social contract theory recognizes that members of the society authorize the establishment of business firms on condition that they agree to function 'within the bounds of general canons of justice'. Though what these canons of justice mean is not yet a settled issue, there is a general understanding that these canons require that business firms 'avoid fraud and deception . . . show respect for their workers as human beings, and . . . avoid any practice that systematically worsens the situation of a given group in society'.

It can be summarized from the above arguments that the social contract theory upholds the view that managers are ethically obliged to abide by both the 'social welfare' and 'justice' provisions of the social contract. If fully understood, these provisions impose significant social responsibilities on the managers of corporations.

### **Criticism of Social Contract Theory**

The social contract theory, like the other normative theories of business ethics, is subject to many criticisms. Critics argue that the so-called 'social contract' is no contract at all. Legally speaking, a contract is an 'agreement between two or more persons which is legally enforceable provided certain conditions are observed. It normally takes the form of one person's promise to do something in consideration of the other's agreeing to do or suffer something else in return'. A contract implies a meeting of minds, which does not exist in the so-called social contract. Social contract is neither an explicit nor implicit contract. Those who enter into a business do so merely by following the legal procedures that are necessary under the law of the land and would be shocked if they were told that while doing so, they had entered into a contract to serve the interest of the society in ways that are not specified in the law and that it would have a substantial impact on the profitability of the firm. Therefore, where there is neither a meeting of the mind nor an understanding of the implications of what goes when one gets into a contract, the social contract is more of a fiction than a true contract.

But the proponents of the social contract theory are not unduly put off by such harsh criticisms. They concur with the view of the critics that the core theme of the theory namely, social contract is indeed a fictional or hypothetical contract and proceeds further to state that this is exactly what is needed to identify managers' ethical obligations.

In the words of Thomas Donaldson 'If the contract were something other than a 'fiction', it would be inadequate for the purpose at hand; namely revealing the normal foundations of productive organizations'.

According to social contract theorists, the moral force of the social contract is not derived from the consent of the parties. However, in their view 'productive organizations should behave as if they had struck a deal, the kind of deal that would be acceptable to free, informed parties acting from positions of equal moral authority. . . .'

### **Summary**

- There are five theories of business ethics: Utilitarianism Theory, Kantian Rights Theory, Stockholder theory, Stakeholder theory, and Social Contract theory
- Utilitarianism theory is based upon providing greatest benefit to greatest number. The theory has lots of application in business, economics etc.
- Kantianism Rights theory is based upon respecting the moral rights of others.
- The moral rights of others are based upon first categorical imperative of Universalizability and Reversibility.
- The second categorical imperative is respecting humanity, never treating humans as means but as an end
- The stockholder theory is based upon following the dictates of stockholders/shareholders
- The stakeholder theory is based upon fulfilling the needs of all stakeholders of the business
- The social contract theory is based upon the implicit social contract that a business has with society, taking care of the society in return for a right given by society to operate

### **Keywords**

Theories of business ethics, Utilitarianism, Kantianism, Stockholder approach, Stakeholder approach, Social Contract Theory

### **Self Assessment**

1. Ethics really boils down to a cost-benefit analysis.
  - A. Ethical Relativism
  - B. Virtue Ethics

- C. Utilitarianism
  - D. Deontology
2. What are ethical theories?
- A. Ethical theories are conduct that should be followed in order to have good ethical practice
  - B. Ethical theories are the rules and principles that determine right and wrong for any given situation
  - C. Ethical theories are ancient hypothesis' on how to create good business practice
  - D. Ethical theories give guidelines on how to achieve a good corporate image
3. Which of the following reasons accounts for utilitarianism's dominance among policy makers and administrators?
- A. It seems obvious that policy questions should be judged by results and consequences.
  - B. Policy experts at all levels are focused on results and getting things done.
  - C. Efficiency is simply another word for maximizing happiness.
  - D. All of the above.
4. Deontological theories define right action in terms of:
- a. their consequences.
  - b. moral rules.
  - c. the virtuous agent.
  - d. God's will.
5. Which ethical theory was supported by Immanuel Kant?
- A. Ethical Relativism
  - B. Virtue Ethics
  - C. Utilitarianism
  - D. Deontology
6. One should only perform actions whose maxims can be universalized.
- A. Ethical Relativism
  - B. Virtue Ethics
  - C. Utilitarianism
  - D. Deontology
7. The Stockholder theory of Business Ethics is also known as Shareholder theory of Business Ethics
- A. True
  - B. False
8. The limitation of shareholder theory of business ethics is that shareholders might not judge accurately what is in their best long-term interest.
- A. True
  - B. False

9. There is no fiduciary relationship between managers and shareholders that binds the managers to act as per the dictates of the shareholders.
- A. True
  - B. False
10. What is the main characteristic of the stakeholder approach?
- A. The idea that many different groups have a legitimate interest in the corporation
  - B. It is a critical perspective on corporations and business
  - C. A focus on social and environmental responsibilities of a corporation
  - D. The assumption that shareholders are not the main stakeholders in the corporation
11. Employees are secondary stakeholders of a firm
- A. True
  - B. False
12. The limitation of stakeholders' theory of business ethics is that it extends the rights of stakeholders far too much.
- A. True
  - B. False
13. The limitation of the social contract theory of business ethics is that the contract is implicit in nature and hence no contract at all.
- A. True
  - B. False
14. Consumers vote against firms they view as socially irresponsible by not
- A. boycotting the company's products
  - B. expressing dissatisfaction by protesting
  - C. writing their representatives in Congress
  - D. buying the company's products
15. Studies have found a direct link between social responsibility and \_\_\_\_\_ in business
- A. Profitability.
  - B. Ethics.
  - C. Declining stock prices.
  - D. Happiness of stakeholders

### Answers for Self Assessment

1. C      2. B      3. D      4. B      5. D

6. D      7. A      8. A      9. B      10. A
11. B      12. A      13. A      14. D      15. A

### **Review Questions**

1. Discuss the significance of business ethical theories
2. Illustrate with example an application of Utilitarianism theory of business ethics
3. Discuss the meaning and application of Kantianism Rights theory of business ethics
4. Criticize the Utilitarianism theory of business ethics by pointing out the difference between Utilitarianism and Kantian Rights Theory
5. Discuss the limitation of Stockholder theory of business ethics
6. Illustrate the application of Stakeholder theory of business ethics
7. What is Social Contract Theory of business ethics? Illustrate the application of theory and comment upon the limitation(s) of this theory.



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**Unit 05: Decision Making Moral Reasoning and Its Application****CONTENTS**

Objectives

Introduction

- 5.1 Essence of Decision Making
- 5.2 Intention or Inner Decision
- 5.3 Relationship of Intention, Action, Morality, and Law
- 5.4 Ethical Decision Making Process
- 5.5 Ethical Principles in Business
- 5.6 Integrating Utility, Rights, Justice, and Caring
- 5.7 Classification of Decision Making
- 5.8 Brief Synopsis of Normative Principles
- 5.9 Kohlberg Moral Development Model

Summary

Keywords

Self Assessment

Answers for Self Assessment

Review Questions

Further Readings

**Objectives**

After studying this unit, you will be able to:

- Identify the essence of decision making
- Discuss decision making classification
- Discuss the process of decision making
- Understand and analyze the Kohlberg moral development model

**Introduction**

A manager is defined as a decision maker of the area he/she handles. A corporation too is known to make organizational decisions. Irrespective of whether the decision maker is an individual or an organization, decisions are important and without decisions nothing worthwhile is possible.

Reasoning precedes decision. A decision is arrived at after a rigorous thinking process. As in logic—the science of reasoning the conclusions are arrived at after making deductions from the given principles or inductions from a hypotheses—so too in a decision-making process, one must submit to the laws of reason.

The definition of decision and the complexity of decision making are so enormous that distinguished philosophers fail in their efforts to clarify the meaning and apply it to the different categories of human thoughts and actions, relationships, times and circumstances, situations, levels of understanding, cultural backgrounds, languages, interpretations, professional areas, and laws.



Philosophers such as Immanuel Kant, whose teachings have been integrated in this book, have tried their best to explain conceptually, through the theories of the mind, the epistemological character of decision making and the nature of the practical judgments. Psychologists such as Lawrence Kohlberg have carefully and scientifically observed and researched human behaviour in terms of psychological development and the nature of decision making, and their bearing on the moral nature of man. The best minds in quantum studies, such as Roger Penrose, Shelby D. Hunt, and Scott J. Vitell, have tried to map the processes of the mind in decision making.

One may know all the theories, qualitative or quantitative, but that does not ensure one to be moral. Morality lies in its practice and not theory. In essence, a manager is an employee and it is important for him/her to know what his/her brief is. Theories are fine, but guidelines to clear actions are helpful for the manager in performing his/her tasks. One does not expect the manager to sit down and rigorously go through the Hunt-Vitell theory of decision making or the Kantian morality in all its categories. The manager needs a clear code of conduct.

## **5.1 Essence of Decision Making**

People love mathematics, quantum theories, and equations and think that if they can get hold of an equation, they could solve problems as scientifically and as precisely as theoretical physics. There is no harm in such scientific pursuits, and this should be truly recommended and encouraged. However, problems arise when we start to quantify even those things that are not the subject of quantification. Even psychologists and social scientists who make qualitative judgments get attracted to equations because they too want to solve the problems in their field scientifically and precisely and thus avoid personal risks and responsibilities. Decision making is a very specialized science today and predictions on possibilities, probabilities, and uncertainties are carried out in elaborate equations. Managers and students are very often led to arbitrate themselves to quantitative measures in decision making.

Decision making is purely a qualitative affair. Here, we deal with unquantifiable mental processes. While evolving both naturally and socially, human beings developed a special faculty called reason. It makes human beings, who are otherwise animals biologically, intelligent beings. On one hand, they have very strong likes and dislikes and would like to have all their wants and desires fulfilled, and the controller or the director or the manager of their desires is their will. On the other hand, in order to achieve what they want, they utilize their intelligence to gather as much information and knowledge as possible about what they want, and the controller or the director or the manager of these activities is called the intellect. Based on the information supplied by the intellect, the will makes the final decision. This inner decision, which is not yet actualized externally, is called intention or the motive of action.

## **5.2 Intention or Inner Decision**

Intention is the mind of a person. Intention is what you make up your mind to do and have not yet done, but circumstances permitting you will materialize your intention. To make up your mind is another clear phrase that describes decision making.

Intention determines the morality of an action. This may be illustrated in the following way. You have found something very valuable in your neighbor's house and the only way you can have it is by stealing it. You decide to do it. You break into the house in the dead of the night, but there is a burglar in there already! Your activity of breaking in awakens the household. So now, you help your neighbor to nab the burglar! As a result of the changed circumstances and your smart posing, you become a good neighbour who has come to the rescue!

In your heart of hearts, you know that you are a robber who unwittingly became a good Samaritan, or someone who helps his neighbour. Your good qualities are praised in the entire neighbourhood and you become a role model in society. The news is in the dailies of the city you live in and you become popular. Yet, you know within yourself that you are not what others perceive you to be.

Intention is the core reality of morality. People who follow the principle of 'the means must justify the ends' often reveal their true self or intentions as they really are. The objectives and actions of those managers whose intentions are transparent are always consistent. If the organization realizes that the manager's intentions are good and clear, the consequences whether positive or negative will have little bearing. Clear intentions establish the conduct of a good leader.

### 5.3 Relationship of Intention, Action, Morality, and Law

From our discussion above, it should be clear that while intention is directly and irrevocably connected with morality, the law, at least to begin with, is directly related to action. A court of law judges the actions. For example, when the law investigates a murder case, the law tries to determine the intention or motive for which the murder was committed—whether it was a conspiracy, whether it was in a fit of anger, or whether the gun was fired accidentally. Thus, although the law begins by considering the action, it ends with finding out the intention of the deed so that a just sentence is passed.

Therefore, both legally and morally, intention determines the nature of an action. Intention is the essence of being human, a person who is made up of the will and the Intellect. Without intention, there is no identifiable person. Intention is the identity of the person on to whom a definite responsibility may be fixed.

### 5.4 Ethical Decision Making Process

The Santa Clara University has given following framework for ethical decision making

#### Step 1: Identify the Ethical Issues

1. Could this action or scenario be harmful to someone or a group of people, or benefit people in an unequal way? Is this a selection between a good and bad option, or between two "goods" or two "bads"?
2. Is this a matter of more than just what's legal or what's the most efficient? If so, how would you go about doing it?

#### Step 2: Get the Facts

3. What are the case's important facts? What are the unknown facts? Is it possible for me to understand more about the situation? Do I have enough information to make a decision?
4. What people and organisations have a vested interest in the outcome? Is it true that certain issues are more essential than others? Why?
5. What are your acting options? Have you consulted all of the relevant people and groups? Have I come up with any innovative ideas?

#### Step 3: Evaluate Alternative Actions

6. Consider the following questions as you weigh your options:
  - Which approach best protects the rights of all parties involved? (Through the Rights Lens)
  - Which option treats people properly and gives them what they deserve? (The Justice Lens)
  - Which choice will achieve the greatest good while causing the least amount of harm to the most people? (Using the utilitarian lens)
  - Which option better benefits the community as a whole, rather than just a few individuals? (The Common Good Lens)
  - Which choice encourages me to act as the kind of person I want to be? (Through the Virtue Lens)

#### Step 4: Choose an Option for Action and Test It

7. Which solution best handles the circumstance after an examination utilising all of these lenses?

8. What would someone I respect (or a public audience) say if I told them which choice I chose?
9. How can I ensure that my choice is executed with the utmost care and consideration for all stakeholders' concerns?

#### **Step 5: Implement Your Decision and Reflect on the Outcome**

10. What happened as a result of my decision, and what did I learn from it? What (if any) additional steps should I take?

## **5.5 Ethical Principles in Business**

What foundation can we use to differentiate between right and wrong, good and evil, if our ethical decisions are not entirely based on feelings, religion, legislation, recognized social practices, or science? Many philosophers, ethicists, and theologians have contributed to our understanding of this important subject. They have proposed a number of distinct lenses to assist us in perceiving various ethical elements.

Here are five of them:

### **The Rights Perspective**

Some argue that the ethical course of action is the one that most protects and respects affected people's moral rights. This perspective begins with the concept that persons have dignity based on their inherent human nature or their ability to freely choose what to do with their life. Humans have the right to be considered as ends in themselves, not only as means to other objectives, based on their dignity. The list of moral rights—which includes the rights to make one's own decisions about what sort of life to live, to be told the truth, to not be damaged, to a certain degree of privacy, and so on—is hotly discussed; others say that non-humans, too, have rights.

Rights are frequently seen as entail responsibilities, particularly the obligation to respect the rights and dignity of others.

### **The Justice Perspective**

The concept of justice is that each individual should be given their due, which is sometimes viewed as fair or equal treatment. Equal treatment means that people should be treated equally based on some defensible standard, such as merit or need, but it does not mean that everyone should be treated the same in every way. Different types of justice address what people are owed in different situations. Social justice (the structuring of society's basic institutions), distributive justice (the distribution of benefits and burdens), corrective justice (the repair of past injustices), retributive justice (the determination of how to appropriately punish wrongdoers), and restorative or transformational justice are some of these (restoring relationships or transforming social structures as an alternative to criminal punishment).

### **The Utilitarian Perspective**

Some ethicists begin by asking "How will this action influence everyone affected?"—emphasizing the ramifications of our choices. The ethical action, according to utilitarianism, is the one that generates the greatest balance of benefit over harm for as many stakeholders as feasible. It necessitates a precise assessment of the likelihood of a certain outcome and its implications. Customers, workers, shareholders, the community, and the environment, for example, the ethical business activity is the one that provides the greatest benefit while causing the least harm. Another consequentialist technique is cost-benefit analysis.

### **The Virtuous Perspective**

According to an ancient ethical perspective, ethical activities should be congruent with certain ideal virtues that allow us to fully develop our humanity. These virtues are dispositions and habits that enable us to act in accordance with our character's best potential and in support of ideals such as truth and beauty. Virtues include honesty, courage, compassion, generosity, tolerance, love, faithfulness, integrity, fairness, self-control, and prudence. "What type of person will I become if I

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*Unit 05: Decision Making Moral Reasoning and its Application*

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do this?" or "Is this activity compatible with my performing at my best?" asks virtue ethics of each action.

### **The Ethics of Care Perspective**

Rather than just following rules or calculating utility, care ethics is based on relationships and the need to listen and respond to persons in their unique situations. It stresses relationship above independence and prioritizes the flourishing of embodied persons in their interactions. It employs caring, love, compassion, generosity, and a concern for others to settle ethical disputes, relying on empathy to get a thorough awareness of each stakeholder's interests, feelings, and opinions. According to care ethics, settlements alternatives must take into account all stakeholders' connections, concerns, and feelings. An ethics of care might advocate, for example, a more holistic approach to public health policy that considers food security, transportation access, fair wages, housing support, and environmental protection alongside physical health, by focusing on connecting intimate interpersonal duties to societal duties.

## **5.6 Integrating Utility, Rights, Justice, and Caring**

Utilitarian standards are appropriate when decisions involve limited but valuable resources that can be used in many different ways. In such cases, it is important to avoid wasting the resources we have and so we are forced to consider the benefits and costs of deciding to use them in one way rather than another, and to identify the decision that will use them in the most beneficial way. When we try to make these kinds of utilitarian decisions we have to rely on measurements, estimates, and comparisons of the relevant benefits and costs involved. Such measurements, estimates, and comparisons constitute the information on which the utilitarian moral judgment is based.

Our moral judgments are also partially based on standards that specify how individuals must be treated or respected. These sorts of standards must be employed when the actions we choose are likely to affect people's positive or negative rights. When choosing whether to carry out such actions, our moral reasoning must identify the rights of the people our actions will affect, the agreements or expectations that are in place and that impose special obligations on us, and whether our actions treat everyone affected as free and rational persons. This, in turn, requires that we have adequate information concerning how our actions will impact the people involved; how informed they are about what will happen to them; whether any force, coercion, manipulation, or deception will be used on them; and what agreements we have made with them or what legitimate expectations they may have of us.

Third, our moral judgments are also in part based on standards of justice that indicate how benefits and burdens should be distributed among the members of a group. These sorts of standards must be employed when evaluating various actions that could have very different distributive effects. The moral reasoning on which such judgments are based will incorporate considerations concerning whether the behavior distributes benefits and burdens equally or in accordance with the needs, abilities, contributions, and free choices of people as well as the extent of their wrongdoing. In turn, these sorts of considerations rely on comparisons of the benefits and burdens going to different groups (or individuals) and comparisons of their relative needs, efforts, and contributions.

Fourth, our moral judgments are also based on standards of caring that indicate the kind of care that is owed to those with whom we have special concrete and valued relationships. Standards of caring are essential when our moral decisions involve persons with whom we have personal relationships, particularly relationships of dependency. Moral reasoning that invokes standards of caring will incorporate information about the particular characteristics and needs of those persons with whom one has a concrete relationship, the nature of one's relationships with those persons, the forms of caring and partiality that are called for by those relationships, and the kind of actions that are needed to sustain those relationships.

Our morality, then, contains these four kinds of basic moral considerations, each of which emphasizes certain morally important aspects of our behavior, but no one of which captures all the factors that must be taken into account in making moral judgments. Utilitarian standards consider only the aggregate social welfare, but ignore the way that welfare is distributed as well as the moral claims of individuals. Moral rights consider the individual but discount both aggregate well-being and distributive considerations. Standards of justice consider distributive issues, but they ignore aggregate social welfare and the individual as such. Although standards of caring consider the partiality that must be shown to those close to us, they ignore the demands of impartiality.

These four kinds of moral considerations do not seem to be reducible to each other, yet all seem to be necessary parts of our morality. That is, there are some moral problems for which utilitarian considerations are appropriate. For other problems, the decisive considerations are the rights of individuals or the justice of the distributions involved or how those close to us should be cared for. This suggests that moral reasoning should incorporate all four kinds of moral considerations, although only one or the other may turn out to be relevant or decisive in a particular situation. One simple strategy for ensuring that all four kinds of considerations are incorporated into our moral reasoning is to inquire systematically into the utility, rights, justice, and caring issues that are raised by the situation about which we are making a moral judgment. We might, for example, ask a series of questions about an action that we are considering: (a) Does the action, as far as possible, maximize benefits and minimize harms? (b) Is the action consistent with the moral rights of those whom it will affect? (c) Will the action lead to a just distribution of benefits and burdens? (d) Does the action exhibit appropriate care for the well-being of those who are closely related to or dependent on us?

Bringing together different moral standards in this way, however, requires that we keep in mind how they relate to each other. As we have seen, moral rights identify areas in which other people generally may not interfere even if they can show that they would derive greater benefits from such interference. Generally speaking, therefore, standards concerned with moral rights have greater weight than either utilitarian standards or standards of justice. Similarly, standards of justice are generally accorded greater weight than utilitarian considerations. And standards of caring seem to be given greater weight than principles of impartiality in those situations that involve close relationships (such as family and friends) and privately owned resources.

But these relationships hold only in general. If a certain action (or policy or institution) promises to generate sufficiently large social benefits or prevent sufficiently large social harms, the enormity of these utilitarian consequences may justify limited infringements on the rights of some individuals. Sufficiently large social costs and benefits may also be significant enough to justify limited departures from standards of justice. The correction of large and widespread injustices may be important enough to justify limited infringements on some individual rights. When a large injustice or large violation of rights, or even large social harms, are at stake, the demands of caring may have to give way to the demands of impartiality.

At this time, we have no comprehensive moral theory capable of determining precisely when utilitarian considerations become "sufficiently large" enough to outweigh limited infringements on a conflicting right, a standard of justice, or the demands of caring. Nor can we provide a universal rule that will tell us when considerations of justice become "important enough" to outweigh infringements on conflicting rights or on the demands of caring. Moral philosophers have been unable to agree on any absolute rules for making such judgments. However, there are some rough criteria that can guide us in these matters. Suppose, for example, that only by invading my employees' right to privacy (with hidden cameras and legal on-the-job phone taps), will I be able to stop the continuing theft of several life-saving drugs that some of them are clearly stealing. How can I determine whether the utilitarian benefits here are sufficiently large to justify infringing on their right to privacy? First, I might ask whether the *kinds* of utilitarian values involved are clearly more important than the *kinds* of values protected by the right (or distributed by the standard of justice). The utilitarian benefits in the present example include the saving of human life, whereas the right to privacy protects (let us suppose) the values of freedom from shame and blackmail and freedom to live one's life as one chooses. Considering this, I might decide that human life is clearly the more important kind of value because without life, freedom has little value. Second, I might then ask whether securing the more important kind of value will, in this situation, affect the interests of more (or fewer) people than would be affected by securing the less important kind of value. For example, because the recovered drugs will (we assume) save several hundred lives, whereas the invasion of privacy will affect only a dozen people, securing the utilitarian values will affect the interests of substantially more people. Third, I can ask whether the actual injuries sustained by the persons whose rights are violated (or to whom an injustice is done) will be large or small. For example, suppose that I can ensure that my employees suffer no shame, blackmail, or restriction on their freedom as a result of my uncovering information about their private lives (I intend to destroy all such information), then their injuries will be relatively small. Fourth, I can ask whether the potential breakdown in trusting relationships that surveillance risks is more or less important than the theft of life-saving resources. Let us suppose, for example, that the potential harm that surveillance will inflict on employee relationships of trust is not large. Then, it would appear that my invasion of the privacy of employees is justified.

Hence, there are rough and intuitive criteria that can guide our thinking when it appears that, in a certain situation, utilitarian considerations might be sufficiently important to override conflicting rights, standards of justice, or the demands of caring. Similar criteria can be used to determine whether, in a certain situation, considerations of justice should override an individual's rights, or when the demands of caring are more or less significant than the requirements of justice. However, these criteria remain rough and intuitive. They lie at the edges of the light that ethics can shed on moral reasoning.

## 5.7 Classification of Decision Making

Very often, the science of decision making is lost amidst a plethora of theories. It is important, therefore, to classify the significant theories so that under a given subject we know exactly what type of decision-making theory to apply. Figure 5.1 shows a classification that is easy to follow. Decision-making theories are classified under normative and descriptive theories.

### Normative model

A normative theory, as it clearly suggests is founded on the basic assumptions, which in this case, we call axioms. An axiom is an assumed guiding principle or mean or maxim, which we accept as a norm or a standard to function for a purpose. 'Do unto others as you would have them do unto you' is considered as the golden mean in normative theory. Normative theory deals with ethical human behaviour. Classical economics, statistics, the science of classes and sets, politics, political economy, and the practice of game theory, whether considered for an individual or a group or a corporate behaviour, are all under the guidance of moral maxims. Normative theories are qualitative in nature because the nature of norms is transcendental. Transcendental refers to a priori propositions such that they do not need any empirical reference. These are the general ideas formed by our mind and applied to individual events. The intellectual process involved is deductive

	Individual decision	Group decision
Normative theory (Qualitative)	<ol style="list-style-type: none"> <li>1. Classical economics</li> <li>2. Statistical</li> <li>3. Moral</li> </ol>	<ol style="list-style-type: none"> <li>1. Game</li> <li>2. Welfare economics</li> <li>3. Political</li> </ol>
Descriptive theory (Quantitative)	<ol style="list-style-type: none"> <li>1. Experimental</li> <li>2. Learning</li> <li>3. Surveys of voting behaviour</li> </ol>	<ol style="list-style-type: none"> <li>1. Social psychology</li> <li>2. Political science</li> </ol>

Figure 5.1 Classification of Decision Making

## 5.8 Brief Synopsis of Normative Principles

The term principle or standard is synonymous with value judgment or moral judgment. We have enumerated seven principles. There may be more or less of these standards, depending on how theories are expressed and delineated. One needs to adopt any one of the norms as one's guiding principle. The rest of the principles will adequately express themselves without specific application. Mahatma Gandhi adopted the principle of 'the means should justify the ends', and all other principles aligned with it naturally. Kant's all encompassing maxim 'Act only according to that maxim by which you can at the same time will that it should become a universal law' is applicable universally, irrespective of situations and circumstances. This is the perfect moral direction one looks for when seeking guidance.

**Utility or greatest happiness principle** This is also famously known as utilitarianism and is equally popular among quantitative or descriptive ethicists and researchers in the social, economic, political, and psychological fields. It is utilitarianism and it is a kind of a democratic principle, wherein the good of many is sought. There are liberal and conservative applications of this principle. The liberals stress upon the inclusiveness of this principle while the conservatives are

more worried about the ones that are excluded. In other words, this is a principle that is inherently against its universalization. Finally, the difficulty lies in measuring the pleasure and pain of the people. In spite of the difficulty, this is a very useful and practical norm that people easily adopt as a universal principle. The discipline that studies this principle is known as utilitarianism.

**Right/duty** 'One man's right is another man's duty' explains the complementary nature of this principle. In a society, one's rights are automatically protected when the rights function as imperatives for others to uphold. This interdependent and interrelated principle ensures liberty, equality, and justice in society. It helps enumerate and enshrine these concretely in the constitution of the country and the law upholds the right of individuals and groups without favour or prejudice. The ethics of duty is known as deontology.

**Means and ends** The means of our actions should justify our ends. We want to be happy. That is a worthy end to pursue. But we may not pursue this end by those means that are detrimental to the rights of others. Wanting to have money is not unworthy, but if it is to be acquired by stealing, then it is most unworthy and despicable. This principle also has another characteristic that is not very often spelt out, that is, human dignity is an end in itself and not a means. Kant's maxim 'Act so that you treat humanity, whether in your own person or in that of another always as an end and never as a means' only emphasizes giving human beings the dignity of an end. This is the principle on which human rights are based.

**Justice** The simplest definition of justice is to give what is one's due. In human interaction this simple principle assumes complex proportions, as every area demands justice. Distributive justice is how justly wealth is shared. This is the pillar of economic justice and is the root of socialist revolution. Retributive justice deals with the assignment of merited rewards or punishment. It involves the huge and complex process of judiciary and administration of impartial justice. Compensatory justice is to make up for the loss suffered. War victims may not get complete replacement, yet those who have inflicted affliction would be convicted and the victims will be compensated for. This deals with a healing and reparative process. Caring justice stems from the principle of compassion. It has come to the fore in the face of extreme gaps between the haves and the have-nots. Virtue ethics is a positive form of justice that is very often seen in its negative form as blind, impartial, and devoid of any feeling. The concept of justice is justifiable to every form of argument and it is no surprise that all actions, including the most sinister ones such as war, torture, and human slaughter, are able to attract justification. To avoid all the pitfalls follow the maxim: 'Do unto others as you would have, them do unto you.'

**Conscience** It consists of a purely subjective opinion about what is right or wrong and is, therefore, a technically weak principle. However, it is the most powerful and supremely emotional principle of morality. Leaders such as Martin Luther King Jr. and Nelson Mandela have been the voice of conscience that moved the world and changed it for the better. Conscience may or may not be well formed. The well-formed conscience is able to judge actions for their moral worth; the not well-formed conscience is unable to judge actions for their moral worth. A conscience, which always follows the golden mean, may be judged as well formed.

**Prudence:** Prudence is the management of affairs with commonsense. It may be understood in four ways. First, it is an ability to discipline oneself and govern one's own affairs in the most reasonable way. Second, it is the competence and wisdom to manage a task. Third, it is the skill and judgment of using resources. Fourth, it is the caution exercised and risk foreseen-before arriving at and implementing any decision. All the above descriptions of prudence are not only descriptions of good management principles, but also of good morality. Decision making, risk management, practical use of reason, and self-discipline are what make one a good manager not only morally, but also professionally.

**Stewardship:** It is the role of manager beyond the call of employed duty, to take a keen interest and special responsibilities in the fulfillment of tasks. The concept of stewardship has been contemporarily developed to apply in a special way to the principals or promoters of the firm. It clarifies that ownership does not entitle one to misuse one's resources -or-the-public funds in the money market. The driving force behind corporate governance is the principle of stewardship. Firms are creators and guardians of wealth. Stewardship also extends in a special way to the

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*Unit 05: Decision Making Moral Reasoning and its Application*

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protection of environment. All are endowed with a special responsibility towards the well-being of our planet, the Earth. The principle finds its further expression in every consumer. Reckless consumerism is uncaring, while responsible consumerism, such as the use of bio-products, encourages not only small-scale farmers, but indigenous produce as well. Thus, stewardship nurtures the judicious use of limited resources and develops a sensitive social concern. Corporations have adopted this principle under corporate social responsibility (CSR).

### **Descriptive Model**

Descriptive theories are empirical and proceed from hypotheses that need to be proved inductively. Market research is a very good example of such a theory. Descriptive theories about learning and research are based on experiments, surveys and opinion polls, and social and political researches. The fundamental pre-suppositions are yet to be proved and as per the research and tabulations of facts and figures, approximates are drawn. It is a quantitative exercise and no certainties are possible. Only probabilities and percentages are the ultimate result. Decisions will have to be taken based on these concrete but probable results. Since there is enough room for allowing mistakes, taking risks becomes easier.

In the area of moral behaviour, there are attempts made to descriptively find out ways of decision making. They bring together all the individual and social factors that create an environment for decision making. Given all the variables, what would be the outcome is the mission of such theories. Figure 5.2 shows the most popular theory of decision making by Shelby D. Hunt and Scott J. Vitell. The theory is named after them as the Hunt – Vitell mode. A brief synopsis of the model is as follows. We must remember that the stages given below overlap during the process and time of decision making.

**General background** Society represents one ethics. Professional ethics is a part and parcel of society, of which business ethics is also a part. The general sphere of ethics distinguished as personal and general, is shown in the two boxes in the extreme left and right corners. This is the general background in which ethical behaviour occurs.

**Specific background** The three boxes in the centre represent the professional sphere through the specific areas of organizational, industrial, and professional environment, where appropriate codes have been derived from the general sphere and applied to the specific Spheres.

**Stage one** The problem is perceived, the alternatives are weighed, and the consequences are predicted.



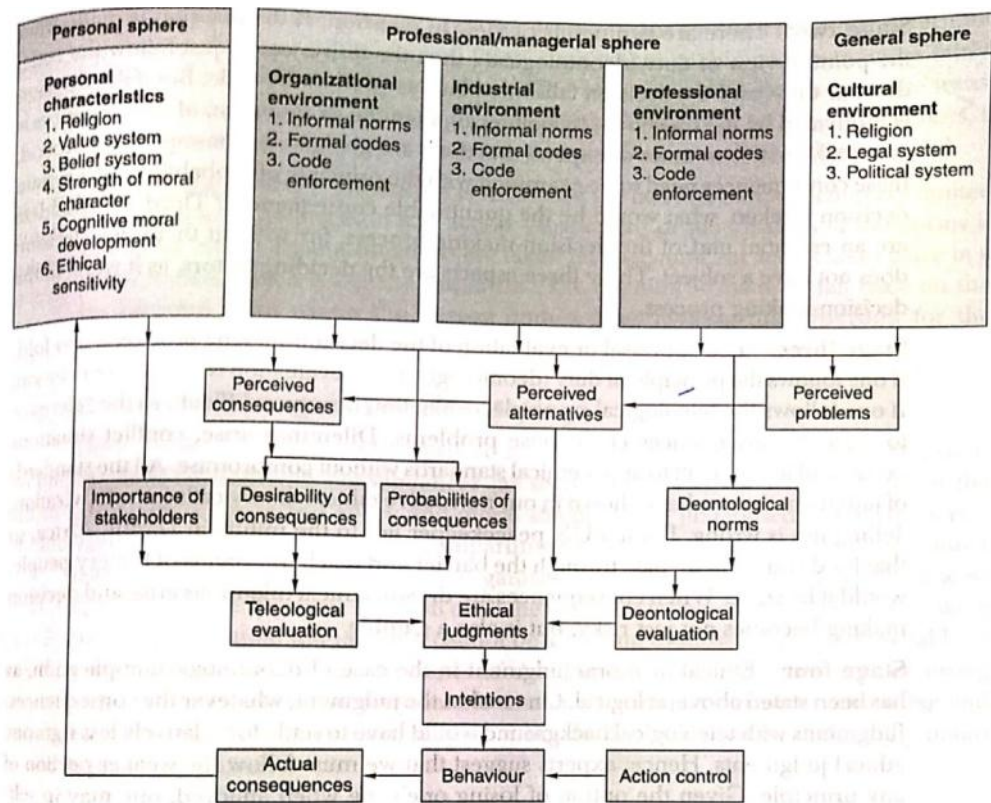


Figure 5.2 Hunt-Vittel Model of Decision Making

**Stage two:** There are two points of view in question. If the decision is made from the point of view of duty (deontological), then the task is easy—just follow the code do your duty, and the decision falls into place as good as the code. But if the decision is motivated by the objectives (teleological), then the examination of consequences is essential. First, it assumes or expects that there are going to be consequences. Second, these consequences need to be examined with the principle of probability—if a certain decision is taken, what would be the quantifiable consequences? Third, stakeholders are an essential part of the decision-making process, for without them, the decision does not have a subject. These three aspects are the deciding factors, as it were, in the decision-making process.

**Stage three:** The appraisal or evaluation of the decision-making process is two-fold. If one follows the principle of duty (deontological), the evaluation is a logical conclusion. If one follows the teleological principle, evaluation becomes difficult, as the reference to various consequences could pose problems. Dilemmas arise, conflict situations occur, and it is difficult to apply ethical standards without compromise. All the standards of judgment that we have shown in our normative ethical theory calls for relativization. Telling lies is wrong. But if a UN peacekeeper lies to the militia in Darfur, Africa, so that food convoys can pass through the barrier and reach thousands of hungry people, would it be right? When consequences are drawn, ethical dilemmas arise and decision making becomes not just risky, but is also a gamble.

**Stage four:** Ethical or moral judgment in the case of deontological application, as /has been stated above, is logical. One makes the judgment, whatever the consequences. Judgments with teleological background would have to settle for relatively less rigorous ethical judgments. Hence, experts suggest that we must follow the weaker portion of any principle. Given the option of losing one's life when attacked, one may in self-defence kill the attacker.

**Stage five:** The background to the above stage and the point of the beginning of action is the intention. The central point of decision making, between the process of judgment and the beginning of the decided action, is the intention. It is the motive of duty and also the motive of consequences. It is the intention that will make an action good or bad, irrespective of the fact that it was based on the principles of duty or teleology.

Unit 05: Decision Making Moral Reasoning and its Application

**Stage six** This stage consists of three important aspects – action control, behavior or action, and the actual consequences. Once the mind is made up, the intention is fixed and the agent is still in control. The saying that 'you are the slave of a spoken word and of an unspoken word the master' applies here literally. As long as the intention is in the mind and the action is not taken, no consequences can be drawn. However, once the agent lets go of the intention, control over the action depends upon the situation where the action occurs, and the consequences can be barely controlled. That is why, when we make decisions and put them into practice, we hope for the desired consequences.

## 5.9 Kohlberg Moral Development Model

### Kohlberg's Research Case

#### *Tracing Moral Development*

The following short and simple case is historic. Lawrence Kohlberg utilized this case while interviewing about seventy people of different ages, and he came to discover the celebrated findings of the six stages of moral development.

#### The Case

Heinz is a poor man. His wife suffers from cancer and needs immediate medicine. The medicine is very costly and Heinz cannot afford it. The chemist is unwilling to lend it to him on credit. Heinz breaks open the store, steals the drug, and administers it to his wife.

Framework to analyse the case

- (a) What are the facts or circumstances that constitute the case?
- (b) Who are the people involved?
- (c) What is/are the moral issue or issues that concern this case?
- (d) Which is/are the moral principle or principles that are at stake?
- (e) What argument can be put forward after taking into consideration the above four questions?
- (f) Do the persons involved in this case pass the duty test?
- (g) What kind of moral responsibility or accountability does each member in the case bear?
- (h) What solutions would you provide to solve the problems that have arisen from this case?
- (i) What are the lessons that have you learnt from the case?

#### Cognitive Development Necessary for Decision Making

How much does the decision maker really know when making a decision is the most important factor in judging the value of a decision. The value of a decision depends on how intelligently the decision has been made. Decision-making needs information to sort out the choices. Further, it needs all the previous experience and knowledge and the ability to make certain predictions from the given degree of knowledge. Children are less likely to make mature decisions because their cognitive abilities are still underdeveloped. An educated person is likely to make better and clearer decisions than an uneducated one. The Swiss psychologist Jean Piaget (1923-1980) developed the four stages of cognitive development.

Table 5.1 shows us clearly that cognitive powers are developed as early as eleven years and that people of this age may realize the gravity of their actions. Yet, the law takes a lenient view until the age of eighteen to hold people fully responsible for their actions.

**Table 5.1 Stages of Cognitive development**

Stage	Approximate age	Characteristics
Sensory motor	Birth-2 years	Discovery of relationship between sensory and motor behaviour

Pre-operational	4-7 years	Use of symbols through objects, and beginning of the use of language
Concrete operations	7-11 years	Development of rational thinking, logical use of language and communication
Formal operations	11 years onwards	Development of abstract reasoning

### Individual and Organizational Development of Moral Decision Making

Individual human beings are subjects of growth such as biological growth, psychological development, cognitive development, education, and moral growth or social fitness.

We do not expect a small child to carry a heavy load because he/she is physically unable to carry it for sheer weight. Likewise, a young person who is a minor is unable to make decisions about marriage or business partnerships or attend to legal matters in the court. Moral decisions and actions also demand a certain development of the moral sense and maturity. It is sufficient for a child to know that telling lies and stealing from his/her parents' purse is wrong and these invite correction and punishment. On the other hand, if a manager tells lies and misleads the board of directors or siphons away large sums of money, it causes serious damages and the manager is held responsible for the grave misdeeds.

The psychologist Lawrence Kohlberg, for example, who pioneered research in this field, concluded on the basis of over 20 years of research that there is a sequence of six identifiable stages in the development of a person's ability to deal with moral issues. Kohlberg grouped these stages of moral development into three levels, each containing two stages. At each level, the second stage is the more advanced and organized form of the general perspective of that level.

The sequence of the six stages can be summarized as follows.

#### LEVEL ONE: PRECONVENTIONAL STAGES

At these first two stages, the child can apply the labels good, bad, right, and wrong. But good and bad, and right and wrong are seen in terms of the pleasant or painful consequences of actions or what authority figures demand. If you were to ask a 4- or 5-year-old child, for example, whether stealing is wrong, he will say it is. But when you ask the child why it's wrong, his answer will be something like, "Because Mommy puts me in time-out if I steal." The child at this level can see situations mainly from his own point of view and so his primary motivations are self-centered.

**Stage One: Punishment and Obedience Orientation** At this stage, the demands of authority figures or the pleasant or painful consequences of an act define right and wrong. The child's reason for doing the right thing is to avoid punishment or defer to the power of authorities. There's little awareness that others have needs and desires like one's own.

**Stage Two: Instrumental and Relative Orientation** At this stage, right actions become those through which the child satisfies his own needs. The child is now aware that others have needs and desires like he does and uses this knowledge to get what he wants. The child behaves in the right way toward others, so others later will do the same toward him.

#### LEVEL TWO: CONVENTIONAL STAGES

At these next two stages, the older child or younger adolescent sees moral right and wrong in terms of living up to the conventional norms of his or her family, peer group, or society. The young person at these stages is loyal to these groups and their norms. He sees right or wrong in terms of "what my friends think," "what my family taught me," "what we Americans believe," or even "what the law says." The person has the ability to take the point of view of other similar people in his groups.

**Stage Three: Interpersonal Concordance Orientation** Good behavior at this early conventional stage is living up to the expectations of those for whom the person feels loyalty, affection, and trust, such as family and friends. Right action is conforming to what's expected in one's role as a good

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*Unit 05: Decision Making Moral Reasoning and its Application*

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son, good daughter, good friend, and so on. At this stage, the young person wants to be liked and thought well of.

**Stage Four: Law and Order Orientation** Right and wrong at this more mature conventional stage are based on loyalty to one's nation or society. The laws and norms of society should be followed so society will continue to function well. The person can see other people as parts of a larger social system that defines individual roles and obligations, and he can distinguish these obligations from what his personal relationships require.

### LEVEL THREE: POSTCONVENTIONAL STAGES

At these next two stages, the person no longer simply accepts the values and norms of her group. Instead, the person tries to see right and wrong from an impartial point of view that takes everyone's interests into account. The person can question the laws and values of her society and judge them in terms of moral principles that she believes can be justified to any reasonable person. When an adult at this stage is asked why something is right or wrong, the person can respond in terms of what's "fair for everyone" or in terms of "justice," or "human rights," or "society's wellbeing."

**Stage Five: Social Contract Orientation** At this first post-conventional stage, the person becomes aware that people have conflicting moral views, but believes there are fair ways of reaching consensus about them. The person believes that all moral values and moral norms are relative and that, apart from a democratic consensus, all moral views should be tolerated.

**Stage Six: Universal Moral Principles Orientation** At this second post-conventional stage, right action comes to be defined in terms of moral principles chosen because of their reasonableness, universality, and consistency. These are general moral principles that deal, for example, with justice, social welfare, human rights, respect for human dignity, or treating people as ends in themselves. The person sees these principles as the criteria for evaluating all socially accepted norms and values.

Kohlberg's theory is useful because it helps us understand how our moral capacities develop and reveals how we may mature in our understanding of our own moral standards. Research by Kohlberg and others has shown that, although people generally progress through the stages in the same sequence, not everyone progresses through all the stages. Kohlberg found that many people remain stuck at one of the early stages throughout their lives. Those who stay at the pre-conventional level continue to see right and wrong in the egocentric terms of avoiding punishment and doing what powerful authority figures say. Those who reach the conventional level, but never get past it continue defining right and wrong in terms of the conventional norms and expectations of their social groups or of their nation and its laws. And those who reach the post-conventional level and take a rational and critical look at the conventional moral standards they have been raised to hold will come to define right and wrong in terms of moral principles they have chosen because they are reasonable.

It is important to see that Kohlberg believes that the moral reasoning of people at the later stages of moral development is better than the reasoning of those at earlier stages. First, he claims, people at the later stages have the ability to see things from a wider and fuller perspective than those at earlier stages. The person at the pre-conventional level can see situations only from the person's own egocentric point of view; the person at the conventional level can see situations only from the familiar viewpoints of people in the person's own social groups; and the person at the post-conventional point of view has the ability to look at situations from a universal perspective that tries to take everyone into account. Second, people at the later stages have better ways of justifying their decisions to others than those at earlier stages.

The person at the pre-conventional level can justify decisions only in terms of how the person's own interests will be affected, and therefore justifications are ultimately persuasive only to the person. The person at the conventional level can justify decisions in terms of the norms of the group to which the person belongs, and so justifications are ultimately persuasive only to members of the person's group. Finally, the person at the post-conventional level can justify her choices on the basis of moral principles that are impartial and reasonable and that therefore any reasonable person can accept.

Kohlberg's theory has, however, been subjected to a number of criticisms. First, Kohlberg has been criticized for claiming that the higher stages are morally preferable to the lower stages. This criticism is surely right. Although the higher Kohlberg levels incorporate broader perspectives and

more widely acceptable justifications, it does not follow that these perspectives are morally better than the lower ones. To establish that the higher stages are morally better will require more argument than Kohlberg provides. In later chapters, we will see what kind of reasons can be given for the view that the moral principles that define the later Kohlberg stages are morally preferable to the criteria used in the pre-conventional and conventional stages.

A second significant criticism of Kohlberg is one that arises from the work of Carol Gilligan, a psychologist. She argues that, although Kohlberg's theory correctly identifies the stages through which men pass as they develop, it fails to adequately trace out how women's morality develops. Because most of Kohlberg's subjects were male, Gilligan has argued, his theory failed to take into account how women think about morality.

Gilligan claimed that there are, "male" and "female" approaches to morality. Males, she argued, tend to deal with moral issues in terms of impersonal, impartial, and abstract moral principles—exactly the kind of approach that Kohlberg says is characteristic of post-conventional thinking. However, Gilligan claimed, there is a second, "female," approach to moral issues that Kohlberg's theory does not take into account. Females, Gilligan claimed, tend to see themselves as part of a "web" of relationships with family and friends. When females encounter moral issues, they are concerned with nurturing these relationships, avoiding hurt to others in these relationships, and caring for their well-being. For women, morality is primarily a matter of "caring" and "being responsible" for those with whom we have personal relationships.

Morality is not a matter of following impartial principles. Gilligan claimed that the female approach to morality develops through stages that are different from those Kohlberg described. Moral development for women is marked by progress toward better ways of caring and being responsible for oneself and others with whom we are in relationship. In her theory, the earliest or pre-conventional level of moral development for women is one marked by caring only for oneself. Women move to a second or conventional level when they internalize conventional norms about caring for others and in doing so come to neglect themselves. As women move to the post-conventional or most mature level, they become critical of the conventional norms they had earlier accepted, and they come to achieve a balance between caring for others and caring for oneself.

Is Gilligan right? Although additional research has shown that male and female moral development does not differ in the ways that Gilligan originally suggested, that same research has confirmed the claim that Gilligan has identified a way of thinking about moral issues that is different from the way that Kohlberg emphasizes. Moral issues can be dealt with from a perspective of impartial moral principles or from a perspective of caring for persons and relationships, and these two perspectives are distinct. However, women as well as men sometimes approach moral issues from the perspective of impartial moral principles, and men as well as women sometimes approach moral issues from the perspective of caring for persons and relationships. Although research on the "care perspective" that Gilligan described is still ongoing, it is clearly an important moral perspective that both men and women should take into account.

#### **Pre-conventional Morality**

Very often, managers and management students advocate the view that whatever morality they had to know has been taught to them by their parents and that they do not need any further lecturing on matters of morals. When we apply Lawrence Kohlberg's method of moral development, such people are developed in the lowest form of moral category, where mere social dos and don'ts are considered sufficient knowledge in ethics. This clearly shows the complete immaturity of these people. They would not like to progress or develop from their childhood state, when they were told exactly what to do, and they now feel that they know what is expected of them. Further, they work purely for their own interest and keep away from the coercive methods of the superiors. This is called puerile morality, or childish morality, wherein one satisfies self by claiming to know what is right and what is wrong.

It is the same with organizations. Just like individuals, if given the opportunity, organizations grow to maturity. These organizations are satisfied with puerile morality. They are satisfied when they feel that they have good top-down control and their system of rewards and punishments is clearly laid down. The employees succumb to the pressure of their superiors. They perform to avoid negative appraisals and go to any extent to meet the targets. They have a child behaviour image, which consists of a reward in the form of an ice cream if the child behaves well or a rap on the knuckles if the child misbehaves!

#### **Conventional Morality**

### Unit 05: Decision Making Moral Reasoning and its Application

When individuals grow into adults, they are expected to not only follow social conventions but also the law of the land. People are well-developed in their sense of citizenry and try to abide by the law. In other words, ignorance of the law is not presumed. Organizations come under the purview of the law and are treated by the latter as artificial persons who are responsible for their actions.

If organizations achieve the maturity of conventional morality, it implies that they value the principle of justice and apply the same standard for all, whether they are the principals, employees, or other stakeholders. Instead of playing the role of the parent or the boss or the cop, the leadership takes up guidance as the working philosophy. Team work is encouraged and rewarded. Collective responsibility is valued. Cooperation is the watchword for the employees in such organizations.

#### **Post-conventional Morality**

Not very long ago, we lived in a world where we used animals as our wont. But not any more, because people have realized that animals have life in them and also feel pain and satisfaction, life and death, and all that is associated with a life of the senses. Animal rights are now enshrined in our laws. Cruelty to animals is a punishable offence, and hunting of certain wild animals for game is as serious as homicide. These are the modern day developments in our moral treatments, which have been extended even to animals. Indian traditions treat animals with great kindness and give them the place of gods. As our moral sense develops, it includes more subjects into its fold.

There was a time when business organizations functioned on basic morality. There were hardly any rights for workers, and child labour was accepted as normal. Workers could be hired and fired any time. There was no concept of minimum wages or rules for working hours, safety and security, and health benefits. Today, organizations show greater responsibility towards society and its members. Thanks to the socialist revolution, the worker is the centre of an organization. Child labour is banned.

Organizations have also come a long way from the days of the pre-conventional stage of public behaviour. Today, top-down management is no longer popular. There is greater insistence on team work, collective leadership and empowerment, and, above all, service. This has happened due to a continuous and constant process of organizational thinking, which is a reflection of what is going on in society. Organizations are in constant dialogue with society, its institutions and individuals, and about professional behaviour. Society rightly demands an account of all the activities of organizations and the fulfilment of responsibilities.

This has been made possible because there is a constant debate in society, among the nations and the world as a whole, on what justice, common good, civic society, the means used to achieve ends, egalitarian society, and several other concepts are being developed and applied to on a large scale.

**Table 5.2 Kohlberg's Stages of moral development, adapted to organizations**

Stage	Pre-conventional	Conventional	Post-conventional
Person	<ul style="list-style-type: none"> <li>• Follows rules to avoid punishment</li> <li>• Act in own interest</li> <li>• Obey for the sake of obedience itself</li> </ul>	<ul style="list-style-type: none"> <li>• Follow the law</li> <li>• Fulfil social obligations</li> <li>• Be a good citizen</li> </ul>	<ul style="list-style-type: none"> <li>• Have knowledge of fundamental moral principles</li> <li>• Balance between individuals and groups</li> <li>• Acknowledge diversity and encourage plurality</li> <li>• Total dissent</li> </ul>
Leadership	<ul style="list-style-type: none"> <li>• Autocratic</li> <li>• Coercive</li> </ul>	<ul style="list-style-type: none"> <li>• Guiding</li> <li>• Encouraging</li> </ul>	<ul style="list-style-type: none"> <li>• Transformational</li> <li>• Servant-leadership</li> </ul>

	<ul style="list-style-type: none"> <li>Reward</li> </ul>	<ul style="list-style-type: none"> <li>g</li> <li>Team</li> </ul>	
Employee	<ul style="list-style-type: none"> <li>Task</li> <li>Meet target</li> </ul>	<ul style="list-style-type: none"> <li>Work group</li> <li>Collaboration</li> </ul>	<ul style="list-style-type: none"> <li>Empowerment</li> </ul>

### Summary

Intention is the core reality of morality

Ethical decision making involves five steps

Step one is identifying ethical issues, Step two is get facts

Step three is evaluate alternative actions, Step four is choose an option for action and test it

Step five is Implement your decision and reflect on outcome

There are two models of ethical decision making: Normative & Descriptive

Normative model of decision making is also called as qualitative model based upon normative principles like utility, duty, justice etc.

Descriptive model is also called as quantitative model

Hunt-Vittel model is a descriptive model of ethical decision making

Kohlberg Moral development model suggests three major types of moral development

Pre-Conventional morality also called as childish morality is based upon fear of punishment is lowest stage in moral development

Conventional morality is based upon following law and order in society

Post-Conventional morality is the highest stage of moral development and involves impartial view taking everyone's interests into account

### Keywords

Ethical decision making, Normative model, Descriptive model, Hunt-vittel model, Kohlberg moral development model

### SelfAssessment

- How does the individual come to be able to make moral decisions?
    - By understanding his motives
    - By understanding the consequences of his actions
    - By being deterred and frightened of the penalties incurred on him for his action
    - By understanding the means adopted to execute action
- A. 1,2 and 3  
 B. 1,3 and 4  
 C. 1,2,3 and 4  
 D. 1, 2 and 4

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*Unit 05: Decision Making Moral Reasoning and its Application*

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2. \_\_\_\_\_ reasoning is considered by many to be prevalent within society and particularly within businesses, where it is often referred to in the form of a \_\_\_\_\_.
- A. Consequentialist, Cost-benefit analysis
  - B. Rationalised, Annual audit
  - C. Consequentialist, Annual audit
  - D. Rationalised, Cost-benefit analysis
3. \_\_\_\_\_ are individual beliefs about desirable behaviours and goals that are stable over time and which influence decision making.
- A. Character traits
  - B. Personal values
  - C. Personal attitudes
  - D. Personal traits
4. If you believe in making decisions for the good of most people, you can be described as following which school of thought?
- A. Utilitarianism
  - B. Human rights
  - C. Individualism
  - D. Moral principles
5. It is the intention that determines the morality of action
- A. True
  - B. False
6. Decision making can be classified as descriptive decision making and normative decision making
- A. True
  - B. False
7. Normative model of decision making is also called Qualitative model of decision making
- A. True
  - B. False
8. Ethical decision making frameworks \_\_\_\_\_.
- A. give us the answers to ethical dilemmas
  - B. are all the same
  - C. provide us with different frameworks to help us identify key issues and arrive a plan of action with a clear rationale
  - D. None of these
9. A consequentialist approach to ethics is concerned with \_\_\_\_\_.



- A. the values that underpin our decisions
  - B. the consequences of our decisions
  - C. our duties
  - D. none of these
10. Teleological evaluations are based upon consequences of actions
- A. True
  - B. False
11. L. Kohlberg's (1969) theory of Cognitive Moral Development
- A. Post-conventional, conventional, pre-conventional
  - B. Unrealistic, realistic, similar
  - C. Past, modern, post-modern
  - D. Moral, ethical, ethical theories
12. When Mika is asked why he should not hit his brother, he responds, "Because Mommy says so and if I do I will get yelled at." Mika's level of moral development fits with which of Piaget's and/or Kohlberg's stages?
- A. Preconventional Morality
  - B. Autonomous Morality
  - C. Conventional Morality
  - D. The first and second choices
13. Which of the following is the highest level of moral development according to Kohlberg?
- A. Preconventional Morality
  - B. Conventional Morality
  - C. Postconventional Morality
  - D. None of these
14. Angie decides to get a divorce. When two of her friends discuss her decision, one of them says, "Although I don't personally agree with Angie's decision, it is ultimately her choice and I will be there to support her." This response demonstrates what level of morality?
- A. Preconventional
  - B. Postconventional
  - C. Conventional
  - D. None of these
15. What did Kohlberg suggest?
- A. That humans are capable of evolving a moral framework as they mature and gain more wisdom.
  - B. That Heinz was right to steal drugs

Unit 05: Decision Making Moral Reasoning and its Application

- C. That Heinz was wrong to steal drugs  
D. That men are better at making moral judgements than women

### Answers for Self Assessment

1. D      2. A      3. B      4. A      5. A  
6. A      7. A      8. C      9. B      10. A  
11. A      12. A      13. C      14. B      15. A

### Review Questions

1. Discuss the relationship between Intention, Action, Morality and Law with examples
2. Illustrate the steps in ethical decision making with example
3. How will you classify ethical decision making models? Explain with example
4. Discuss some of the normative principles associated with normative model of decision making
5. Discuss Hunt-Vittel model of ethical decision making with example
6. Explain Kohlberg Moral Development Model
7. Discuss the application of Kohlberg Moral Development Model in organizational context



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## Unit 06: Ethical Dilemmas

### CONTENTS

Objectives

Introduction

6.1 Ethical Dilemmas in Business

6.2 Types of Ethical Dilemmas

6.3 How to Resolve Ethical Dilemma?

Summary

Keywords

Self Assessment

Answers for Self Assessment

Review Questions

Further Readings

### Objectives

After studying this unit, you will be able to:

- Discuss ethical dilemmas in business
- Identify various types of ethical dilemmas
- Identify the process of resolution of ethical dilemmas

### Introduction

Ethics refers to the moral principles and standards that entities (individuals and organisations) use to guide their actions and decisions.

An ethical dilemma can arise when these standards and principles conflict in a decision-making situation.

The following three aspects can be found in ethical issues:

1. An option or the requirement to make a decision must be presented to the agent.
2. The agent must be able to choose from a variety of options.
3. The agent understands that all viable options force them to compromise on some personal ethical standard or ideal.

Individuals and organisations use ethical standards as moral frameworks to guide their decision-making and distinguish between right and wrong. Companies and professional groups may establish their own ethical standards and compel workers and members to incorporate such standards into their own business ethics.

In the workplace, common ethical activities include:

- telling it like it is
- Accepting accountability for one's conduct
- Observing company guidelines
- Performing professional duties
- Making promises and keeping them

- Observing the law
- Taking action in the best interests of the company's stockholders
- Customers' best interests are our top priority.
- Taking care of one's own interests
- Treating others with respect
- Maintaining long-term business practises
- Profit maximisation
- Preventing layoffs

Because ethics is fundamentally conflicting, ethical difficulties arise.

Employees may find themselves in situations where lying or breaking the law appears to serve other important goals, such as increasing earnings or avoiding layoffs.

## 6.1 Ethical Dilemmas in Business

Ethical difficulties abound in the workplace, as people make decisions that have a direct influence on a company's performance and revenue.

When determining whether to report a case of workplace harassment or declare a conflict of interest, employees may face an ethical dilemma. In the first scenario, the employee may recognise that the harassment is inappropriate, but feels remorseful for putting their coworker in jeopardy. In the latter situation, the employee may know their fiduciary obligation to the company, but their attachment to their family and friends makes doing the right thing difficult.

Let us understand ethical dilemma with the help of following case studies



### Case Study *Telling the Truth*

The following case is taken from Robbins, Stephen P. and David A. De Cenzo (1998). *Fundamentals of management: Essential concepts and applications* (2nd ed.). New Jersey: Prentice-Hall, p. 28.

One of your workers has just been diagnosed with a cancer that is curable. He has revealed the state of his health to you. He's also urged you not to mention anything to anyone about his health since he considers it a private affair. This employee will be away regularly during the next several months, particularly during his radiotherapy treatments. His absences aren't a huge issue for the organisation because his responsibilities entail direct computer work, which he can accomplish from home. Some of your other workers, on the other hand, have inquired as to what is wrong with him. You respectfully reject to speak with them about his issue. As a consequence, the other employees believe their coworker is receiving preferential treatment and are prepared to go to the boss to complain. You're sure they'd understand if they only knew about the employee's ailment. However, you assured him that you would keep the cause for his absence a secret. At the same time, if other employees complain about him, it will cause him unneeded and unhelpful troubles.

Consider the following issues:

- Should you tell your workers why a coworker isn't in the office? Why or why not?
- Should you tell your boss the truth about what's going on?
- What would you do if you were in this situation?



### Case study: *Stay neutral or not*

You're the CEO of a huge online platform that facilitates C2C commerce (transactions directly between customers). A video game firm's CEO approaches you at a leadership conference to voice his worry over discovering a bootlegged version of a video game his company had begun to build on your platform. The CEO goes on to state that his business halted creation of the game due to widespread complaints over how violent it is. He wants to know whether you'd consider pulling

the game down, not just because it's a bootleg, but also because it's violent. Because your firm is protected under the Digital Millennium Copyright Act (DMCA), you have never examined the items sold on your platform before. According to the DMCA, an online platform like yours cannot be held accountable for selling any specific goods if it does not patrol its site selectively. If your firm decides to remove this product off the platform, you must examine all items sold under the DMCA. This would need the appointment of a new crew, as well as the possibility of drastically reduced platform transactions. If you remain neutral and allow the product to remain on the market, you may face public backlash for allowing such a violent game to be sold.

Discuss what decision you would make if they were in this leader's position, and why you would make it.

"Ethics ain't simple!" said a police commissioner after turning down the twentieth bribe offer of the day.

We've all had those moments when doing what's right is significantly different from doing what's easiest or what's most profitable.

One of the reasons a firm should have a mission statement or a code of conduct is so that workers know what is expected of them when they have to choose between doing the right thing against doing the easy thing, ethical versus profitable.

The issue is that there are so many options that fall somewhere in the middle. What do you do when the ethical decision you're making will virtually surely harm someone? What if doing something somewhat incorrectly contributes to the creation of a substantial "right"?

Let us look at some more examples of ethical dilemmas in business:

- Your coworker requests that you cover for him so that he may leave work early to attend his son's softball game. Do you agree with him? Would you remain silent if he went anyway?
- You're going to sign a contract with a major new customer for more than \$50,000. Your supervisor is under a great deal of pressure to boost sales. He summons you to his office and informs you that his career is in jeopardy, and he requests that you put the income from your deal in the sales figures for the quarter ending tomorrow. You know the contract is solid, but the customer is out of town and won't be able to sign it before the end of the week. So, what exactly do you do?
- The cost of producing the widgets your firm produces has decreased by 50%. Sam, one of your clients, claims to know this since he is best friends with your company's vice president of production and requests a discount on his order. The discount has been approved by your supervisor. Sue, another of your best pals, puts the exact identical order for widgets as Sam, despite the fact that she is unaware of the cut in manufacturing prices. Do you provide a comparable discount to her? Do you inform her about the recent decrease in production costs?
- It is against company policy for coworkers to get romantically involved. You attend the same church as someone from a different department and find yourself attracted to him/her. Do you intend to keep the connection going?
- Your best buddy works as a vice president for one of the corporations with which your company conducts business. You take her out to lunch to catch up on personal matters, and you pay for it. Do you claim this as a "business lunch" and send the receipt in for reimbursement?

### What is an Ethical Dilemma?

"An ethical dilemma (ethical paradox or moral dilemma) is a problem in the decision-making process between two possible options, neither of which is absolutely acceptable from an ethical perspective." (CorporateFinanceInstitute.com)

## 6.2 Types of Ethical Dilemmas

Ethical concerns in business cover a wide range of topics that fall within an organization's ethical guidelines. Promoting behaviour based on honesty and trust are fundamental ethical challenges in business, but more complicated issues include accommodating diversity, empathic decision-making, and compliance and governance that is compatible with the organization's basic principles. According to the 2019 Global Business Ethics Survey, 25% of employees believe their top managers lack a thorough awareness of critical ethical and compliance business risks across the firm.

You must first gain a full awareness of what ethical concerns in business might look like before you can handle them in your firm. Understanding how to recognise and, more significantly, prevent these issues from becoming a problem will allow you to focus on business development and success rather than correction.

### 1. Workplace Harassment and Discrimination

Harassment and discrimination are among the most serious ethical concerns facing today's company owners. If harassment or discrimination occurs in the workplace, the financial and reputational consequences might be disastrous for your company.

Every company should be aware of the anti-discrimination laws and regulations in place to safeguard employees from unfair treatment. Many various sorts of discrimination and harassment legislation are defined by the United States Equal Employment Opportunity Commission (EEOC), including but not limited to:

- **Age:** refers to those aged 40 and up, as well as any ageist policies or treatment.
- **Disability:** Employees with physical or mental impairments are given reasonable accommodations and equitable treatment.
- **Equal Pay:** equal pay for equal effort, regardless of gender, colour, religion, or other factors.
- **Pregnancy:** pregnant employees are given with reasonable accommodations and equitable treatment.
- **Race:** Employees are treated equally regardless of colour or ethnicity.
- **Religion:** regardless of employee religion, reasonable accommodations and fair treatment are provided.
- **Sex and Gender:** Employees are treated equally regardless of their sex or gender identity.

### 2. Occupational Health and Safety

Employees have a right to safe working environment, according to the Occupational Safety and Health Administration's (OSHA) laws. According to their 2018 survey, 5,250 employees died in the United States as a result of workplace accidents or illnesses. On a weekly basis, this equates to more than 100 deaths, or more than 14 deaths per day.

The following were the top ten most often reported infractions in 2018:

- **Fall Protection:** Unprotected sides and edges, as well as leading edges, require fall protection.
- **Hazard Communication:** Classifying hazardous compounds/chemicals, for example, is an example of hazard communication.
- **Scaffolding:** Required resistance and maximum weight numbers
- **Respiratory Protection:** Emergency procedures and respiratory/filter equipment requirements are examples of respiratory protection.
- **Lockout/tagout:** Controlling hazardous energy, such as oil and gas, is an example of lockout/tagout.
- **Powered Industrial trucks:** Safety rules for fire vehicles, for example, also applicable to industrial trucks.
- **Ladders,** for example, guidelines for how much weight may be supported by a ladder.

- **Electrical, Wiring Methods**, e.g., processes for reducing electromagnetic interference in a circuit
- **Machine Guarding**: Machine Point of operation guarding is required for guillotine cutters, shears, power presses, and other machinery, for example.
- **General Electrical Requirements**, such as preventing putting conductors or equipment in moist or wet areas

Health and safety issues, on the other hand, should not be restricted to bodily injury. The growth of "psychosocial hazards," work-related stress, and mental health problems was highlighted in a 2019 study by the International Labour Organization (ILO). Job insecurity, excessive demands, an effort-reward mismatch, and a lack of autonomy have all been linked to health-related behavioural hazards such as sedentary behaviour, heavy alcohol use, increased cigarette smoking, and eating disorders.

### 3. Social Media Rants or Whistleblowing

Because of the growing use of social media, what employees do online has become a factor in their job status. The ethics of terminating or penalising employees for their internet posts is a difficult one to answer. When an employee's online activity is seen to be disloyal to their company, however, a boundary is frequently established.

This implies that while a Facebook post complaining about employment may not be punished on its own, it may be if it reduces business.

Similarly, business owners must be able to recognise and not penalise employees who report wrongdoing to regulatory agencies or on social media. This suggests that employees should be rewarded for raising awareness of workplace breaches online rather being punished.

For example, a Yelp employee wrote an essay for the blogging platform Medium about the "terrible working circumstances" she claims to be suffering at the online review organisation. She was subsequently dismissed from Yelp for breaking the company's terms of service. The uncertainty of her situation, and whether her post was justified or nasty and disloyal, highlights the significance of establishing explicit social media policy inside a company. To reduce the potential of misunderstanding, a business should specify which online acts are considered infringements.

### 4. Accounting Practices and Ethics

Any business must follow proper bookkeeping procedures. Organizations, particularly publicly listed firms, are concerned about "cooking the books" and other unethical accounting practises.

The 2001 Enron crisis, in which the American energy company was exposed for years of falsely presenting its financial accounts, with its accounting firm Arthur Andersen signing off on the statements despite the fact that they were erroneous, is a prominent example of this. Stockholder prices were influenced by the misrepresentation, and public shareholders lost nearly \$25 billion as a result of the ethical infraction. Both firms subsequently went out of business, and despite the fact that just a tiny percentage of the accounting firm's workers worked for Enron, the firm's demise resulted in the loss of 85,000 jobs.

In reaction to this and other big business scandals, the US government passed the Sarbanes-Oxley Act in 2002, which introduced new financial reporting regulations aimed at protecting customers and shareholders. Even small privately held businesses must maintain accurate financial records in order to pay proper taxes and profit-sharing to employees, as well as to attract business partners and investments.



#### Example: Satyam Scam

India's greatest corporate fraud was the Satyam Computer Services scam. Satyam Computer Services' founders and directors cheated the firm by falsifying accounting, inflating the stock price, and stealing enormous sums of money. A large portion of money was spent on real estate. When the Hyderabad housing market fell in late 2008, the scam was revealed, establishing a trail back to

Satyam. The fraud was exposed in 2009, when chairman Byrraju Ramalinga Raju admitted to falsifying the company's finances.

Rama Raju and Ramalinga Raju, brothers, formed Satyam Computer Services Ltd in Hyderabad in 1987. (henceforth Raju). In the ancient Indian language Sanskrit, the word signified 'Truth.' The company started with 20 people and provided IT and BPO services to a variety of industries.

The company's first success led to it being listed and choosing for an IPO on the BSE in 1991. Following this, Deere and Company became the company's first Fortune 500 client. This allowed the company to expand quickly and become one of the market's leading competitors.

After TCS, Wipro, and Infosys, Satyam quickly rose to become the industry's fourth largest IT software exporter.

Satyam had over 50,000 workers and was active in over 60 countries during the height of its prosperity. Satyam had become the poster child for an Indian success tale. Its financials were also flawless. In 2003, the company was valued at \$1 billion. Satyam rapidly surpassed the \$2 billion milestone in 2008.

During this time, the firm grew at a CAGR of 40%, with operational profits averaging 21% and a stock price rise of 300 percent. Satyam has now become a role model for other businesses. MZ Consult awarded it the 'Golden Peacock Award' for Corporate Accountability in 2008 for being a "pioneer in Indian Corporate Governance and Accountability."

Mr Raju was also well-known in the sector for his commercial skills, and in 2008 he received the Ernest and Young Entrepreneur of the Year Award.

Satyam's board of directors agreed late in 2008 to acquire Maytas, a real estate firm owned by Mr Raju. This did not sit well with shareholders, and the decision was overturned within 12 hours, causing a drop in the stock price. Satyam was forbidden from doing business with any of the World Bank's direct connections for an eight-year term on December 23rd. The World Bank issued one of the harshest penalties on an Indian outsourcing business. Satyam was accused by the World Bank of failing to maintain documentation to justify fees charged to its subcontractors and of providing illegal perks to bank employees.

#### **The reasons behind Satyam Scam**

On January 7th, 2009, the markets got Mr Raju's resignation, coupled with a confession that he had manipulated accounts worth Rs. 7000 crores, while investors were still dealing with the failed acquisition of Maytas and claims by the World Bank. Investors and clients from all across the world were taken aback. This could not possibly be happening!

We'd have to travel back to 1999 to figure out what was going on. In order to fulfill analyst expectations, Mr Raju began exaggerating quarterly earnings. For example, quarterly revenues were exaggerated by 75% and profits were overstated by 97% in the reports released on October 17, 2009. Raju and the company's worldwide head of internal audit had collaborated on this.

Mr Raju utilised his computer to generate a series of bank statements in order to inflate the balance sheet with money that did not exist. To exaggerate revenue, the company's worldwide director of internal audit developed bogus customer identities and fraudulent invoices. As a result, the firm would have easier access to financing, and the perception of its success would lead to a rise in the stock price. Additionally, the funds generated in the US markets never made it to the company's financial sheets. But that wasn't enough for Raju; he went on to construct bogus employee records and withdraw their pay on their behalf.

The increasing share price prompted Raju to sell as many shares as he could while still remaining a member of the firm. This allowed Raju to benefit from their high-priced sales. He also took out \$3 million a month in salary on behalf of non-existent staff.

But where did all of this cash disappear to?

Despite the fact that Raju had built a fantastic IT firm, he was also interested in real estate. In the early 2000s, Hyderabad's real estate market was flourishing. Raju was also said to have knowledge of the blueprint (route) for a metro system that was to be developed in Hyderabad. In the year 2003, the metro plans were drawn out for the first time. Raju quickly invested all of the funds in real estate, hoping to benefit handsomely once the metro was operational. He also established Maytas, a real estate firm.



However, the real estate sector, like all other sectors, was severely impacted by the 2008 crisis. By that time, over a decade of financial statement manipulation had resulted in massively overstated assets and underreported liabilities. A total of over \$1.04 billion in bank loans and cash went missing from the records. The chasm was simply too large to bridge!

Whistleblowing attempts were also beginning to emerge at this point. Krishna Palepu, the company's director, received anonymous emails using the identity Joseph Abraham. The scam was discovered thanks to the mail. Palepu transferred it to another director and their auditor, S. Gopalkrishnan of PwC.

Palepu was promised by Gopalkrishnan that the message included no lies, and that a presentation will be made before the audit committee on December 29th to reassure him. The date was eventually changed to January 10th, 2009.

Regardless, Raju had a final resort. A buyout of Maytas by Satyam was part of the strategy, which would close the gap that had grown over time. The fresh financials would prove that the money had been spent on Maytas. This strategy, however, was thwarted due to shareholder resistance.

Raju was obliged to place himself at the mercy of the law as a result of this. It was like riding a tiger and not understanding how to get off without getting devoured, Raju later explained.

#### **How was Raju able to get away with the Satyam Scandal?**

The second major topic to consider as part of this investigation is how Ramalinga Raju was able to get away with the Satyam Scam at a firm with over 50,000 workers. The solution rests in PriceWaterhouseCoopers(PwC), their auditor, who failed miserably. PwC was the company's external auditors, and it was their job to look through the financial records and make sure they were correct. After nearly 9 years of auditing Satyam, it's remarkable they didn't find 7561 fraudulent bills.

There were a number of red flags that the auditors should have noticed. The invoices were not legitimate, and the cash sums were exaggerated, according to a simple check with the banks. Second, any corporation with as large cash reserves as Satyam would at the very least invest them in an account that pays interest. But that was not the case in this instance. Despite these clear indicators, PwC appeared to be turning a blind eye. Suspicion of PwC was raised after it was discovered that they were paid twice as much for their work.

#### **5. Corporate espionage and nondisclosure**

Many firms are concerned about current and former workers stealing information, especially customer data that may be exploited by competitors. Corporate espionage occurs when intellectual property is stolen or confidential customer information is unlawfully disclosed. To deter these sorts of ethical transgressions, businesses may implement obligatory nondisclosure agreements with stiff financial penalties if they are broken.

#### **6. Privacy and Technology Practices**

The advancements in technology security capacity, which fall under the same umbrella as nondisclosure agreements, raise privacy issues for both clients and staff. Employers may now monitor employee activities on their laptops and other company-provided devices, and while electronic monitoring is intended to assure efficiency and production, it frequently veers perilously close to invasion of privacy. According to a 2019 poll by the American Management Association, 66 percent of businesses monitor internet connections, 45 percent track content, keystrokes, and keyboard time, and 43 percent store and examine computer data as well as monitor employee emails. Transparency is the key to employing technology monitoring ethically.



#### **Example**

In the 2010s, Cambridge Analytica, a British consulting business, gathered personal data from millions of Facebook users without their agreement, mostly for the purpose of political advertising. The information was gathered in 2013 using an app called "This Is Your Digital Life," which was created by data scientist Aleksandr Kogan and his firm Global Science Research. The app consisted of a series of questions that were used to create psychological profiles on users, and it used Facebook's Open Graph network to acquire personal data from the users' Facebook friends. The software gathered information from up to 87 million Facebook accounts. The data was utilised by

Cambridge Analytica to give analytical support to Ted Cruz and Donald Trump's presidential campaigns in 2016.

## 6. Favoritism and Nepotism

When a corporation hires someone because they are a family member, this is known as nepotism. Favoritism happens when a boss favours one of his or her employees above others for personal reasons. Nepotism and favouritism are not only unjust, but they are also demoralising to employees. Workers frequently discover that in order to earn a promotion or other incentive, they must work substantially more.



### Example

Many people have been left grieved by the tragic loss of Sushant Singh Rajput, a bright and young actor. He had a unique blend of skill and intellect that is rarely seen in Bollywood, and he symbolised the emergence of the average man. His yielding to the demands of nepotism is a sobering reminder that our society has lost sight of the skill and potential of those pushed to the margins by cronyism and favouritism. Although partisanship has always existed in Bollywood, it is only now that it is being publicly discussed. However, it is not the only place in the country where nepotism thrives. For years, Indian politics has fought to keep it "in the family." The Congress Party is a perfect illustration of dynastic politics, from Jawaharlal Nehru through Rahul Gandhi. They are not, however, alone. More examples of nepotism in politics include Mulayam Singh-Akhilesh Yadav, Bal and Uddhav Thackeray, N Chandrababu Naidu-Nara Lokesh, and Biju to Naveen Patnaik, to mention a few. As a result, partisanship may be found in many areas of life, including entertainment, politics, and policymaking, as well as, of course, our professions. The phrase nepotism derives from the Latin word "nepos," which means nephew, and refers to the practise of Catholic clergy giving preference to their nephews for positions of authority in the 17th century. If priority is given to family members who are competent for a certain position, nepotism is not a pejorative phrase. In most circumstances, however, this is not the case, and outsiders may be more equipped for the firm's job.

In family-owned firms, partisanship is frequent, with kin receiving preferential treatment in areas such as employment and promotions. Given that family companies account for at least 70% of India's GDP, most of us have probably met nepotism at work at some point. Credit Suisse offers an intriguing remark about them, based on its global database of the 920 biggest family-owned firms. Only one-third of organisations retain their successful track record in the second generation, according to it, after gaining success in the first. By the third generation, just 12% had made it to the fourth generation, and only 4% have made it to the fifth.

## 8. Environmental Responsibility

There has been a global trend in recent years toward more ecologically friendly ways of working. With 71 percent of the world's top 500 corporations preferring to have their environmental impact figures professionally audited, the world's biggest companies are increasingly publishing their greenhouse gas emissions and other energy metrics - and being assessed on them by customers.

While there is considerable disagreement over the economic benefits of moving to a more sustainable model, evidence is emerging showing firms with fewer greenhouse gas emissions perform better on average.

### 6.3 How to Resolve Ethical Dilemma?

Strong corporate ethics begin at the top of the organisation and pervade all levels of operations. A corporate code of ethics is the foundation of the legal and value-oriented guiding principles that firms employ to maintain their moral compass. If you're faced with an ethical issue, think about what's legal, what's in the code of ethics, and what's best for the individuals involved and the organisation.

#### **Begin with the legalities.**

What is allowed and what is not is typically quite clear under the law. If the ethical difficulty is deemed to have arisen as a result of a failure to follow the law or comply with compliance standards, the answer is typically simple as well. Every employee is obligated to follow the law.

If an employee steals money from the register, injures someone, or forges client signatures, disciplinary action should be taken as soon as the illegal behaviour is discovered.

#### **Look over the Code of Ethics.**

Some ethical transgressions are more difficult to detect. Examine your definition of the scenario in relation to the specified action in the code of ethics. An employee, for example, may be accused of lying to clients about the benefits of a product. During your inquiry, you discover that the employee is making analogies that make the product appear to do more than it actually does, but isn't lying about the product outright. However, you agree that the approach is deceptive and leads to dissatisfied customers.

#### **Obtain information from a variety of sources.**

The information comes from a number of places. If you're looking into unethical behaviour, you'll need to speak with those who have witnessed it. Don't rely solely on other employees to determine whether or not something is ethical, but gain a sense of how others react to the acts.

Also, talk to trusted friends or mentors about what you should do.

Based on the conduct and acts performed, an attorney can advise you on any legal repercussions. A mentor or other business counsellor can assist you in resolving ethical difficulties that aren't as black-and-white as they appear. Remember to keep things private in order to protect everyone involved, including yourself.

The National Association of Social Workers has developed a framework for social workers to employ when confronted with ethical difficulties that centres on principles.

There are six steps in the framework:

1. Determine whether or if there is an ethical problem. Is there a clash of values, rights, or obligations in the workplace?
2. Determine the most important values and concepts at play. What are the common meanings and constraints associated with these conflicting values?
3. Rank the values or ethical standards that are most important to the situation or predicament in your professional opinion. What are your justifications for choosing one conflicting value/principle over another?
4. Create an action plan that is in line with the ethical priorities that have been identified as being at the heart of the problem. Have you discussed the possible risks and repercussions of alternate courses of action with clients and colleagues, when needed? Can you back up or justify your action plan with the ideals or concepts that it is founded on?
5. Use the most relevant practise abilities and competencies to carry out your strategy. How will you put key social work abilities like sensitive communication, skilled negotiating, and cultural competency to work for you?
6. Consider the results of this ethical decision-making procedure. How would you assess the impact of this procedure on the parties involved: the client(s), the professional(s), and the agencies?

We frequently find ourselves in the midst of disagreements as company executives. At least, that's our hope. Because the more enthusiastic our employees are about our organisation and its objective, the more they will argue over strategy, structure, budgets, and action plans. Leaders who achieve peak performance understand that disagreements and debates are unavoidable. They also know how to best handle conflicts and bring the team together to go ahead as a unit. This is a necessary talent for anybody who wants to lead.

So, how can they get over the stumbling obstacles while maintaining everyone's commitment?

The difficult choice between right and right dilemma.

Peak performers understand that making the toughest decisions isn't a case of one option being better than the others. They are aware of the debates that impede organisations when "rights" conflict, resulting in an ethical quandary. Consider a corporation that has recently been acquired. It has to integrate two back office operations, but the managers of each are at disagreement about who should absorb the other. Each manager has the "right" to advocate for the department's best interests.

This is known as the "good for the unit vs good for the whole" ethical problem.

In his books *Moral Courage and How Good People Make Tough Choices*, Dr. Rushworth Kidder, author and founder of the Institute for Global Ethics, discussed similar challenges. Kidder defines ethical problems as "right versus right" and "at the heart of our most difficult decisions." As a department head, it's "right" to defend your people, but it's also "right" to safeguard the company's interests. There are four problems, according to Kidder:

- Good for the unit versus good for the whole.
- Good for the short term versus good for the long term.
- Truth versus loyalty.
- Justice versus mercy.

Since the beginning of time, these issues have been a part of the human experience. They are common now and will undoubtedly drive people insane in the future. What can we do as company executives when we're confronted with them?

### 1. Use "and" to solve ethical concerns.

Peak performers detect when "rights" collide and guide the group away from making each other wrong and toward addressing the problem. To do so, ask the group to come up with a solution that incorporates the "and" magic.

After that, the storey becomes:

It's excellent for the unit as well as the entire.

It's excellent in the long run and in the short run.

Both honesty and loyalty are required.

Both justice and mercy are required.

When leaders can persuade their followers to adopt this strong mindset, they will almost certainly be able to solve the problem.

### 2. Consider the possible consequences.

If this strategy fails, you can settle a right vs right conflict by determining the highest "right." When presented with these sorts of difficulties, Kidder said that there are three approaches to make the optimal decision:

**End-to-end:** Choose the choice that produces the greatest amount of good for the greatest number of people.

**Rule-based:** Make your decisions as though you're establishing a global norm. Follow the example you want people to emulate.

**Care based:** Carefully consider your options as though you were the one who would be most affected by your decision.

Lay down your alternatives based on these three principles once you've recognised an ethical right against right conflict. One technique will emerge as the "most correct" right away.

### 3. Ensure that everyone in the group is on board with the decision.

It's critical to keep the group committed to the choice, regardless of whether decision-making technique makes the most sense in a specific case. As the group attempts to overcome these challenges, develop a working definition of consensus. Instead than adopting the standard definition of consensus, which assumes that everyone agrees on everything, try the following definition:

Was the decision-making process regarded sensible and fair to all parties involved?

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**Unit 06: Ethical Dilemmas**

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Was each participant in the conversation handled with respect and listened to?

Can the group live with and commit to the outcome if they are pleased with Nos. 1 and 2?

(It's worth noting that it doesn't state "agree with")

When individuals unwittingly dispute over right vs right, pay attention. It's not always obvious to those engaged. When you point it out to them, they'll start to see things differently. Also, make sure they're forming agreements based on the working concept of consensus.

You will become key to the company's vitality if you use these skills: you will keep the organisation going forward despite their inevitable encounters with ethical difficulties.

### **Summary**

- Ethical dilemma is a problem in decision making process, between two options, where none of the option is acceptable, from ethical viewpoint.
- Various types of ethical issues exist in business
- Some of the types of ethical issues are workplace discrimination, occupational health and safety
- Social media rants or whistleblowing, unethical accounting practices are also types of ethical issues organizations face
- Corporate espionage, technology and piracy are another ethical issues faced by firms
- Finally, another type of ethical issues faced by firms are Favoritism, nepotism and environmental responsibility
- There can be various ways to resolve ethical dilemma
- Considering what is legal, following ethical code of conduct prescribed by the business and obtaining information from variety of sources
- Prioritizing an ethical issue in terms of values can be another way to resolve ethical dilemma
- Moving from good for the company versus good for the department to good for the company and good for the department can be another way of resolving ethical dilemma

### **Keywords**

Ethical dilemma, ethical dilemma resolution, types of ethical dilemma

### **Self Assessment**

1. Ethics is said to \_\_\_\_\_.
  - A. give us clear answers as to what is right
  - B. give us clear answers as to what is wrong
  - C. encourage us to explore different perspectives
  - D. none of these

2. An ethical dilemma is \_\_\_\_\_.
- A. where a decision is required but different values seem to conflict and it is not possible to uphold both
  - B. where the required course of action is clear
  - C. any situation where a decision has to be made
  - D. None of these
3. Which of the following factors shapes the ethical behavior of the members of an organization?
- A. The supervisor's behaviour
  - B. organizational culture
  - C. code of ethics
  - D. All of the above
4. Ethical dilemma is the not the question of choosing good from evil but choosing more good or lesser evil
- A. True
  - B. False
5. Which of the following is type of ethical dilemma for organizations?
- A. Discrimination at workplace
  - B. Health and safety of employees
  - C. Whistle blowing or Social Media Rants
  - D. All of the above options
6. In the light of increasing online activity of employees on social media, the organizations should create clear social media policies for employees
- A. True
  - B. False
7. There is no evidence that companies with lower greenhouse gas emissions perform better on an average
- A. True
  - B. False
8. Which of the following are true
- 1) Ethical dilemmas arise when it is thought that serious good and bad are bound together in the same activity
  - 2) Ethics uses the instrument of coercion to oblige its subjects
  - 3) Ethical behavior is dependent on the conditions and circumstances under which an action/event takes place
  - 4) Codes of Conduct form a part of ethical training

- A. 1 and 3
  - B. 1, 3 and 4
  - C. 1,2 and 3
  - D. 2, 3 and 4
9. Considering what is legal is usually one of the first step in resolving ethical dilemma
- A. True
  - B. False
10. A written statement of policies and principles that guides the behaviour of all employees is called
- A. code of ethics
  - B. word of ethics
  - C. ethical dilemma
  - D. None of the above
11. The HR policy which is based on the philosophy of the utmost good for the greatest number of people is covered under the
- A. utilitarian approach
  - B. approach based on rights
  - C. approach based on justice
  - D. None of the above
12. Which of the following is not usually the objective of a code of ethics?
- A. to create an ethical workplace
  - B. to evaluate the ethical components of the proposed actions of the employees
  - C. to improve the public image of the company
  - D. to enhance the profits of the business continuously
13. One of the approach to solve ethical dilemma is rather than choosing one of the alternative, choosing both the alternatives for example from: "good for the unit versus good for the whole" to "good for the unit and good for the whole"
- A. True
  - B. False
14. Which of the following is the approach to solve ethical dilemma?
- A. Rule based/ Kantianism Rights based approach
  - B. End based/Utilitarianism approach
  - C. Care based
  - D. All of these

15. Pick the correct description of the following term: Utilitarianism is...
- A theory which states that an action is morally incorrect if it promotes the greatest good for the greatest number incorrect
  - A theory which states that an action is morally right if it promotes the greatest good for the decision maker incorrect
  - A theory which states that an action is morally right if it promotes the greatest good for the smallest number incorrect
  - A theory which states that an action is morally right if it promotes the greatest good for the greatest number correct

### Answers for Self Assessment

- |       |       |       |       |       |
|-------|-------|-------|-------|-------|
| 1. C  | 2. A  | 3. D  | 4. A  | 5. D  |
| 6. A  | 7.. B | 8. B  | 9. A  | 10. A |
| 11. A | 12. D | 13. A | 14. D | 15. D |

### Review Questions

- Discuss the meaning of ethical dilemma by examples
- Discuss any ethical dilemma, you have experienced in your life. Explain how you have resolved it
- Discuss various types of ethical issues faced by firms
- What is corporate espionage and technological surveillance used by firms? Discuss how these are ethical issues.
- Discuss the process of resolving ethical dilemma by taking suitable example



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## Unit07: Creating an Ethical Organization

### CONTENTS

Objectives

Introduction

- 7.1 Meaning of Corporate Governance
- 7.2 Importance of Corporate Governance
- 7.3 Issues in Corporate Governance
- 7.4 Role of Organizational Culture in Business Ethics
- 7.5 Building Ethical Culture
- 7.6 Ingredients of Ethics and Compliance Program

Summary

Keywords

Self Assessment

Answers for Self Assessment

Review Questions

Further Readings

### Objectives

- Identify the meaning and significance of corporate governance
- Identify the issues in corporate governance.
- Identify the role of organizational culture in business ethics
- Illustrate how to develop and execute a comprehensive ethics program

### Introduction

The term 'corporate governance' is a recent vocabulary in the corporate world that came into being and is being increasingly relied on after a series of unfortunate events in Japan, UK, USA and Asia. The enactment of Foreign and Corrupt Practices Act in 1977 in the United States was perhaps the embryonic beginning of the concept of corporate governance. However, many failures in the business world in the 1980s compelled the United States to be more serious in the matter of corporate management. The Treadway Commission Report (1987) made many important recommendations for the better internal management of business companies through proper auditing and control. Subsequently, the Committee of Sponsoring Organization in its report in 1992 provided a framework for the ideal functioning of corporations and their management. However, the corporate sector experienced many scams and scandals in the beginning of the new millennium, and the result was the historical enactment of Sarbanes–Oxley Act of 2002 that laid down some principles for the strict compliance of the corporate sector in America.

On the other side of the world, Japan experienced many downturns and low returns in business. The downturns were seen to be because of failures of the corporate sector. In the same way, the United Kingdom experienced many frauds and scandals in the corporate sector since the introduction of globalization in the 1980s. It was realised by corporate pundits that there was something fundamentally wrong in the corporate sector. The Asian financial crisis of 1997 also put the blame on the inefficient corporate governance in the East Asian economies. All these experiences put together suggested that poor corporate governance was the real culprit; hence, there started an organized movement in the business world to formulate certain principles and policies to put the corporate world on sound footing. The Cadbury Committee in England provided

some principles in 1992, the Organization for Economic Cooperation and Development (OECD) (1999) also formulated certain ideal principles for the improvement of corporate governance. In India, the attempt to introduce and improve the corporate governance went into several directions. In 1997, the Confederation of Indian Industries (CII) prepared a code for corporate governance. Subsequently, the Kumar Mangalam Birla Committee (1999) with the auspices of the Securities and Exchange Board of India (SEBI) introduced standard listing agreement to be followed by all the listed companies in India under Clause 49. Now all the listed companies in India have to follow the (SEBI) code. It has been accepted in principles by all that corporate governance is crucial not only for the success of international business but also for bringing about uniformity in the international standard and corporate behaviour. The uniformity is the essence of a globalized system that offers a level playing field for international business interactions.

The broad structure of corporate governance consists of a four-fold interconnected system. These are, the shareholders (owners) at the top, the Board of Directors next, and then the corporate management and at the bottom end, the employees. The key elements in corporate governance are supervision and internal controls, transparency and accountability, disclosures, risk management, removal of asymmetric information system, and the maintenance of safety and product quality.

Environmental protection and social responsibility are accorded special importance in recent years. Corporations are legal entities and wield enormous political and economic power. In many instances, they have been instrumental in regime changes. In the eyes of law, corporations are personalities with many rights, power and authorities. They also influence law making that seem to have far-reaching impact on the industrial development of a country.

In a corporation type of business, there is a separation between ownership and control. The company is managed not by owners but by the Board of Directors. The Board directs the manager as to how to run the company. The most unique feature of a corporation is the limited liability of the owners.

There are several responsibilities and duties of a corporation. The following are the basic responsibilities and duties of a corporation:

- Duties towards its own employees, suppliers, customers and shareholders. In all these cases, corporations are morally bound to further the interests of these groups of people.
- Economic duties of corporations include the earning of profits for shareholders and adequate returns on the investment made by investors. It is the duty of corporations to expand production and supply of useful commodities for the satisfaction of consumers' demand. These corporations also contribute to the general economic growth and development by creating a right kind of investment, adequate job opportunities and the growth of trade and commerce through the development of modern technology.
- Corporations have also some social duties to perform. They have to undertake and perform social responsibilities of developing social capital, social infrastructure, social institutions and social goods. All these are supposed to enhance the social welfare of a country.
- One of the important responsibilities of corporations is to protect, develop and prevent the deterioration of environment by doing and not doing certain types of activities.
- Corporations are supposed to perform certain ethical duties towards its employees and customers. These include employees' welfare schemes, improvement of working conditions and environment and allow them the fundamental corporate freedom and human rights without prejudice. The duties towards customers include supply of goods and services that are healthy, safe and hygienic.
- A corporation is footloose and can function in the global market. As pointed out earlier, a business corporation is an engine of growth and is welcome for creating export surplus, saving and investment and industrial growth in a developing country.

## 7.1 Meaning of Corporate Governance

Corporate governance is the coordination and maintenance of a set of relations that promote the interests of stockholders and stakeholders of a business corporation. A few representative definitions are given as under:

“It is a system by which companies are directed and controlled.” (OECD)

“It is a set of relationships between a company’s management, board, shareholders and stakeholders.”

“It is a system of social institutions that influences the process of strategic investment in corporations that revolve around three decisions: investment, returns and control.”

“Corporate governance is defined as holding the balance between economic and social goals and between individual and communal goals. The governance is there to encourage the efficient use of resources and equally to require accountability for the stewardship of those resources.” (Cadbury Committee: Choudhury, 1992)

World Bank has given two definitions of corporate governance (1999):

From public policy perspective, “it is about nurturing a company with accountability in the exercise of power and control over the company” and from the perspective of the corporation, “corporate governance is relations between owners, management board and stakeholders”.

## 7.2 Importance of Corporate Governance

The following are the main points of importance of corporate governance:

- Accountability and transparency encouraged by corporate governance are essential for capital market development in LDCs (less developed countries). All these ensure investors’ confidence and can help overall investment climate in a country. In the Harrod-Domar type model, economic growth is positively linked with investment. A developing country can gain much in terms of quantitative growth through the development of a good system of corporate governance.
- Enhanced corporate productivity and efficiency through good corporate governance ensures economic growth with social justice and development. Thus, it not only improves the economic conditions of people but also enhances social welfare.
- A disciplined and controlled corporate governance can considerably reduce financial turmoil and can ensure financial stability, both of which are crucial for economic growth and development. In the past, many corporations failed not because of their products and services but because of their bad corporate governance.
- A good corporate governance can considerably reduce corporate fraud and corruptions. In such cases, not only is public confidence raised but also the national prestige is enhanced.
- Competitive product and factor markets can be promoted and sustained by corporate governance. This is beneficial not only for corporations but also for the society. This can ensure allocative efficiency in the management of scarce resources.
- A good corporate governance is necessary for successful international business as it increases confidence, product quality, prices, social responsibility and environmental protection.
- A better social responsibility generated by a good corporate governance can enhance social development, social welfare and public image and confidence. All these can help the corporations to build social capital and trust.
- A good corporate governance ensures environmental protection and a sustainable development.

This not only reduces the public cost but can also ensure better human health.

- An ethically inspired CG ensures employees’ welfare and consumers’ welfare and is in favour of the stakeholders’ interests. A good corporate governance does take into account the welfare of all the stakeholders and thereby ensures justice and fairness to all concerned.

- A good corporate citizenship is a sort of national pride and asset. It is beneficial in many ways to the society, employees, stakeholders and of course, the nation. There seems to be a direct and positive nexus between the number of good corporate citizens and the socioeconomic development of a country.

### **7.3 Issues in Corporate Governance**

There are hosts of issues in corporate governance. These issues are broadly divided into two categories: structural and ethical issues. The following discussion will address both these issues.

#### Structural Issues

- One such structural issue is the composition of Board of Directors. The proportion of executive and non-executive directors has remained an important issue in corporate governance.
- What should be the proportion of independent Directors in the Board? J.J. Irani Committee thinks that one-third of the directors can be independent. But the SEBI recommends that 50 per cent of the directors should be independent. It is not really the quantity but the quality of directors which matters most.
- Should there be a few big shareholders or a large number of small shareholders scattered over the whole country? No concrete answer is yet available on this issue.
- Should there be more insider or outsider ownership? There is no consensus over this issue.
- Should a corporation depend on more on small or on large creditors? No agreement is arrived at on this issue.
- Who should be given more priority? Should there be a priority given to the interests of shareholders (Anglo-American model)? A coordinated model gives more priority to workers, managers, suppliers and customers (Continental Europe and Japanese model).
- Another interesting issue is the gender issue. Empirically, women Directors are found to be less in number and it is tantamount to gender discrimination in corporate governance. The issue has not been settled in a unique way to be acceptable to all the corporations.
- Remuneration of Directors is another debatable issue. Some will favour high remuneration and some low. What is fair is a reasonable package of remuneration depending on the qualifications, experience and value-added of the Director. All Directors should not be paid an equal amount of remuneration.
- An issue concerning the role of the CEOs. In the face of corporate scandals and scams, many people think that the days of celebrity CEOs are over. Some experts go as far as to suggest that the post of CEOs should be abolished, and an experienced and qualified manager can be an important alternative for better corporate governance.
- Another issue is the degree of government control that is desirable. Opinion differs on this issue, and many are in favour of minimal control. It should be instructive to note that in the case of India, after the introduction of liberalization, the role of the government has become minimal, although in some matters, legal tentacles are still strong.

The proper answer and settlement of all the above issues are difficult in actual practice.

Corporations are of different types and nature, and hence, they should not follow the same structure or administrative model.

#### Ethical Issues

There are basically four ethical issues in corporations and depending on these issues, they can be classified into the following types:

1. Overly Unethical Corporations
2. Half-heartedly Ethical Corporations
3. Ethically Indifferent Corporations
4. Ethically Constrained Corporations

• The first type of corporations does not bother about ethical core values and perhaps they have none. Even if on papers they have some core values, they do not follow these values and more often than not are engaged in unethical activities. The unethical corporate practices are very well-known today and are connected with the failures of many corporate houses in America. Some of these unethical practices can be briefly discussed as under:

■ Making fraudulent investment, falsification of accounts, insider trading, corruption and bribery, showing inflated profits to attract investors, drying up the company by claiming high salary, incidental expenses, entertainment and hotel bills, personal medical expenses, false travel documents, breach of company's trust, dishonesty of different types, fictitious transactions, non-disclosures of many material facts and figures, manipulating facts and figures, financial irregularities, embezzlement of company funds, breach of confidential information, misappropriation and malpractices, grant of heavy compensation, and soon. More often than not, such corporate houses do not practice the General Accepted Accounting Principles (GAAP), although they are advised to do so.

■ The list above is a very conservative one and many more malpractices can be added to this. The corporate world in the USA, UK, Japan, Korea and many other countries has been experiencing serious scams and scandals since long. For instance, the non-disclosure of vital financial information was instrumental in the case of Enron failure. Corporate scandals were the basic reason for the failure of many corporate houses in recent years in the United States. The US administration was ultimately forced to enact the Sarbanes-Oxley Act (2002) to investigate into the problems of auditing in the country.

• India also does not lag behind in corporate scandals. A few examples will make the statement clear. The Harshad Mehta scam and the case of ITC are well-known to every Indian. About 50 per cent of the listed companies in the Bombay Stock Exchange have recently been suspended for trading due to non-compliance of the requirements for legal listing. There are other well-known scams like land scams, sand scam, cooperative bank scams, cooperative sugar factory scams, capital market scam and the like. The insider trading scam is a very old story in India that dates back to 1950s. These scams are perpetrated with the connivance of insiders and outsiders who are professional con men. However, the travesty is that Indian financial institutions, unlike their foreign counterparts, are not interested in protecting the rights of investors in the face of scams and scandals. They remain monastically aloof. Bob Garratt believes that the 1980s and 1990s witnessed a continuous decline in the corporate value system in India too (2003). Indian business values are being influenced by the American corporate values and there is a strong demonstration effect. What is true is that it is very easy and tempting to imitate the bad values and the internalisation of good ethics always takes a much longer time. But once a particular ethical choice is made by a person of authority its effect spreads a long distance. Thus, we can have a positive ethical multiplier effect or a negative ethical multiplier effect. A corporation is ethically bad from head to foot when its manager or CEO is unethical. Both these effects percolate or trickle down the whole organization. Neoliberal globalization that encourages corporate capitalism does not seem to be sustainable any more in the long run; it has become unstable, unethical and unpopular. It spreads the market philosophy of valuation that justifies anything in the name of ethical relativity. Many of the developing countries including India which are in the process of capitalism integrated in the era of globalization are likely to experience more of these unethical corporate dynamics in the near future, unless such trends are kept under control through good corporate governance.

• The ethical corporations combine both the worlds of good and bad ethics half-heartedly. Most of the corporations in our times are of this type. Thus, we find many good works of Coca Cola, Hindustan Unilever Pvt. Ltd., Reliance Industries, Polaroid, Dr. Reddy's Laboratories Ltd., Wockhardt Ltd., Ranbaxy Ltd., Honda Motorcycles and Scooters India Ltd., and so on.

But at the same time, they are not free from some criticism either for not doing adequate or for doing something which may not be beneficial for the society or the customers. Their approach is not ethical commitment or regularity in behaviour. Sporadically, they do some good work and also some questionable works too. However, the motivation remains important, and as per the utilitarian principle, if they have done greater benefits to a larger number of people than they have harmed, their works will still be considered as ethical by many experts.

• Ethically indifferent corporations do not have any compelling ethical value premise. Even if they have some ethical codes or values accepted officially, they do not follow such codes of ethical behaviour. They remain indifferent. Perhaps they do not have enough ethical motivation or culture in the organization.

- Ethically constrained or challenged corporate bodies are many in number in developing countries. They have the mind to do something good for the society and the country. However, they have many practical constraints and limitations. These limitations arise out of financial constraints, lack of proper ethical guidance and lack of experience, unresolved ethical dilemmas, organizational conflicts and family feuds. The family feud in the Reliance Group of Industries in India was instrumental in their stock value crash in 2005.

### **Board of Directors and its Committees**

Several issues are involved in the case of Board of Directors. Some of these will be discussed in the next section. However, it is necessary to understand a few common provisions:

- The board will appoint a managing director or CEO.
- The board will consist of executive and non-executive directors. Executive directors will hold management positions.
- Some directors are independent, some are outsiders and some are insiders.
- In any system of all-executive board, there is no separation between ownership and management. But this is being replaced gradually by the majority executive board where there is such a separation.

### **Duties and Responsibilities of Board of Directors**

Since the Board of Directors is the heart and soul of corporate governance, it is empowered with many duties and responsibilities of which the following are crucial:

- It works as a friend, philosopher and guide for the whole company. It gives direction, defines the company's strategy and plans and ensures that management translates those plans into action.
- It appoints independent directors.
- One of the important responsibilities of the board is to ensure that shareholders' interest is given the top priority.
- It gives direction and supervises the critical activities of the company.
- It is responsible for the maintenance of accountability and transparency.
- Monitoring the overall activities of the company (and also that of the CEO) is an important function of the board.
- The fiduciary duties need to be performed with loyalty and good faith, and care and circumspection.
- It has been pointed out by many experts that the Chairman and the CEO should not be the same person, as there may be a concentration of power, and it is argued that power corrupts itself. However, there is no denying the fact that for the best functioning of the company their roles should be complementary and not competitive.
- The board has to ensure that for the smooth functioning of the organization, the flow of information is optimum and there is no asymmetry anywhere. There should be a maximum flow of information for all concerned.
- The board draws critical action plans and programs and formulates policies for fulfilling corporate social responsibilities which are now regarded as an essential corporate objective.
- The Board ensures the availability of financial resources.
- It approves annual budgets.
- It fixes up salaries and compensation.
- The board is obviously involved in all types of crucial decision-making processes. The board conducts frequent meetings and makes plans and resolves issues.
- The board makes sure that the company is based on ethical principles and it is supposed to give ethical leadership at different levels.

- The board appoints various critical committees and functions through them. The major committees are: audit committee, remuneration committee and nomination committee. These will be discussed at some length in the following section.

### **Governance Committees**

In standard corporate governance practices, there the following three Committees which are helpful to carry out the functions of the Board of Directors:

#### **Audit Committee**

This is one of the most crucial committees of Board of Directors. It generally consists of three independent and non-executive members. The committee meets regularly, not less than twice a year. It is appointed by the board and is responsible to it. The audit committee has a number of functions and recommendations to make, including the scope, the method and the procedure of auditing, resolving conflicts in financial matters, audit fees and change or reappointment of members, systemic review of the financial system, interim and final accounts, and so forth. It is an independent committee and has considerable leverage in maintaining checks and balances. The committee is supposed to settle disputes that arise between the team of external auditors and the management. The committee takes a neutral stand. It is supposed make important financial disclosures which are helpful for the company to understand its financial strength and for the investors to know about the real worth of the company. In some cases, it is a practice to engage both internal and external auditors to evaluate the financial position of a company.

#### **Remuneration Committee**

This committee has to frame policies regarding all classes of people working in the company. It should be an independent committee that will assess the material contribution of people before fixing up the remuneration. It is a very important committee that may bring loss or gain to the company. Hence, it is of much interest to the shareholders. It is accepted on all hands that remuneration should be based on performance or productivity. But since some types of corporate performances are not amenable to accurate measurements, there may remain a gap. A system of incentive or bonus may go a long way in the improvement of performance scale. It has been the tradition in many companies that non-executive directors are paid a fixed amount every month. In most cases, remuneration is based on the existing rule plus the change in the cost of living index. Apart from this, it needs to be appreciated that there should be a clear-cut policy of reward and incentive to attract best talents in the company. Gary Becker, Nobel laureate in Economics, has rightly pointed out that people work because of incentives and if the incentive is not adequate, the work cannot be satisfactory.

#### **Nomination Committee**

The committee selects non-executive directors. It works on an ad-hoc basis. The committee is usually chaired by the CEO. The selection process is supposed to be based on merit through a proper interview. Some independent search firms help to find out competent persons. Basically, they are professional people and, if utilised properly, they can perform the value-added role. In many cases, the shareholders take some interest in the selection of right persons. Many of the independent members do not get sufficient opportunities to show their worth and expertise.

### **Shareholders' Rights and Protection**

Many international committees in their guidelines and recommendations have emphasised the importance of shareholders' rights and also of their protection. The following discussion is based on the outlines of OECD Committee's guidelines and also some general opinions expressed by experts. Shareholders have the right to:

- Participate and be informed about some fundamental changes in the corporate governance, such as amendment in the statute, sale of corporation and the like
- Right to secure ways of registering ownership and transfer of shares



- Obtain timely information about important meetings. Right to information has been statutorily accepted by the government in many countries
- Since some important communication about the functioning of the company reaches the shareholders very late, they have the right to ask the company about its communication policy
- Voting in general meeting
- Elect board members
- Have a fair share in profit
- To be informed about the capital structure and other vital information so that their degrees of control can be made effective
- Know the rules for the acquisition of corporate control in capital market and also mergers
- All shareholders have equal rights to be treated equally. They are not to be discriminated against
- Remove directors
- To sue for the wrongful acts of the company
- Know about dividend policy and the time of their declaration
- Inspect annual reports, investment registers, books or records and many other critical documents
- Preferential rights to purchase shares
- Appeal to the Company Law Board, if necessary
- To get information about the remuneration of directors. In this context, it is the right of shareholders to know about the company's policy of remuneration
- Get information about auditing, and financial and non-financial disclosure by the company

The shareholders are the owners of the company and they have the legal property rights in all cases. They have the statutory rights to know about the decisions on their assets and investment, the policy decisions in the matter of investment, problems encountered, if any, and the future prospects.

### **The Principal-Agent Problem (PAP)**

In the case of corporate governance, which covers essentially a complicated and vast area of governance, the shareholders (principals or owners) cannot look after the day-to-day administration, management and policy making. This type of work is entrusted to hired managers (agents). There are basically two reasons for hiring agents for corporate/business management. First, the corporate owners (shareholders) may not have the time to manage the corporation and they might not have the necessary information. Information asymmetry is one of the crucial reasons for the appointment of agents. Second, the owners may not have the expertise to run the business in a very effective manner. Thus, corporate governance is done by a delegated authority.

There are several benefits of having the agents (managers):

- The business can run efficiently with expert guidance and management. The managers are supposed to be experts in their fields. They manage financial assets on behalf of investors and manage companies on behalf of shareholders.
- This may lead to cost reduction and more profits. However, the PAP system is not free from demerits. The following are the major problems of the PAP
- The agents are posted with more updated information, which, depending on the motive of the agent, may or may not be shared with the owners (principals). So the information asymmetry always persists.
- The objectives of the principal may be different from that of the agent. The agent may like to maximize his own pay and perk and may want to encourage nepotism and favouritism. He may like to maximise his own utility functions at the cost of the company and the society. This may increase cost. This is sometimes known as the Agency Cost. The agent may not bother much about the true interest of the owner.

- Given the fixed pay, the agent may practice rent-seeking (to earn some extra bucks by unethical and illegal means).
- PAP system ultimately may develop what is called the moral hazard problem. In such a case, because of information asymmetry, the principal has to depend too much on the agent and may lose all controls over the company and its strategic matters. He becomes a dependent personality.

PAP problem persists because it is difficult to know whether or not the hired agent is doing the work in the best interest of the principal. Monitoring may be expensive, and the cost may be more than the benefits.

#### **How Can the PAP be Minimised?**

The following suggestions, if carried out properly, may reduce the PAP:

- Performance evaluation of the agent is necessary. It may be in terms of hours of work or the result obtained.
- Extra pay may be granted for extra performance. It is necessary to have an incentive system.
- A scheme of profit-sharing may be introduced.
- The manager may not be given extra cash but some shares of the company so that he feels that he is also the owner.
- It is a better to have a contracting system of payment rather than fixed pays. The piece rate system of pay is suggested by many experts.
- It is imperative to resort to financial and non-financial disclosures, and the company accounts must be audited by independent statutory auditors.

It has been noted that the Agency problem has been the pivot of all financial scams and failure in many advanced and developing countries including India. Thus, in corporate governance, the PAP assumes a critical role.

## **7.4 Role of Organizational Culture in Business Ethics**

An organization without any ethical culture is like a ship without a rudder. It has no direction, no trajectory and no definite destination. Such an organization cannot be successful in the long-run even though it may earn a hunk of money. In recent years, the failures of most of the well-established companies did not occur due to lack of salesmanship, goodwill or strategic planning but mostly because of lack of ethical terra firma. The lesson that we get from the failure of these corporate giants is that unless a company is seriously accepting and operating value-based management, it cannot survive with success. The word success has to be cautiously interpreted. Making money is not necessarily and always the yardstick of success. The success must be interpreted in terms of a composite index that includes good financial returns, goodwill, customers' satisfaction, employees' welfare, performance of social and ethical responsibilities, and above all, the organization's ethical core values.

In the present section, an attempt is made to analyse the structure, leadership and ethical culture of an organization. In doing so, the importance of leadership in the development of ethical core values and value-based management is also discussed at some length.

### **ORGANIZATION STRUCTURE, LEADERSHIP AND ETHICAL CULTURE**

An organization accommodates many types of structures with respect to administration and functional matters. There may be a hierarchical centralized or a decentralized organizational structure. In the matter of taking decisions, a centralized system is less flexible, and less amenable to adaptability. But it is not so in a decentralized system. Such a system is very flexible, adjustable, amenable and ever ready for adaptability. In most of the cases, a decentralized system is more informal and personal whereas the centralized system is more formal and impersonal.

The bureaucratic control in a centralized system is very rigid and time-taking but the division of labour is well-defined. A centralized system follows the top-down approach in decision-making but a decentralized system follows the bottom up method. The speed of implementation is very quick in a centralized system but it is rather slow in a decentralized system.

**Ethical Implications of Organization Structure**

In general, in a centralized organization structure, the down-top communication is few and far between, and there is also an absence of personal contact, relationship and concern. Thus, the employees at the bottom have practically no chance to communicate to the top level bosses. It is this distance that makes the medium level and lower level employees somewhat aloof and alienated from the mainstream culture and ethos of the organization, and because of the communication gap, the lower level employees often engage in many unethical activities such as bribe, gift-taking and so on for favours done to outsiders. They may also run sweat shops, use forced labour and illegal immigrants for the factory work. This may be done without the knowledge of top level bosses as they never visit the production centre of the factory. In fact, lack of communication, and absence of direct supervision by top level employers can lead to many unethical practices in and outside the factory premises. Unless the ethical culture is put into the communication flow and all the official activities by a motivated leader, the employees in a centralized system do not have the feel and compulsion to work ethically.

Contrary to the ethos of a centralized system, a decentralized system is more informal with personal contact and communication. In such a system, the flow of information is very quick and information asymmetry is almost conspicuous by its absence. So, any unethical behaviour by an employee promptly comes to the notice of everybody through grapevines. It is very difficult for an unethical person to survive there for a long time, as he is caught and condemned sooner or later. Official ostracism is the cost of an unethical behaviour. Thus, an unethical aberration can be corrected more easily in a decentralized system than in a system which is centralized. A decentralized system can resolve, or even avoid, many ethical dilemmas more promptly through informal discussion, as the system is more democratic. In a centralized system, however, corruption and similar other unethical practices get institutionalized over time, and it is very difficult to remove them. In fact, it takes a long time to unearth unethical practices as they get entrenched.

The procedure is too formal, cumbersome and lengthy. However, if a person is found guilty of any serious unethical aberration, he is dismissed from the job. However, the bottom line is that certain unethical practices are possible in both centralized and decentralized types of organizations. But in a centralized system, it takes a long time for the unethical cultural rooting and the elimination of such a behaviour, as compared to a decentralized system where minor unethical aberrations may come and go without rooting and sprawling. Much will depend on the nature of organizational leadership. Let us concentrate on this topic.

**Leadership and Corporate Ethical Culture**

The ethical culture in a corporation depends primarily on the nature of its leadership. If the leadership is ethical, the ethical culture easily percolates down to the level of the whole organization and its employees are inspired naturally by it. A good leader can contribute to the:

- Creation of some ethical core values
- Setting of ethical goals and agenda for action
- Development of ethics programmes for the company (by setting up a code of ethics, ethics committees, ethics hotlines, and so on)
- Development of ethical culture
- Implementation of all ethical policies
- Settlement of all ethical dilemmas
- Resolution of all conflicts through ethical means

**7.5 Building Ethical Culture**

One of the most difficult and illusive issues facing company executives is how to create and sustain an organisation with happy, engaged, and ethical personnel. The interaction of systems, norms, and values, all of which impact behaviour, determines organisational culture.

Much of the conversation around organisational culture still revolves around structural improvements to corporate governance and compliance procedures, as well as efforts to detect "bad apples." Glossy pamphlets, chief happiness officers, bonding activities, and free beer, on the other hand, are available. Despite this, public trust in business continues to erode, and corporate scandals continue to surface.

Organizations are open systems in the sense that their qualities are more than the sum of their components, and these traits nest inside other systems, establishing a web of connections. Efforts to reform culture must thus be directed at all levels of the system. Individual involvement and motivation, interpersonal connections, group dynamics, group relationships, and contacts with other organisations, such as suppliers, consumers, rivals, and civil society, should all be prioritised. Employees will detect any inconsistencies in the signals a business sends if there isn't a complete, multilayered approach in place, and this will undercut attempts to develop an ethical culture.

This section explores five levels at which a company should build ethical culture

**Individual:** How individual employees are judged and rewarded is a major aspect in whether ethical culture is sustained or undermined. Unethical behaviour is to be expected in the face of pressure to fulfill growth objectives by whatever means necessary – a view that the ends justify the methods. As a result, the incentives system is a great place to begin. Individual workers can also bring their complete selves to work thanks to diversity and inclusion initiatives: Employees who do not feel compelled to conceal components of their social identity in order to fit into the prevailing culture will have less conflict between personal and corporate principles and will express themselves more boldly, making them more likely to report ethical problems.

**Interpersonal:** Organizations can also pay attention to how employees connect with one another at all levels of the organisation. Abuse of power and authority is a major cause of corporate culture degradation. Employees reject company values declarations and pursue their own agendas when choices concerning promotions and awards appear to be unjust and politicised. From an interpersonal standpoint, creating an ethical culture necessitates real safeguards that enable all workers and stakeholders, including the most powerless, to voice their concerns and criticisms. Meanwhile, leaders must acknowledge the significant role they play in shaping culture and ensuring ethical behaviour, and they must learn to use their power wisely.

**Group:** Human culture is defined through socialisation into group memberships and connections. At work, an employee's group or team is usually the most important determinant. It becomes increasingly difficult to establish and define a consistent corporate culture when organisations grow more geographically dispersed and weakly connected. By focusing on team dynamics and culture, middle managers might feel more empowered to change the culture and group dynamics in order to create more productive working methods. While job and task clarity is important, psychological safety is also important for a successful team. Teams will be more creative, successful, and ethical if employees feel safe taking chances and expressing themselves.

**Intergroup:** Any endeavour to develop an ethical culture must take into account the quality of interactions between groups. Celebrating a team whose exceptional performance may be due to unethical behaviour gives it strength and a mystique that is difficult to dispel, and this can undermine organisational ideals. Teams working in sustainability or compliance frequently have to fight for authority and resources, and responsibility can be diluted when members are assigned to matrixed working groups.

**Inter-organizational:** The majority of organisational culture debates concentrate on internal interactions. Employees are still very aware of how a firm handles suppliers, consumers, rivals, and civil society stakeholders, therefore establishing and retaining stakeholder trust will help to enhance organisational culture. Furthermore, businesses must guarantee that their values and goal statements are more than just words on a website. The notions of business success and fundamental values are not mutually exclusive. However, cultivating an ethical culture sometimes necessitates passing up attractive chances. Employees will notice, companies can be sure.

## 7.6 Ingredients of Ethics and Compliance Program

While there are many criteria that distinguish the "excellent" from the "great," it has been found that there are five that stand out in the highest-performing ethics and compliance programmes.

**Tone at the top** – The board and senior management, and their shared sense of duty to preserve the shareholders' reputational and financial assets, are the starting point for every world-class ethics

and compliance programme. The board of directors and top management should do more than just talk about ethics and compliance. To manage risks and establish corporate trust, they must empower and appropriately resource the personnel who have day-to-day responsibilities.

**Corporate Culture:** Any effective ethics and compliance programme must start with a strong corporate culture. Initiatives that do not clearly contribute to a culture of ethical and compliant conduct may be perceived as just administrative measures that obstruct the enterprise's "value shift."

**Risk assessment** – Ethics and compliance risk assessments are about recognising the hazards that a company confronts, not simply the process. The risk assessment helps the board and senior management focus on the most important risks facing the company, and it serves as the foundation for defining the measures needed to prevent, minimise, or remediate those risks.

**Chief Compliance Officer:** The Chief Compliance Officer (CCO) is responsible for monitoring the management of compliance and reputational risks on a day-to-day basis and serves as the board's fiduciary agent in this respect. A skilled CCO may provide their company a competitive advantage.

**Testing and monitoring** – A thorough testing and monitoring programme can assist in ensuring the control environment's effectiveness. The process begins with the implementation of suitable controls, which should be tested, followed by frequent monitoring and auditing.

## Summary

- Corporate governance is the combination of rules, processes or laws, by which businesses are operated, regulated or controlled
- There are several issues in corporate governance
- Separation of the role of management and ownership
- Separation of the role of chairman and chief executive officer
- Composition of board of directors
- Appointment of the board and Director's re election
- Shareholder's right
- Formation of various committees by board of directors like audit, remuneration and nomination
- One of key issue in corporate governance is agency theory i.e. principal-agent problem (PAP)
- For building an ethical work culture focus can be on five levels
- Those five levels are individual, group, interpersonal, inter-group, and inter-organizational
- For building an comprehensive ethics compliance program, five ingredients need to be followed
- Those five ingredients are tone at the top, corporate culture, risk assessment, chief compliance officer and testing and monitoring

## Keywords

Corporate governance, principal agent problem, ethical work culture, ethical compliance program

## SelfAssessment

1. External audit of the accounts of a limited company is required?
  - A. Because it is demanded by the company's bankers
  - B. By the companies act 2006
  - C. At the discretion of the shareholders

- D. To detect fraud
2. Directors responsibilities are unlikely to include
- a duty to keep proper accounting records
  - a fiduciary duty
  - a duty to propose high dividends for shareholders
  - a duty of care
3. Managers are entrusted to run the company in the best interest of \_\_\_\_\_. Specifically, they have a duty to act for the benefit of the company, as well as a duty of \_\_\_\_\_ and of \_\_\_\_\_.
- Shareholders, Care and Skill, Diligence
  - Stakeholder, Care and Skill, Diligence
  - Shareholders, Self-interest, Diligence
  - Stakeholders, Care and skill, Self-interest
4. The relationship between shareholders and the company, or so called \_\_\_\_\_, describes shareholders as \_\_\_\_\_ and managers of the company as \_\_\_\_\_.
- Agency relation, Agent, Principals
  - Stakeholder management, Agent, Principals
  - Agency relation, Principal, Agents
  - Stakeholder management, Principal, Agents
5. To ensure the independence of the non-executive board members, they are a number of steps which can be taken, which include non-executives being drawn from \_\_\_\_\_ the company, being appointed for a \_\_\_\_\_ time period as well as being appointed \_\_\_\_\_.
- Outside, Limited, Independently
  - Inside, Limited, Intermittently
  - Outside, Unlimited, Intermittently
  - Inside, Unlimited, Independently
6. The role of board of directors and management should be same in order to have good corporate governance
- True
  - False
7. An independent director is one who:
- Did not attend a school supported by the company.
  - Does not have outside relationships with other directors.
  - Does not have any other relationships with the company other than his or her directorship.
  - All of the above.

8. In order to have good corporate governance same person should have the role of chairperson and CEO
- A. True
  - B. False
9. Which of the following factors shapes the ethical behavior of the members of an organization?
- A. The supervisor's behaviour
  - B. organizational culture
  - C. code of ethics
  - D. All of the above
10. One of the most difficult things for a business to restore after an ethics scandal is
- A. regulations
  - B. ethics training programs
  - C. trust
  - D. codes of conduct
11. Managers are responsible for
- A. creating a work environment that helps the organization achieves its objectives and fulfills its responsibilities.
  - B. encouraging employees to engage in activities that they might otherwise view as unethical
  - C. providing vague supervision on ethical issues to avoid overly influencing employees
  - D. offering no ethical direction to employees to create opportunities for individual ethics
12. Which of the following is true of professional codes of ethics?
- A. They do not have to provide any guidelines and principles.
  - B. They do not have to be too detailed.
  - C. They should only be developed by the board of directors of a firm.
  - D. They should take into account every ethical situation possible.
13. A set of formalized rules and standards that describes what a company expects of its employees is called a
- A. contractual capacity
  - B. consumerist code
  - C. social responsibility
  - D. code of ethics
14. Codes of ethics, policies on ethics, and ethics training programs advance ethical behavior because they

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**Unit 07: Creating an Ethical Organization**


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- A. do not limit the opportunity for misconduct  
 B. result in expensive litigation  
 C. infringe on consumers' rights to be informed  
 D. prescribe which activities are acceptable and which are not
15. Mary is a manager who supports ethics and compliance at her company by clearly communicating company expectations for ethical behavior to all employees. This exemplifies
- A. tone at the top  
 B. tone throughout the company  
 C. tone at the bottom  
 D. social responsibility

### **Answers for Self Assessment**

1. B      2. C      3. A      4. C      5. A  
 6. B      7. C      8. B      9. D      10. C  
 11. A      12. B      13. D      14. D      15. A

### **Review Questions**

1. What is corporate governance? Why it is important?
2. Discuss the issues in corporate governance in detail with examples
3. Discuss principal agent problem in corporate governance. How to solve this problem?
4. Discuss the role of corporate culture in building an ethical organization with examples
5. How can an ethical culture be built in organizations? Discuss with examples.
6. Discuss the key ingredients of ethical compliance program in organizations with suitable examples.



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**Unit 08: Application of Ethical Standards to Human Resource****CONTENTS**

Objectives

Introduction

- 8.1 Traits of Workplace Behavior
- 8.2 Rights and Duties of Employees
- 8.3 Personnel Policies and Procedure
- 8.4 Types of Policies and Procedures Every Workplace Needs
- 8.5 Conflicts of Interest
- 8.6 Kinds of Conflicts of Interest
- 8.7 Whistle Blowing
- 8.8 Advantages of Whistle Blowing
- 8.9 Problems in Whistle Blowing
- 8.10 Balancing the Pros and Cons
- 8.11 Abuse of Power and Official Position
- 8.12 Kinds of Abuse
- 8.13 Concept of Bribery
- 8.14 Reasons for Bribery

Summary

Keywords

Self Assessment

Answers for Self Assessment

Review Questions

Further Readings

**Objectives**

After this unit, you can able to:

- Identify and analysis the Rights and Duties of Employees
- Develop understanding about Personnel Policies and Procedures
- Describe the conflict of Interest
- Elaborate the concept of Whistle Blowing
- Illustrate the Abuse of Official position
- Express the views on Bribe

**Introduction**

Ethics is the discipline that deals with what is right and wrong or with moral duty and obligation. Human resource management is concerned with the planning and development of the workforce. The application of ethical standards to human resource interactions and activities is known as human resource ethics. When it comes to ethics, it is the human resource department that matters the most because it deals with human issues like remuneration, safety, health, and development. It is critical that businesses make decisions that are ethical. When a business acts ethically, it serves as

a role model for both its employees and the community. This behavior encourages social responsibility and shows employees that the organization is honest and trustworthy.

Ethics primarily helps the individual, employee, or human social unit. Ethics is important for the following reasons:

- Meeting basic human needs
- Establishing credibility
- Unifying people with leadership
- Improving decision-making
- Achieving long-term goals and securing society.

Businesses must implement techniques to ensure that all employees are capable of making ethical decisions. Long-term profitability depends on employing ethical business practices.

Human resources play a critical role in any firm, and they must ensure that all acts are carried out equitably and within the confines of the law. Human resource specialists must be objective and balance the requirements of employees and management; they must, of course, do what is best for the business. To be honest, it doesn't always work that way because human resource refashions are also people, which means they can have their own agendas that can make things more complicated. If human resource professionals aren't willing to do the right thing, both the employee and the organization will suffer.

### 8.1 Traits of Workplace Behavior

Workplace action	Ethical Judgment
Coming late to work.	45% say late-coming is not wrong.
Making personal calls from office phone.	46.8% say it is not wrong.
Details of office expenses.	55.7% say fudging details is not wrong.
Leave application.	60% say telling lie is not wrong.
Promise to the customer.	60% say making false promise is not wrong.
Means of getting competitor information.	62% say that the means adopted to get the required information is not wrong.
Use of office stationery for personal use.	61% say it is not wrong.
Doing personal work during office hours.	63% say there is nothing wrong in it.

### 8.2 Rights and Duties of Employees

An employee is a person who has been employed to work by someone or an organization. Employees are paid in the form of wages or salary. An employer is the polar opposite of an employee.

Workers, sometimes known as employees, have various rights. These rights come with a set of responsibilities that they must fulfill. We'll look at the fundamental rights and responsibilities of employees. Let us have a glance at the common rights and responsibilities of employees without further ado.

#### **Rights of Employees:**

1. Every Employee has the right to work in a secure and healthy environment.

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*Unit 08: Application of Ethical Standards to Human Resource*

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2. An Employee is entitled to be paid for the work that he or she has completed.
3. An Employee has the right to create a trade union or join one.
4. The Employee has the right to training in order to improve his or her abilities.
5. An Employee has the right to be paid at least the federal minimum wage. No employee may be paid less than the minimum wage under any circumstances.
6. The Employee has the right to conduct work that poses a risk of harm or death to him.
7. The Employee has the right to take time off for maternity, sick, or bereavement reasons.
8. On public holidays, the employee has the right to be absent from work.
9. The Employee has the right to a signed employment agreement from his or her boss.
10. Finally, the Employee has the right to obtain all pertinent information about the task he is performing.

### **Duties of Employees:**

The Employee's primary responsibilities include the following:

1. To arrive at work on time and in a timely manner.
2. To protect his or her employer's interests.
3. The Employee is responsible for doing any legal tasks that have been given to him or her.
4. At work, the employee has a responsibility to respect his or her superiors.
5. The Employee has a legal obligation to carry out and obey all orders provided to him or her by the Employer, as long as the directions are legal.
6. It is the Employee's responsibility to keep all of his or her employer's personal information private.
7. While working for his or her employer, the employee must not accept bribes from customers or clients.
8. While using his or her Employer's property, the employee has a responsibility to take care of it.
9. It is the Employee's responsibility to not steal from his or her employer.
10. Last but not least, while still Employed by the employer, the employee shall not engage in the same business as his or her employer and compete against him or her.

### **8.3 Personnel Policies and Procedure**

According to a Covestro research, 71% of CEOs believe that employees' desire for meaning is "causing HR to reconsider certain work rules including paid time-off for volunteer or community work, flextime, and/or telecommuting."

Policies and procedures must reflect an organization's mission, values, and culture, as well as the demands of its personnel. Enforcing these principles after they're in place is even more crucial. However, achieving these objectives may be more difficult than it appears.

Policies and procedures go hand-in-hand, but they are not interchangeable.

A **policy** is a set of basic principles that describe how an organization intends to address a problem. The link between the organization's mission and values and its day-to-day activities is communicated through policies.

A **procedure** outlines how to carry out a policy in a certain way. Employees are instructed on how to handle a crisis and when to do so through procedures.

Employees obtain a well-rounded image of their workplace when regulations and procedures are used together. They understand the organization's desired culture, the behaviors that are expected of them, and how to attain both.

## Why do We Require Policies and Procedures?

Policies and Procedure provide guidance, consistency, accountability, efficiency, and clarity on how an organization operates. This offers members of the co-operatives guidelines and principles to follow.

There are some reasons why having policies and procedures in a workplace is a must:

**1. Set Expectations:** Employers can commit to writing their company's values and mission through policies and procedures. Employees are held to certain standards of behavior, conduct, and performance. As a result, policies and procedures clearly define and set the expectations for employees, as well as serve as a point of reference for employees to examine and check whether they are achieving those expectations.

**2. Keep Management Accountable:** Policies and procedures not only set standards for employees, but they also create standards for corporate management. This not only gives managers guidelines on how to conduct themselves and the standards to which they will be held accountable, but it also gives the rest of the workforce visibility into the standards expected of their leaders and what they may expect from their managers.

**3. Ensure Compliance with the law:** Regularly reviewed and updated policies and processes will aid a corporation in satisfying its legal duties. A clear work health and safety policy



For example, will aid an employer in expressing its legal requirements to ensure a safe workplace and how it will satisfy those obligations.

**4. Can help defend against employee claims:** Policies and procedures that are up to date might help an employer fight against legal claims.



For example, demonstrating that an employer has a bullying policy and a grievance policy, both of which have been referenced by the employer to investigate the allegation of bullying made, can be relied upon to demonstrate the reasonableness of an employer's actions when responding to such a claim before the Fair Work Commission.

**5. Lets employees know where to turn for help:** Finally, policies and procedures inform employees about the resources available to them. Every policy should have a point of contact for questions about that policy, so employees know who to contact if they have any. Furthermore, rules and procedures will outline the methods and solutions available for dealing with any workplace dispute.

## How to Develop Policies and Procedures in the Workplace?

Start by evaluating your company's mission statement, vision, and values before writing a policy or process.

"A workplace policy should:

- 1) Set out the policy's goal
- 2) Explain why the policy was developed
- 3) List who the policy applies to
- 4) Set out what is acceptable or unacceptable behavior
- 5) Set out the consequences of not complying with the policy
- 6) Provide a date when the policy was developed or updated," - **According to the New South Wales Government Industrial Relations.**

Unit 08: Application of Ethical Standards to Human Resource

- After you've put your policies and procedures in place, you'll need to advise and train your personnel on them. Employees can't be expected to obey rules if they aren't aware of them. Refresher training sessions should also be scheduled on a regular basis to keep personnel on track.
- "Employees may be more willing to embrace rules if they understand their purpose and that they are not designed to be a source of control or punishment," according to Paychex WORX. As a result, maintain a cheerful mood during training sessions and allow plenty of time for queries from employees.
- Policies and procedures should not be written once and then forgotten about. The key to their success is to review these documents on a frequent basis and update them as needed. Consider updating them in addition to a yearly review when you:

- (1) Adopt modern equipment, software, and other technologies.
- (2) Observe an increase in on-site accidents or failures
- (3) Receive an increase in customer complaints
- (4) Have a general sense of perplexity or a rise in employee questions about day-to-day operations
- (5) Observe inconsistencies in employee job performance
- (6) Observe elevated stress levels in the workplace

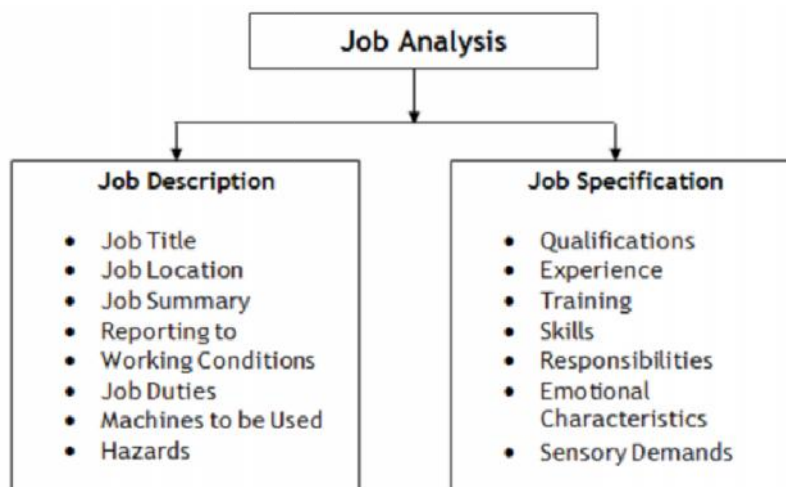
#### **8.4 Types of Policies and Procedures Every Workplace Needs**

Mainly two types of Policies are there in an organization:

**A. Job analysis** is a key tool for gathering job-related data. Two data sets, comprising a job description and a job specification, are collected, and recorded as a result of the process. Until and unless the HR manager receives these two types of data, no job opening can be filled. It's critical to define them precisely in order to match the right individual to the correct place and time. This assists both the company and the employee in determining what needs to be delivered and how it should be presented.

Job analysis information must include both job description policies and job specification policies. Writing them down in a clear and accurate manner aids the organization and the crew in dealing with a variety of issues while onboard.

Though job descriptions and specifications are not legally required, they are critical in achieving the desired result. These data sets aid in establishing the need for, value of, and scope of a certain work.



**I. Job Description:** A job description contains fundamental job-related information that can be used to promote a position and attract candidates. Job title, job location, reporting to and from employees, job summary, nature and objectives of a job, tasks and duties to be performed, working

conditions, machinery, tools, and equipment to be utilized by a prospective worker, and risks associated are all included.

#### **Purpose of a job description**

- The primary goal of a job description is to gather job-related information in order to advertise for a certain position.
- It aids in the recruitment, targeting, and selection of the best candidate for the job.
- It's used to figure out what needs to be supplied in a specific job.
- It specifies what employees are expected to do if they are hired for that position.
- It gives recruiters a clear picture of the type of applicant needed by a certain department or division to complete a specific activity or job.
- It also specifies who will be responsible for reporting to whom.

**II. Job Specification:** A job specification, also known as an employee specification, is a written statement of educational qualifications, specific qualities, level of experience, physical, emotional, technical, and communication skills required to perform a job, job responsibilities, and other unusual sensory demands required to perform a job. It also encompasses intelligence, aptitude, memory, judgment, leadership skills, emotional ability, adaptability, flexibility, morals and ethics, politeness, and creativity, among other things.

#### **Purpose of Job specification:**

- Job specifications, which are based on job descriptions, assist candidates in determining whether or not they are qualified to apply for a given job opening.
- It aids an organization's recruitment team in determining what degree of qualifications, traits, and set of attributes a candidate must possess in order for him or her to be considered for a job opening.
- Job specifications include job tasks, desired technical and physical qualifications, conversational ability, and much more.
- It aids in the selection of the most qualified candidate for a certain position.

Job analysis has two parts: job description and job specification. They completely define a position and instruct both the company and the individual on how to go about the entire recruitment and selection process. Both data sets are critical for finding the correct match between job and talent, evaluating performance and analyzing training needs, and determining the value of a job.

#### **Some more policies and procedures in a workplace:**

For a wide range of HR concerns, organizations require policies and processes. Some of the topics for which you might consider writing guidelines are listed below.

1. **Policies and Procedures for Attendance:** Absenteeism costs the company money in terms of wages for the absent employee, wages for a substitute worker, and delays and disturbances throughout the business. That is why attendance policies must be written (and followed consistently). Guidelines for tardiness, vacation time, sick leave, appointments, and paid volunteer hours can all be found in these publications. You can also specify how much notice is required before taking time off. When drafting these regulations, keep your company's culture in mind.
2. **Policies and Procedures for Employee Conduct:** This is a wide topic that may necessitate multiple policies. Employees can better understand what is and is not appropriate behavior at work by including guidelines on drug and alcohol usage, smoking, performance management, and disciplinary.
3. **Policies and Procedures for use of Company property:** Employees can misappropriate corporate property in an infinite number of ways. According to ASG Investigations, "renting out the company's equipment to third parties," "intentionally producing scrap

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*Unit 08: Application of Ethical Standards to Human Resource*

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product that is actually being sold by the employee," "taking vehicles for recreation," "hosting their own websites on company servers," and "directing other employees to perform tasks that unknowingly benefit the ghost business" are just a few examples of risks your company may face. In order to execute their tasks, employees must use business property. This could include electronics, medical equipment, automobiles, tools, and clothes, depending on your industry. Include instructions on how to properly care for corporate property, as well as how much (if any) and what forms of personal use are allowed on company property.

4. **Policies and Procedures for Harassment and Discrimination:** Did you know that the average cost of defending a harassment claim is \$250,000? You can prevent these events and safeguard both your organization and your employees by putting regulations in place.

Discrimination and harassment have an impact on the entire workplace culture. Develop policies and procedures to keep employees safe and treat them fairly by prohibiting activities such as:

- sex discrimination
  - bullying
  - Harassment, both verbal and physical
  - stalking
  - discrimination in hiring
  - Discrimination in the workplace Include instructions on how to report harassment and discrimination, as well as assurances that reporting will not result in retaliation.
5. **Policies and Procedures for Internet and Social Media Use:** Make it clear to employees that their usage of the internet at work is not private. Encourage employees to keep personal internet usage to a minimum and to make sure that everything they do online at work is legal, ethical, and suitable (and explain what these mean). Include boundaries for what is and is not permissible to publish on social media about your company.
  6. **Policies and Procedures for Health and Safety:** OSHA paid out \$30.1 million in settlements to workers in 2020, roughly double the amount from the previous year. Your employees and your company are at risk if you don't have solid health and safety standards in place that are really followed. Every company's primary goal should be to ensure the safety and well-being of its personnel. Include information about how to cope with illness or injury at work, equipment safety requirements, and how to report a health or safety concern when creating your health and safety policy. Also include procedures to follow in the event of a fire or natural disaster.
  7. **Policies and Procedures for Expenses:** It's critical to have an expense reimbursement policy in place if your employees travel or buy stuff for business. Describe the sorts of expenses that are eligible for reimbursement (airfare class, transportation, meals, etc.). Include instructions for submitting a refund claim.
  8. **Policies and Procedures for Remote Work:** Many firms and individuals are opting to work remotely at least part of the time due to a need for more flexibility in terms of location and hours, as well as the COVID-19 epidemic. If you allow employees to work from home, you'll need two policies to make sure everything runs properly.

To begin, a basic remote work policy should specify who is permitted to work remotely and how frequently. What hours do remote workers need to be available? What communication standards must they meet? Will you provide necessary work equipment or reimburse employees for their purchases?



In addition, either your remote work policy or your standard health and safety policy should contain health and safety measures for remote workers. These should cover how you'll deal with potential ergonomic concerns, injuries and illnesses caused by the environment, mental health, and fire and weather crises.

### Why do You Need to Enforce Policies and Procedures?

Policies and procedures can help your workplace function more smoothly, but they are only successful if they are followed. The guidelines' enforcement ensures that your organization's operational procedures and decision-making processes are consistent and uniform across circumstances.

You put your company at risk if you don't follow your procedures. Having established policies and processes in place enhances your case if an employee or outsider makes an allegation against your firm.



Let's imagine someone files a lawsuit against your company, alleging that they were denied a job they applied for because they had a disability. A crucial piece of evidence in your defense is having an anti-discrimination policy in place.



For example, assume you refuse to refund an employee for a first-class aircraft ticket to a conference. Having documentation in your policy that first-class travel is not eligible for expense reimbursement protects your business from legal action and reputation damage.

The organization may not be attaining its full potential if established policies and processes are not in place. Creating and implementing regulations that represent your company's values improves the working environment for everyone.

## 8.5 Conflicts of Interest

A situation in which a person or organization has two or more competing interests is referred to as a conflict of interest. When a conflict of interest arises, a person or organization is unable to carry out their responsibilities properly since doing so would imply betraying their interests to one of the parties involved. When such a circumstance happens, the party is frequently legally compelled to leave.

Examples of when a conflict of interest is illegal	
<b>Public sector</b>	Judges must recuse themselves if they have a link to one of the parties in the case.
	If a legislator attempts to profit from insider knowledge, this is an example of insider trading.
<b>Private business</b>	If a company has proof that a board member profited from their role on the board the board member can be taken to court.

Many various forms of responsibilities, duties, obligations, and values can be included in interests, such as:

- Contractual or legal responsibilities
- Loyalty to family and friends, as well as relationships with them
- Money Insider information
- Status and reputation
- Responsibilities as a professional
- Business considerations

You may, for example, be devoted not only to your employer but also to your family's business. It would be a conflict of interest for you if those two companies had opposing agendas that directly clashed.

## 8.6 Kinds of Conflicts of Interest

Conflicts of interest can take many forms and involve a variety of personal and professional interests. While there are numerous cases of extremely specific conflicts of interest, some occur more frequently than others. Examine this list for some of the most common forms of conflicts of interest, along with examples:

1. **Self- Dealing:** Self-dealing happens when a person, usually a high-ranking official inside a large firm, acts in their personal best interests in a transaction at the expense of the company or its customers. They may take advantage of the firm's funds or access for personal gain at the expense of the company. It is an illegal act that can result in legal action, penalties, and job termination for individuals who perform it.



For example, a manufacturing business's Chief Financial Officer, or CFO, recently discovered that the company will shortly acquire Arnold Production. Before announcing the transaction, the CFO uses this information to boost their stock holdings. Insider trading is not only a conflict of interest, but it's also against the law.

2. **Nepotism:** Favoritism given to family members or friends is known as nepotism. Typically, family members are given favors, benefits, or job opportunities based on their relationship rather than their qualifications.



For example, a rental company's human resources manager is responsible for employing a new customer service representative. One of the prospects is the child of the HR manager. Despite the child's lack of industry expertise compared to the other top contenders, the HR manager chooses to hire their child.

3. **Excessive Remuneration:** Excess compensation is most widespread in the nonprofit sector, and it arises when an organization pays a high-ranking employee with significant social or political impact significantly more than other, similar or comparable responsibilities in other organizations.



For example, a nationwide nonprofit organization that connects unemployed people with Fortune 500 corporations looking for workers is looking for a new director of philanthropy. It hires a former White House staffer with significant political ties and pays them twice as much as the previous director of charity.

4. **External Employment:** A conflict of interest might emerge when someone works multiple jobs in the same industry. It would be a conflict of interest if working for one company gives you access to confidential information that the other company does not, and you utilize that information for your second employment.



Alex works for two different heating and air companies, for example. Customers will find one to be slightly less expensive. Alex has begun advising consumers of the other higher-cost company to phone the lower-cost one and request that he save them money.

5. **Gifts:** It's a conflict of interest to accept presents from external stakeholders in order to obtain an advantage. While presents are occasionally presented without a hidden agenda, they can unfairly affect someone's assessment of its worth.



Pat, for example, is a real estate agent who collaborates with a number of mortgage brokers. Pat receives a gift from one of their frequent brokers in exchange for referring people to their firm. Pat accepts the gift and assures that their purchasers use the same mortgage broker.

6. **Manipulation of stock prices:** Stock manipulation is a very particular yet extremely impactful conflict of interest. It occurs when a stockbroker uses their position to artificially boost the price of a security they possess before selling their shares for a profit.



For example, Henry holds a large number of shares in a company. In order to make a rapid profit on the investment, Henry spreads stories about its value and pushes his peers to buy it. It immediately appreciates in value, and Henry sells it for a large profit.

## How to Avoid Conflicts of Interest?

To assist you prevent any conflicts of interest in your professional life, follow these guidelines:

1. **Make sure you're familiar with your company's policies.** Some businesses have a stringent non-compete policy in place, which helps to avoid any conflicts of interest, such as working for a competitor.
2. **Ensure that everything is in order.** To avoid the appearance of impropriety, make sure your actions are transparent and well-documented if you're in charge of handling finances or engaging with external parties.
3. **Remove yourself from the situation:** You may find yourself in a situation where your loyalties are divided. If this is the case, talk to your boss about withdrawing from the situation to avoid a conflict of interest.
4. **When it's essential, decline:** You may need to decline a position or task that would put you in a conflict of interest.
5. **As needed, make disclosures.** You may be required to take on an assignment or function that poses a conflict of interest risk. In this circumstance, all internal and external stakeholders should be informed of your connections and loyalties for approval.

## 8.7 Whistle Blowing

Whistle blowing is the voluntary act of an insider disclosing malpractices at his or her employment at a level not normally anticipated of him.

A whistleblower is someone who informs the public or people in positions of authority about wrongdoings within an institution.



**Note:** Keep in mind that not all acts of whistle blowing are ethical.) On the contrary, many whistleblowers are motivated by a desire for vengeance against their boss or management. It's a clear breach of psychological contract and unethical behavior.

**The conditions in which whistle blowing is morally justified are:**

1. A product or policy that will cause significant and irreversible harm to the general people.
2. When an employee notices a major threat to consumers, employees, other stakeholders, the state, or things that are contrary to his or her moral concerns.
3. If the immediate supervisor fails to act, the internal processes and chain of command should be exhausted before approaching the board of directors. Despite the employees' best efforts to rectify the situation of unethical behavior, no action is taken.
4. The employee must have documented proof that is sufficient to persuade a reasonable person that the facts can be proven to the general public and to the law.
5. There are reasonable grounds to assume that disclosing the misconduct to the public will result in the necessary adjustments in the organization to correct the situation. The likelihood of success must be proportional to the risk and danger posed by the employee's

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### Unit 08: Application of Ethical Standards to Human Resource

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decision to blow the whistle. The whistle blower must ensure that the activity is not merely mudslinging or alarmism based on false or unjustified reasons.

#### When can the Whistle be Blown?

Any insider may wave the red flag when he witnesses the following in the organization -

- 1) Crime
- 2) Corruption
- 3) Civil offenses (including negligence, breach of contract, etc)
- 4) Harassment
- 5) Injustice
- 6) Danger to health and safety or environment
- 7) Cover up of any of these

#### The Act of Whistle Blower

The Whistle blowers Act defines a number of words related to whistle blowing and establishes the legal foundation for this idea. The act essentially requires a company to have a whistle blower policy. Whistleblowers' rights are supported and protected by the policy.

The Whistle blowers Act has been enacted in many nations, including the United States, which incorporated it as part of the Sarbanes-Oxley Act.

#### What does a Policy for Whistleblowers Entail?

- (a) A whistleblower's policy establishes the scope of an organization's wrongdoings.
- (a) It specifies how such allegations should be reported.
- (c) The policy establishes an impartial investigation team to look into the allegations. And, most crucially, it defines a whistle blower's tasks, obligations, and rights.

#### Roles, Rights and Responsibilities of WhistleBlowers

(a) When filing a claim under the policy, a whistle blower must act properly. To the extent that the law and policy allow, he should give his report in confidence. He must realize that his motivation has no bearing on the report's legitimacy, and that if it is discovered that a false report was filed on purpose - which is illegal - he would be severely punished, depending on the policy, facts of the case, and the independent committee's ultimate decision.

(b) All of the company's employees have a responsibility to cooperate with the investigation.

(c) The whistle blower's anonymity is protected. However, if there is a breach of this, such as when his name must be revealed to a select few people, he will be notified, along with the grounds for doing so. He also has the right to be free from reprisal, which could include harassment, job loss, humiliation, and so on.

### 8.8 Advantages of Whistle Blowing

There are numerous benefits to having a whistle blower policy.

- (a) It is a highly effective anti-corruption tool since the insider has access to first-hand information and can provide clinching proof to convict the guilty.
- (b) If done early on, it can aid in the prevention of corruption. Others' corruption and wrongdoing can be discouraged by protecting whistleblowers.

- (c) It also aids in the placement of honest ethical employees at the heart of administration, as opposed to situations in which they are powerless spectators or are coerced into accepting their dishonest colleagues who run the show.
- (d) Making whistle blowing official and acceptable would eliminate anonymous petitioning and unauthorized news leaks to the media, both of which could harm the company's reputation.
- (e) Effective as an anti-corruption tool since the insider has first-hand and current information, ensuring conclusive evidence.
- (f) Can help check corruption if done at early stages
- (g) Protecting WhistleBlowers may deter misbehavior by others
- (h) Also helps in placing honest employees in center of administration
- (i) Making policy official and acceptable would obviate anonymous petitioning and unauthorized leaks to media

### **8.9 Problems in Whistle Blowing**

- (a) A 'squealer' disrupts trust, teamwork, and open communication – creating fear and suspicion
- (b) Expectation of loyalty from every employee – risking organizational ostracism
- (c) WB discourages corruption – but can also discourage initiative, willingness to make bold decisions, and encourage negativism and defensiveness
- (d) Risk of WB being used to blackmail colleagues or even bosses
- (e) The majority of the time, just a few subordinates have the bravery to speak up against senior officials. In the end, it's the big game hunters who get away with it, while the unfortunate small fish get caught and fried

### **8.10 Balancing the Pros and Cons**

It is now vital to weigh the advantages and disadvantages that we have discussed.

- (a) Making whistleblowing legal could aid in the resolution of some issues.

As previously established, whistle blowing lacks an unquestionable moral foundation and must be defined accurately and operationally.

- (b) Does this mean that blowing the whistle is a right or a responsibility?

Isn't it true that granting immunity to an employee also means that it shouldn't be considered connivance if the whistle isn't blown when it should be? What about situations where an employee is unwilling to report a transgression because he is scared that his previous wrongdoings would be exposed?

- (c) There are other support systems that must be in place for whistleblowing to be effective. The most important of these is that businesses must establish a value system and leadership that leads by example. Employees are frequently expected to be unethical in their dealings outside the firm while being spotless on the inside. Such a contradiction is unworkable.

- (d) Based on experience, the policy can be reviewed and modified. It may begin as a pilot initiative in a few sensitive departments, with the intention of learning from the experience before expanding and changing the policy. Internal whistleblowing that reaches higher levels inside one's own department should be investigated before granting direct access to the committee.

### **Whistle Blowing in an Indian Context**

- (a) India lacks a whistleblower protection act.
- (a) The Law Ministry has been working on a WhistleBlowers bill for quite some time!
- (c) SEBI changed Clause 49 of the Listing Agreement to require listed businesses to have a WB policy, however it is not required!

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*Unit 08: Application of Ethical Standards to Human Resource*

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(b) Companies such as Infosys, Wipro, and Tata Motors have a strong WB policy.

(e) There is a critical need for WB policies, particularly for enterprises operating in global environments.

Finally, all that is required for evil to triumph is for good men to remain silent!

### **8.11 Abuse of Power and Official Position**

Civil workers have been known to disobey the law and overstep their bounds, particularly when it comes to the authorities they wield. Let's look at the definition and characteristics of abuse of power and official position, as well as the consequences of such behavior.

A person obtains leverage when they hold a prominent position in the civil service, business, or other institution. The authority of the office, the opportunities it gives, and the generally recognized weight of the position are sometimes used as justifications for abuse of power or official position.

**Abuse of power** consists in the use of an official's authority to resolve issues that contradict the interests of the service. Usually, for such "services," an official receives a certain reward for themselves or another person/company.



The instance of ex-MP Oleksandr Presman is a good illustration. He obtained illicit compensation of UAH 928,890 for staying in a hotel room at the SE National Hotel Complex while having his own apartment in Kyiv. That is, he used his influence to take a bribe for himself at the expense of monies set aside by law to cover the cost of MPs' lodging.

**Abuse of office** means using the powers associated with the position held contrary to the interests of the service. In general, abuse of official position is a broader concept. The fact is that it covers abuse of power, since an official can use powers contrary to the interests of the service, if they are endowed with them.



VitaliiKuts, the head of the Trebukhivska village council, is an example of attempted misuse of official authority. He was found guilty by the HACC of giving licenses for the construction of land management projects on more than 8 hectares of state-owned land that might be transferred to private hands illegally. He was sentenced to three years in prison and was denied the opportunity to occupy certain professions, as well as a fine of UAH 8,500.

#### **Characteristic of Abuse of Power and Official Position:**

- 1) Have a self-serving motive, other personal interests, or the interests of other parties.
- 2) Have a self-serving motive, other personal interests, or the interests of third parties.
- 3) Jeopardize individual rights, liberties, or national interests.
- 4) Make use of any official relationships that occur as a result of the position held.
- 5) Have an impact on other people's professional activity.
- 6) Be compensated financially, in kind, or in some other way.

8.12 Kinds of Abuse

1. **Physical:** When many people hear the word "abuse," they immediately think of this form of abuse. Punching, beating, slapping, kicking, strangling, or physically restricting a spouse against their will is all examples of physical restraint. It can also involve driving carelessly, invading someone's personal space, or making someone feel physically uncomfortable in any other way.
2. **Sexual:** While sexual abuse can be considered a form of physical abuse, we separate it out because it can involve both physical and non-physical elements. Rape or other forced sexual actions, as well as withholding or using sex as a weapon, are examples. It wasn't until 1993 that marital rape was illegal in all 50 states.
3. **Verbal/Emotional:** "My ex-husband used words like weapons; like shards of glass, cutting and slowly emptying my life until I had practically none left," one victim says. He didn't hit me, so I didn't think I was being abused... I'd started to accept his horrible lies about how useless, stupid, and ugly I was, and how no one would ever want me." Other survivors have noted that whereas physical abuse may be obvious to a friend or family member, the effects of verbal/emotional abuse are more difficult to detect and prove. Emotional scars take longer to heal than physical ones.
4. **Mental/Psychological:** When one spouse wears away at the other's sense of mental well-being and health through a succession of behaviors or words, this is known as mental or psychological abuse. It frequently entails persuading the victim to doubt their own sanity. We've heard accounts of abusers purposefully shifting car keys (or, in one case, the entire car!) or a handbag, dimming the lights, and flatly denying that certain events occurred. The victim becomes increasingly reliant on the abuser as a result of this, especially over time – and sometimes in conjunction with the isolation that abusers frequently employ – because they don't trust their own judgment. They're also afraid of being believed if they inform someone about the abuse they're going through. "He had called me insane so many times, I was concerned if anybody would ever believe me about the abuse," Angela, a participant in one of our Support Groups, said.

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**Unit 08: Application of Ethical Standards to Human Resource**

5. **Financial/Economic:** Because abuse is about power and control, an abuser will use every means at his or her disposal to keep control, which frequently includes financial resources. Whether it's controlling the household budget and refusing to let the survivor have access to their own bank accounts or spend money, or opening credit cards and racking up debts in the survivor's name, or simply refusing to let the survivor have a job and earn their own money, this type of abuse is frequently a major reason why someone is unable to leave an abusive relationship. Because of their abuser's past actions, many of the survivors we work with have credit issues. A poor credit history might make it difficult to secure an apartment, a job, a vehicle loan, and other necessities of self-sufficiency. We work with survivors to overcome these challenges, but in the meanwhile, social safety nets like food stamps, financial assistance, and health insurance can provide a much-needed bridge.
6. **Cultural/Identity:** When abusers utilize components of a victim's cultural identity to inflict suffering or exert control, this is known as cultural abuse. Cultural abuse includes things like not allowing someone to follow their faith's food or dress practices, using racial insults, threatening to 'out' someone as LGBTQ/T if their friends and family don't know, and isolating someone who doesn't speak the main language where they reside.

**Typical Situations of Abuse of Power or Official Position are:**

- 1) Providing illegal help in the appointment of a person to a job;
- 2) Unauthorized interference with government, local self-governance, or official activity;
- 3) Providing illegal benefits to individuals or legal entities during the production of draughts, the publication of regulatory actions, decision-making, and other activities;
- 4) Misappropriation of funds;
- 5) Unauthorized exemptions from paying taxes and fees (required payments);
- 6) Making surplus items or other material values in order to later acquire them, and so forth.

**What is NOT Considered Abuse of Power or Official Position?**

Simple non-performance of official obligations, such as when an MP fails to attend a Verkhovna Rada meeting, is not an abuse of power or official position.

The fact is that at least one of the incentives listed above is required for abuse of power or official position. The absence of a purpose qualifies what was committed under Article 364 of the Criminal Code as an administrative or disciplinary infraction, and in rare situations, official carelessness.

**How are Officials Punished for Abuse of Power and Official Position?**

Both of these acts are examples of corruption, and both are punishable by law. The following fundamental punishments may be applied for this offense, according to Article 364 of the Criminal Code: arrest, restriction, or imprisonment. Furthermore, the article's sentence includes additional penalties such as a restriction on holding specific positions, engaging in particular activities for a set amount of time, or a fine. Their imposition is subject to the court's discretion.

It is required to prove a relationship between a person's behavior and official activities in order to bring them to criminal culpability under this article (the scope of functions, powers, opportunities, etc.). There will be no objective side of the crime, that is, the lack of one of the elements of a criminal act, if this connection is not made. As a result, we cannot suspect a person of abusing authority or an official position if this element is missing.

Abuse of authority and official status is a fairly typical form of corruption. According to lawyers from TI Ukraine's monitoring of the HACC's activities, this aspect of criminal proceedings ranks second in terms of the number of cases pending before the Anti-Corruption Court. The "popularity" of abuse of power and official position as a criminal violation can be explained by the ease with



which criminal purpose can be implemented, owing to civil workers' lack of legal awareness and the ineffectiveness of the control and accountability system.

### 8.13 Concept of Bribery

Bribery is the most serious crime because it supports other unethical corporate practices. Bribery is a complex crime that can be committed in a variety of ways. Some businesses pay bribes to government officials to help them further their economic objectives. Business ethics are likely to be violated by a corrupt corporation. A corrupt firm that breaks the law



For example, might simply avoid punishment by paying government officials and courts. As a result, bribery is the most serious form of unethical behavior in the business world.

Although bribery is a difficult problem to handle in business, the following strategies can help. To begin, effective legislation to govern business operations should be enacted. Because of confusing corporate laws, certain companies, for example, engage in corruption. Second, law enforcement should be appropriately carried out in order to reduce corruption.

Companies that violate the law should be punished in order to dissuade others from breaking the law. Third, because corruption is ubiquitous, ethics should be prioritized in social, economic, and political organizations. Corruption can thus be reduced through an united effort on the part of workers, employees, consumers, and government officials.

**Definition of Bribery:** An offer, promise, or giving of any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business”.

### 8.14 Reasons for Bribery

**There are several reasons for bribery. Some of these can be listed as following**

1. Wide gap between demand and supply of government services
2. Lower salaries of government officials
3. Lack of performance linked pay in government system
4. Lack of adequate punishment system for inefficient and corrupt officials
5. The willingness of citizens to pay bribe for expediting their work
6. Collusions of citizens and government officials to obtain illegal benefits or permission from government officials
7. Inadequate anti-corruption machinery to investigate and prosecute corrupt officials
8. Slow justice delivery system in Courts
9. Use of black money by political parties during campaigning
10. Social acceptance of corrupt public servants in the country.

### **Ways to Reduce the Risk of Corruption and Bribery within the Business**

Bribery is present in every business, and no industry is immune to the threat of bribery. The hazards of corruption and bribery, on the other hand, are not static and can be significantly reduced by effective business processes. Here are some essential strategies for your company, ranging from lie detection testing to explicit standards around hospitality.

**1. Updated Business Policies:** Business Policies that have been updated Bribery prevention is always a struggle, but if you don't have clear policies and standards in place about what constitutes corruption and how it's dealt with, you're on your road to failure. Bribery and corruption evolve in every business environment your company works in, thus business strategies addressing these

## *Unit 08: Application of Ethical Standards to Human Resource*

issues cannot remain static. Regularly review your policy on what constitutes bribery to ensure that everyone in your organization is on the same page.



Define which presents must be made public and which values are undesirable, for example.

**2. Culture starts At the Top:** Bribery and corruption are frequently associated with large-scale transactions, yet corruption can begin with seemingly innocuous backhanders and personal favors. Reframing your company's culture can have a big impact on how ethically everyone operates.

And it all begins at the top. To ensure that high standards pervade your firm from the top down, educate CEOs, board members, and managers on bribery and corruption.

**3. Institute a framework for Gifts and Hospitality:** "Gifting and hospitality are deeply established in the ethos of many professions, and you're not going to make any friends attempting to eradicate them completely," says Arnold Swift, project manager at 1day2write and Britstudent. "However, you can assure that these habits stay on the correct side of the line by creating a clear framework based on a few principles."

**Ensure that your organization's gifts meet the following criteria:**

- Gifts have a valid business function.
- Gifts are proportionate to your clients' expectations – not excessively lavish or ostentatious to generate unrealistic expectations.
- Gifts are openly declared in the appropriate location.

**4. Lie Detecting testing:** Building a policy framework and anticorruption culture within your organization is critical for creating a welcoming environment for new workers, but it can't begin too soon. As a result, implementing lie detection tests as part of the interview process is critical for demonstrating to potential recruits that your organization takes corruption seriously – as well as weeding out any unscrupulous candidates.

Converus' Eye Detect is a strong and non-invasive lie detection tool that may be used throughout the interview process to ensure that only the most trustworthy candidates are chosen.

**5. Assess Third Party Providers:** Third-party providers are intricately related to your business and must be reviewed for ethical standards on a regular basis as well, so preventing corruption doesn't stop at your organization's door. Any flaws in third-party processes can jeopardize your ethics code, exposing your company to the risk of corruption.

In most cases, you can be held legally liable for the actions of third parties you hire. To evaluate these suppliers, create a robust third-party audit system and evaluate each provider's anti-corruption framework on a regular basis.

**6. Ongoing Employee Testing:** It's critical to check in with your staff to see how they understand your company's anti-corruption policies, but many companies should go even farther. Because the only way to ensure that your staff is telling the truth is to test them, deploying lie detection technology is a vital part of truly eliminating bribery and corruption.

"Integrate staff testing with appraisals to ensure it's a blameless process," explains Charlotte Mitherington, a writer for Phd Kingdom and Write My X. "To make it valuable to your staff, provide feedback and updates on guidelines at the same time."

**7. Knowing the Red Flags:** Unfortunately, in some businesses, some level of corruption is unavoidable, and while risk minimization is critical, your company must be prepared for any situation. Identifying the red flags of corruption and bribery might help you intervene at the appropriate time.

From cash payments to ambiguous service descriptions, train your employees to recognise red flags and create proper reporting channels.

### **Wrapping up**

Corruption should be a top priority for all businesses, as these activities may be extremely costly to the bottom line. Begin today to create a culture that encourages ethical behavior.

## Summary

- Human resource management is concerned with the planning and development of the workforce. The application of ethical standards to human resource interactions and activities is known as human resource ethics.
- An employee is a person who has been employed to work by someone or an organization. Employees are paid in the form of wages or salary. An employer is the polar opposite of an employee. Workers, sometimes known as employees, have various rights. These rights come with a set of responsibilities that they must fulfill. We'll look at the fundamental rights and responsibilities of employees.
- Policies and Procedure provide guidance, consistency, accountability, efficiency, and clarity on how an organization operates. This offers members of the co-operatives guidelines and principles to follow.
- Policies and procedures can help your workplace function more smoothly, but they are only successful if they are followed. The guidelines' enforcement ensures that your organization's operational procedures and decision-making processes are consistent and uniform across circumstances. You put your company at risk if you don't follow your procedures. Having established policies and processes in place enhances your case if an employee or outsider makes an allegation against your firm.
- A situation in which a person or organization has two or more competing interests is referred to as a conflict of interest. When a conflict of interest arises, a person or organization is unable to carry out their responsibilities properly since doing so would imply betraying their interests to one of the parties involved. When such a circumstance happens, the party is frequently legally compelled to leave.
- Conflicts of interest can take many forms and involve a variety of personal and professional interests. While there are numerous cases of extremely specific conflicts of interest, some occur more frequently than others.
- Whistle blowing is the voluntary act of an insider disclosing malpractices at his or her employment at a level not normally anticipated of him.
- Whistleblowers are motivated by a desire for vengeance against their boss or management. It's a clear breach of psychological contract and unethical behavior.
- The Whistle blowers Act has been enacted in many nations, including the United States, which incorporated it as part of the Sarbanes-Oxley Act. Workers have been known to disobey the law and overstep their bounds, particularly when it comes to the authorities they wield. Let's look at the definition and characteristics of abuse of power and official position, as well as the consequences of such behavior. A person obtains leverage when they hold a prominent position in the civil service, business, or other institution. The authority of the office, the opportunities it gives, and the generally recognized weight of the position are sometimes used as justifications for abuse of power or official position.
- An offer, promise, or giving of any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business”.
- Corruption should be a top priority for all businesses, as these activities may be extremely costly to the bottom line. Begin today to create a culture that encourages ethical behavior.

## Keywords

- **Employee:** An employee is a person who has been employed to work by someone or an organization.
- **Policy:** A **policy** is a set of basic principles that describe how an organization intends to address a problem. The link between the organization's mission and values and its day-to-day activities is communicated through policies.
- **Procedure:** A **procedure** outlines how to carry out a policy in a certain way. Employees are instructed on how to handle a crisis and when to do so through procedures. Employees obtain a well-rounded image of their workplace when regulations and procedures are used together.
- **Whistle Blowing:** Whistle blowing is the voluntary act of an insider disclosing malpractices at his or her employment at a level not normally anticipated of him.
- **Whistleblower:** A whistleblower is someone who informs the public or people in positions of authority about wrongdoings within an institution.
- **Conflict of Interest:** A situation in which a person or organization has two or more competing interests is referred to as a conflict of interest.
- **Abuse of power** consists in the use of an official's authority to resolve issues that contradict the interests of the service. Usually, for such "services," an official receives a certain reward for themselves or another person/company.
- **Abuse of office** means using the powers associated with the position held contrary to the interests of the service. In general, abuse of official position is a broader concept. The fact is that it covers abuse of power, since an official can use powers contrary to the interests of the service, if they are endowed with them.
- **Bribery:** An offer, promise, or giving of any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business".
- **Job Description:** A job description contains fundamental job-related information that can be used to promote a position and attract candidates. Job title, job location, reporting to and from employees, job summary, nature and objectives of a job, tasks and duties to be performed, working conditions, machinery, tools, and equipment to be utilized by a prospective worker, and risks associated are all included.
- **Job Specification:** A job specification, also known as an employee specification, is a written statement of educational qualifications, specific qualities, level of experience, physical, emotional, technical, and communication skills required to perform a job, job responsibilities, and other unusual sensory demands required to perform a job. It also encompasses intelligence, aptitude, memory, judgment, leadership skills, emotional ability, adaptability, flexibility, morals and ethics, politeness, and creativity, among other things.
- **Nepotism:** Favoritism given to family members or friends is known as nepotism. Typically, family members are given favors, benefits, or job opportunities based on their relationship rather than their qualifications.

## Self Assessment

1. Why is HRM in a good position to integrate ethics, justice, CSR and sustainability into organizations?

- A. Because of the responsibilities that HRM has for the key processes and practices in an organization
  - B. Because of the HRM role in promoting fairness and justice in an organization
  - C. Because of the ethical component set out in HRM professional standards and codes of conduct
  - D. All of the above
- 
2. The essence of all rights of employees is freedom
    - A. True
    - B. False
- 
3. Which of the following is NOT an example of why ethical problems occur in business?
    - A. Personal gain and selfish interest.
    - B. Conflicts of interest.
    - C. Cross-cultural stability.
    - D. Competitive pressures on profits.
- 
4. Lockouts are always moral
    - A. True
    - B. False
- 
5. What is a sweatshop?
    - A. A factory where workers perform jobs that are really strenuous and "makes the worker sweat."
    - B. Factories where workers work long hours under dangerous conditions and are paid minimum wages.
    - C. Specifically a factory where each worker has a single, tedious job. For example showing buttons on shirt, and where the product or garment is then passed onto another worker who completes another part of the garment.
    - D. None of these
- 
6. The rights of employees is in proportion to duties of employees
    - A. True
    - B. False
- 
7. The document that consists of all the ethical standards that employer expects from employees is classified as
    - A. ethics code
    - B. descriptive code
    - C. procedural code
    - D. distributive code

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*Unit 08: Application of Ethical Standards to Human Resource*

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8. A willful and deliberate violation of code of ethic of any organization is classified as
  - A. misconduct
  - B. lack of qualifications
  - C. unsatisfactory satisfaction
  - D. insubordination
  
9. The standards that decided, what kind of conduct employees of organization should possess
  - A. descriptive justice
  - B. procedural justice
  - C. distributive justice
  - D. Ethics
  
10. Organizations need to frame policies and procedures to ensure ethical conduct by employees
  - A. True
  - B. False
  
11. The attitude that characterizes the ethical problem of conflicts of interest is:
  - A. "Help yourself and those closest to you."
  - B. "Greed is good."
  - C. "We have to beat the others at all costs."
  - D. "When in Rome, do as the Romans do."
12. The conflict of interest rules apply to
  - A. Conflicts arising from previous employment.
  - B. Conflicts arising from personal relationships.
  - C. Conflicts arising from outside business relationships.
  - D. All of the above
  
13. Which act represents abuse of official position?
  - A. Misrepresenting facts
  - B. Nepotism
  - C. Taking bribe
  - D. All of the above
  
14. An officer who actively uses his or her position for personal gain would fall under which type of corruption
  - A. Professional courtesy
  - B. Gratuity
  - C. Misuse of authority
  - D. None of the above

15. If the owner of a toy store seeking a price reduction gives the manager of a toy manufacturing company a new personal computer, the toy-store owner is using which approach to influence the manufacturer's decision making?
- High technology
  - Computer impacting.
  - Discounting.
  - Bribery

### **Answers for Self Assessment**

- |       |       |       |       |       |
|-------|-------|-------|-------|-------|
| 1. D  | 2. A  | 3. C  | 4. B  | 5. B  |
| 6. A  | 7. A  | 8. A  | 9. D  | 10. A |
| 11. A | 12. D | 13. D | 14. C | 15. D |

### **Review Questions**

- What are the typical situations for abuse of power?
- Elaborate some Rights and Duties which are necessary for the Employees in a workplace?
- Discuss Traits of workplace Behavior?
- What is Whistle Blowing? When can be Whistle be blown? Also state the Advantages and Disadvantages of Whistle blowing?
- What do you mean by Personnel Policies and Procedures? Why do we Require Policies and Procedures in a Workplace?
- How to Develop Policies and Procedures in an organization?
- Why do you need to Enforce Policies and Procedures?
- What are the types of Policies and Procedures every workplace needs?
- Describe the Roles, Rights and Responsibilities of Whistle Blowing?
- Describe your view point of Abuse of Power and Official Position?
- What is Abuse of Power and its kinds?
- Describe Conflicts of Interest and their types? How to Avoid Conflicts of Interest?



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**Unit 08: Application of Ethical Standards to Human Resource**

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## Unit 09: Sexual Harassment Act 2013

### CONTENTS

Objective

After completing this chapter, you can able to:

Introduction

9.1 Preliminary Definition

9.2 Prevention of Sexual Harassment

9.3 Constitution of Internal Complaints Committee

9.4 Notification of District Officer

9.5 Grants and Audit

9.6 Complaint of Sexual Harassment

9.7 Conciliation

9.8 Action during Pendency of Inquiry

9.9 Inquiry Report

9.10 Punishment for False or Malicious Complaint and False Evidence

9.11 Determination of Compensation

9.12 Prohibition of publication or making known contents of complaint and inquiry proceedings

9.13 Penalty for publication or making known contents of complaint and inquiry proceedings

9.14 Appeal

9.15 Duties of Employer

9.16 Duties and powers of District Officer

9.17 Penalty for non-compliance with provisions of Act

9.18 Cognizance of Offense by Courts

9.19 Power to Remove Difficulties

Summary

Keywords

Review Questions

Further Readings

### Objective

After completing this chapter, you can able to:

- Understand the Preliminary Definition
- Describe the Constitution of Internal Complaints Committee
- Develop understanding in Constitution of local Complaints Committee
- Elaborate the complaints regarding Sexual Harassment
- Explicate the duties and powers of Employer

## **Introduction**

An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business with includes a right to a safe environment free from sexual harassment.

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognized human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows: –

### **9.1 Preliminary Definition**

**Short title, extent and commencement.** –

1. This Act may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
2. It extends to the whole of India.
3. It shall come into force on such as the Central Government may, by notification in the Official Gazette, appoint.

**Definitions.** – In this Act, unless the context otherwise requires, –

(a) “**Aggrieved woman**” means –

- in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;
- in relation to dwelling place or house, a woman of any age who is employed in such a dwelling place or house;

(b) “**appropriate Government**” means –

- in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly –
  - by the Central Government or the Union territory administration, the Central Government;

by the State Government, the State Government; in relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government;

(c) “**Chairperson**” means the Chairperson of the Local Complaints Committee nominated under sub-section (1) of section 7;

(d) “**District Officer**” means an officer notified under section 5;

(e) “**Domestic worker**” means a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part time or full time basis, but does not include any member of the family of the employer;

(f) “**Employee**” means a person employed at a workplace for any work on regular, temporary, *ad hoc* or daily wage basis, either directly or through an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and

includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name;

(g) “**Employer**” means –

- in relation to any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organization, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf
- in any workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the workplace.

*Explanation.* – For the purposes of this sub-clause “management” includes the person or board or committee responsible for formulation and administration of policies for such organization;

- in relation to workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his or her employees;
- in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker;

(h) “**Internal Committee**” means an Internal Complaints Committee constituted under section 4;

(i) “**Local Committee**” means the Local Complaints Committee constituted under section 6;

(j) “**Member**” means a Member of the Internal Committee or the Local Committee, as the case may be;

(k) “**Prescribed**” means prescribed by rules made under this Act;

(l) “**Presiding Officer**” means the Presiding Officer of the Internal Complaints Committee nominated under sub-section (2) of section 4;

(m) “**Respondent**” means a person against whom the aggrieved woman has made a complaint under section 9:

(n) “**Sexual Harassment**” includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely: –

- physical contact and advances; or
- a demand or request for sexual favors; or
- making sexually coloured remarks; or
- showing pornography; or
- any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

(o) “**Workplace**” includes –

- any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;
- any private sector organization or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organization, unit or service provider carrying on commercial, professional, vocational, educational, environmental, industrial, health services or financial activities including production, supply, sale, distribution or service;
- hospitals or nursing homes;
- any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;

[Subject]

- any place visited by the employee arising out of or during the course of employment including transportation by the employer for undertaking such journey;
- a dwelling place or a house;

(p)“**Unorganized sector**” in relation to a workplace means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten.

## **9.2 Prevention of Sexual Harassment**

(1)No woman shall be subjected to sexual harassment at any workplace.

(2)The following circumstances, among other circumstances, if it occurs, or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment: –

- implied or explicit promise of preferential treatment in her employment; or
- implied or explicit threat of detrimental treatment in her employment ; or
- implied or explicit threat about her present or future employment status; or
- interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- humiliating treatment likely to affect her health or safety.

## **9.3 Constitution of Internal Complaints Committee**

(1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the “Internal Complaints Committee”: Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committees shall consist of the following members to be nominated by the employer, namely: –

- a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section (1):

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organization;

- not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge.
- one member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment: Provided that at least one-half of the total Members so nominated shall be women.

(3) The Presiding Officer and every Member of the Internal Committee shall hold office for such a period, not exceeding three years, from the date of their nomination as may be specified by the employer.

(4) The Member appointed from amongst the non-governmental organizations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

(5) Where the Presiding Officer or any Member of the Internal Committee, –

- Contravenes the provisions of section 16; or

- Has been convicted for an offense or an inquiry into an offense under any law for the time being in force is pending against him; or
- He has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
- Has so abused his position as to render his continuance in office prejudicial to the public interest, such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

#### **9.4 Notification of District Officer**

The appropriate Government may notify a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions under this Act.

#### **Constitution and Jurisdiction of Local Committee**

(1) Every District Officer shall constitute in the district concerned, a committee to be known as the Local Committee to receive complaints of sexual harassment from establishments where the Internal Committee has not been constituted due to having less than ten workers or if the complaint is against the employer himself.

(2) The District Officer shall designate one nodal officer in every block, taluka and tehsil in rural or tribal area and ward or municipality in the urban area, to receive complaints and forward the same to the concerned Local Committee within a period of seven days.

(3) The jurisdiction of the Local Committee shall extend to the areas of the district where it is constituted.

#### **Composition, tenure and other terms and conditions of Local Committee**

(1) The Local Committee shall consist of the following members to be nominated by the District Officer, namely: –

- a Chairperson to be nominated from amongst the eminent women in the field of social work and committed to the cause of women;
- one Member to be nominated from amongst the women working in block, taluka or tehsil or ward or municipality in the district;
- two Members, of whom at least one shall be a woman, to be nominated from amongst such non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed:

Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge:

Provided further that at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time;

- the concerned officer dealing with the social welfare or women and child development in the district, shall be a member *ex officio*.

(2) The Chairperson and every Member of the Local Committee shall hold office for such a period, not exceeding three years, from the date of their appointment as may be specified by the District Officer.

(3) Where the Chairperson or any Member of the Local Committee

[Subject]

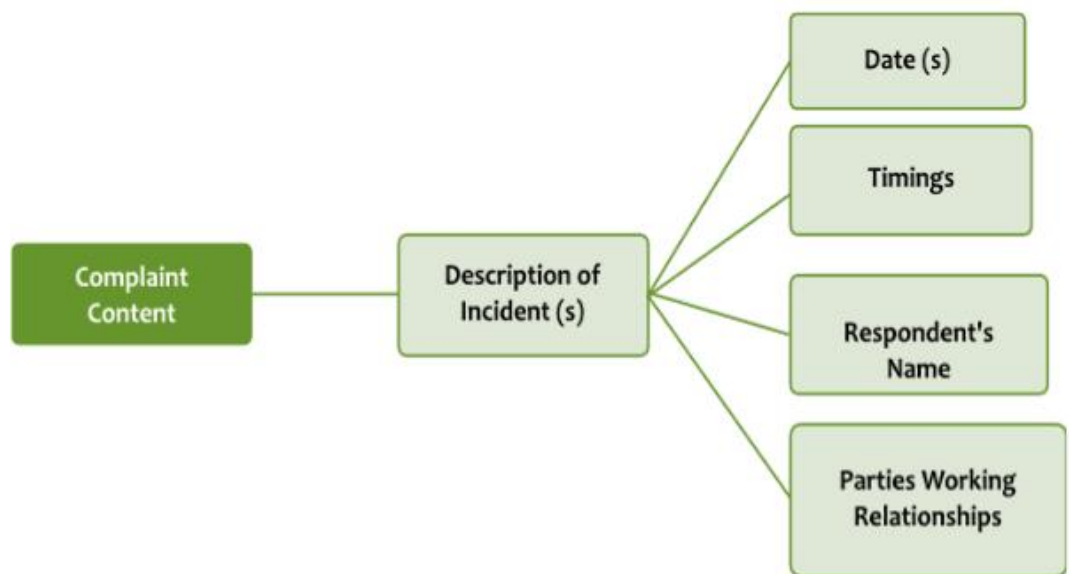
- contravenes the provisions of section 16; or
- has been convicted for an offense or an inquiry into an offense under any law for the time being in force is pending against him; or
- has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
- has so abused his position as to render his continuance in office prejudicial to the public interest, such Chairperson or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

(4) The Chairperson or Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) shall be entitled to such fees or allowances for holding the proceedings of the Local Committee as may be prescribed.

**9.5 Grants and Audit**

- The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the State Government grants of such sums of money as the Central Government may think fit, for being utilized for the payment of fees or allowances referred to in sub-section (4) of section 7.
- The State Government may set up an agency and transfer the grants made under sub-section(1) to that agency.
- The agency shall pay to the District Officer, such sums as may be required for the payment of fees or allowances referred to in sub-section (4) of section 7.
- The accounts of the agency referred to in sub-section (2) shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State, be prescribed and the person holding the custody of the accounts of the agency shall furnish, to the State Government, before such date, as may be prescribed, its audited copy of accounts together with auditors’ report thereon

**9.6 Complaint of Sexual Harassment**



(1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident:

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

## 9.7 Conciliation

(1) The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation:

Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where settlement has been arrived at under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall record the settlement that arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation.

(3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.

(4) Where a settlement is arrived at under sub-section (1), no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.

## Inquiry into complaint

(1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if *prima facie* case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

(2) Notwithstanding anything contained in section 509 of the Indian Penal Code (45 of 1860), the court may, when the respondent is convicted of the offense, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

(3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:—

- Summoning and enforcing the attendance of any person and examining him on oath;

[Subject]

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- Requiring the discovery and production of documents; and any other matter which may be prescribed.
- The inquiry under sub-section (1) shall be completed within a period of ninety days.

### **9.8 Action during Pendency of Inquiry**

(1) During the pendency of an inquiry on a written request made by the aggrieved woman, the Internal Committee or the local Committee, as the case may be, may recommend to the employer to—

- Transfer the aggrieved woman or the respondent to any other workplace; or
- Grant leave to the aggrieved woman up to a period of three months; or
- Grant such other relief to the aggrieved woman may be prescribed.

(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.

(3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.

### **9.9 Inquiry Report**

(1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.

(3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be —

- to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed;
- to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:

Provide that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman:

Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee or as the case may be, the Local Committee may forward the order for recovery of the sum as an area of land revenue to the concerned District Officer.

(4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.



### **9.10 Punishment for False or Malicious Complaint and False Evidence**

(1) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:

Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.

### **9.11 Determination of Compensation**

For the purpose of determining the sums to be paid to the aggrieved woman under clause (ii) of sub-section (3) of section 13, the Internal Committee or the Local Committee, as the case may be, shall have regard to—

- the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
- the loss in the career opportunity due to the incident of sexual harassment;
- medical expenses incurred by the victim for physical or psychiatric treatment;
- the income and financial status of the respondent;
- feasibility of such payment in lump sum or in installments.

### **9.12 Prohibition of publication or making known contents of complaint and inquiry proceedings**

Notwithstanding anything contained in the Right to Information Act, 2005 (22 of 2005), the contents of the complaint made under section 9, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee or the Local Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner:

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

### **9.13 Penalty for publication or making known contents of complaint and inquiry proceedings**

Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of section 16, he shall be liable for penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be prescribed.

### **9.14 Appeal**

(1) Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.

(2) The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations.

### **9.15 Duties of Employer**

Every employer shall –

1. Provide a safe working environment at the workplace with shall include safety from the persons coming into contact at the workplace;
2. Display at any conspicuous place in the workplace, the penal consequences of sexual harassment; and the order constituting, the Internal Committee under sub-section (1) of section 4;
3. Organize workshops and awareness programme at regular intervals for sensitizing the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed;
4. Provide necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an inquiry;
5. Assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be;
6. Make available such information to the Internal Committee or the Local Committee, as the case be, as it may require having regard to the complaint made under sub-section (1) of section 9;
7. Provide assistance to the woman if she so chooses to file a complaint in relation to the offense under the Indian Penal Code (45 of 1860) or any other law for the time being in force;
8. Cause to initiate action, under the Indian Penal Code (45 of 1860) or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;
9. Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
10. Monitor the timely submission of reports by the Internal Committee.

## **9.16 Duties and powers of District Officer**

The District Officer shall, –

- a) monitor the timely submission of report furnished by the Local Committee;
- b) take such measures as may be necessary for engaging non-governmental organisations for creation of awareness on sexual harassment and the rights of the women.

### **Committee to submit annual report**

(1) The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.

(2) The District Officer shall forward a brief report on the annual reports received under subsection (1) to the State Government.

### **Employer to include information in annual report.**

The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organization or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.

### **Appropriate Government to monitor implementation and maintain data**

The appropriate Government shall monitor the implementation of this Act and maintain data on the number of cases filed and disposed of in respect of all cases of sexual harassment at workplace.

### **Appropriate Government to take measures to publicize the Act.**

The appropriate Government may, subject to the availability of financial and other resources, –

- (a) develop relevant information, education, communication and training materials, and organise awareness programmes, to advance the understanding of the public of the provisions of this Act providing for protection against sexual harassment of woman at workplace
- (b) formulate orientation and training programmes for the members of the Local Committee

### **Power to call for information and inspection of records**

(1) The appropriate Government, on being satisfied that it is necessary in the public interest or in the interest of women employees at a workplace to do so, by order in writing, –

- call upon any employer or District Officer to furnish in writing such information relating to sexual harassment as it may require;
- authorise any officer to make inspection of the records and workplace in relation to sexual harassment, who shall submit a report of such inspection to it within such period as may be specified in the order.

(2) Every employer and District Officer shall produce on demand before the officer making the inspection all information, records and other documents in his custody having a bearing on the subject matter of such inspection.

### **9.17 Penalty for non-compliance with provisions of Act**

(1) Where the employer fails to –

constitute an Internal Committee under sub-section (1) of section 4;  
take action under sections 13, 14 and 22; and  
contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made thereunder, he shall be punishable with fine which may extend to fifty thousand rupees.

(3) If any employer, after having been previously convicted of an offense punishable under this Act subsequently commits and is convicted of the same offense, he shall be liable to –

Twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offense: Provided that in case a higher punishment is prescribed under any other law for the time being in force, for the offense for which the accused is being prosecuted, the court shall take due cognizance of the same while awarding the punishment;  
cancellation of his license or withdrawal, or non-renewal, or approval, or cancellation of the registration, as the case may be, by the Government or local authority required for carrying on his business or activity.

### **9.18 Cognizance of Offense by Courts**

- 1) No court shall take cognizance of any offense punishable under this Act or any rules made thereunder, save on a complaint made by the aggrieved woman or any person authorized by the Internal Committee or Local Committee on this behalf.
- 2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offense punishable under this Act.
- 3) Every offense under this Act shall be non-cognizable.

### **Act not in derogation of any other law**

The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

### **Power of appropriate Government to make rules**

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: –

- a. the fees or allowances to be paid to the Members under sub-section (4) of section 4;
- b. nomination of members under clause (c) of sub-section (1) of section 7;
- c. the fees or allowances to be paid to the Chairperson, and Members under sub-section (4) of section 7;
- d. the person who may make complaint under sub-section (2) of section 9;
- e. the manner of inquiry under sub-section (1) of section 11;
- f. the powers for making an inquiry under clause (c) of sub-section (2) of section 11;
- g. the relief to be recommended under clause (c) of sub-section (1) of section 12;
- h. the manner of action to be taken under clause (i) of sub-section (3) of section 13;
- i. the manner of action to be taken under sub-sections (1) and (2) of section 14

- j. the manner of action to be taken under section 17;
  - k. the manner of appeal under sub-section (1) of section 18;
1. the manner of organizing workshops, awareness programmes for sensitizing the employees and orientation programme for the members of the Internal Committee under clause (c) of section 19; and
  2. the form and time for preparation of annual report by the Internal Committee and the Local Committee under sub-section (1) of section 21.
  3. Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
  4. Any rule made under sub-section (4) of section 8 by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

### 9.19 Power to Remove Difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

### Summary

- Act provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment
- The protection against sexual harassment and the right to work with dignity are universally recognized human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India
- No woman shall be subjected to sexual harassment at any workplace.
- The following circumstances, among other circumstances, if it occurs, or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment:—implied or explicit promise of preferential treatment in her employment; or implied or explicit threat of detrimental treatment in her employment ; or implied or explicit threat about her present or future employment status; or interference with her work or creating an intimidating or offensive or hostile work environment for her; or humiliating treatment likely to affect her health or safety.
- Every employer of a workplace shall, by an order in writing, constitution a Committee to be Known as the “Internal Complaints Committee”

- The appropriate Government may notify a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions under this Act.
- The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the State Government grants of such sums of money as the Central Government may think fit, for being utilized for the payment of fees or allowances referred to in sub-section (4) of section 7.
- Every employer shall—(1). Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace; (2). Display at any conspicuous place in the workplace, the penal consequences of sexual harassment; and the order constituting, the Internal Committee under sub-section (1) of section 4;(3.) Organize workshops and awareness programme at regular intervals for sensitizing the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed
- No court shall take cognizance of any offense punishable under this Act or any rules made thereunder, save on a complaint made by the aggrieved woman or any person authorized by the Internal Committee or Local Committee on this behalf.
- The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.
- If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:
- Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

### Keywords

**Aggrieved woman:** Aggrieved woman is a woman, who in relation to a workplace alleges to have been sexually harassed.

**Sexual Harassment:** Sexual Harassment is a type of harassment involving the use of explicit or implicit sexual overtones, including the unwelcome and inappropriate promises of rewards in exchange for sexual favors.

**Appropriate Government:** An Appropriate Government" means: (i) in relation to an establishment:

(a) belonging to or under the control of, the Central Government,(b) having branches in more than one State,(c) of a factory belonging to, or under the control of the Central Government.(d) of a major port, mine, oilfield, or railway company, the Central Government.

(ii) in any other case, the State Government. [Section 2(a)] It may be noted that many large establishments have branches in more than one State. In such cases, the 'appropriate Government' is the Central Government and any dispute connected with the payment or nonpayment of gratuity falls within the jurisdiction of the 'Controlling Authority' and the 'Appellate Authority' appointed by the Central Government under Sections 3 and 7.

**Domestic Workers:** Domestic workers are individuals who work for private households. Their tasks may include taking care of children, elderly or sick family members, cleaning, cooking, laundry and ironing, gardening, shopping for food and any errands related to the upkeep of a household.

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**Unit 09: Sexual Harassment Act 2013**

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**Local Committee:** The local committee is made up of all county councilors for the Carlisle area. The Committee has powers to make decisions on a range of matters affecting their local area.

**Internal Committee:** The Internal Committee (“IC” or erstwhile known as Internal Complaints Committee / “ICC”) is a body, which has been mandated under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act & Rules, 2013 (“Law”), to redress complaints of sexual harassment within organizations.

**Employee:** An employee is an individual who was hired by an employer to do a specific job. The employee is hired by the employer after an application and interview process results in his or her selection as an employee.

### **Self Assessment**

1. Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013 received the assent of the President on?
  - A. 8 March 2013
  - B. 22 April 2013
  - C. 8 December 2012
  - D. 22 March 2013
  
2. Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013 is Act \_\_\_ of 2013?
  - A. 14
  - B. 37
  - C. 32
  - D. 9
  
3. What is the purpose of Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013?
  - A. provide protection against sexual harassment of women at workplace
  - B. prevention and redressal of complaints of sexual harassment
  - C. Both a and b above
  - D. None of these
  
4. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 came into force on?
  - A. 22 April 2013
  - B. 9 December 2013
  - C. 21 August 2014
  - D. 22 January 2015
  
5. “Chairperson” under Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013 means?

- A. Chairman of Parliamentary Committee on Women
  - B. Minister of Women and Child Development
  - C. Chairperson of National Women's Commission
  - D. Chairperson of the Local Complaints Committee
6. "Employee" under Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013 means?
- A. regular employee
  - B. temporary employee
  - C. adhoc/daily wage employee
  - D. All the above
7. Which among the following is a "sexual harassment" as defined under Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013?
- A. physical contact and advances
  - B. a demand or request for sexual favours
  - C. showing pornography
  - D. All the above
8. Which among the following does not come under the meaning "workplace" under Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013?
- A. any private sector organization
  - B. hospitals or nursing homes
  - C. any sports institute, stadium, sports complex
  - D. None of these
9. Which of the following may amount to sexual harassment under Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013?
- A. implied or explicit promise of preferential treatment in her employment
  - B. implied or explicit threat of detrimental treatment in her employment
  - C. humiliating treatment likely to affect her health or safety
  - D. All the above
10. Section 4 of Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013 deals with?
- A. Complaint of sexual harassment
  - B. Inquiry into complaint.
  - C. Constitution of Internal Committee
  - D. Prohibition of publication or making known contents of complaint and inquiry proceedings
11. Where a Sexual Harassment Complaints can be filed?
- A. Internal Complaints Committee



Unit 09: Sexual Harassment Act 2013

- B. Local Complaints Committee  
 C. Both a and b  
 D. None of above complaints
12. .... is a person employed at a workplace for any work on regular, temporary, *ad hoc* or daily wage basis, either directly.
13. .... means a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part time or full time basis, but does not include any member of the family of the employer.
- 14..... is a person against whom the aggrieved woman has made a complaint under section 9.
15. Under what Section Chairperson is nominated.....

**Answer for Self Assessment**

1. B      2. A      3. C      4. B      5. D
6. D      7. D      8. D      9. A      10. C
11. C      12. Employee    13. Domestic Worker    14. Respondent    15. Section 7

**Review Questions**

1. How can an employer prevent sexual harassment in the workplace?
2. What is the difference between sexual harassment and discrimination?
3. What is the difference between sexual harassment and criminal acts of a sexual nature?
4. How do you determine if conduct is unwelcome?
5. Does the act constituting sexual harassment have to occur at work?
6. What is Sexual Harassment?
7. Discuss the Duties of the Employer?
8. What factors determine whether an environment is 'hostile'?
9. Does the act constituting sexual harassment have to occur at work?
10. Elaborate the power to remove Difficulties?
11. What is Appropriate government and its power of Appropriate Government to make rules?
12. What measures can be taken to publicize the act by the Appropriate Government?

**Further Readings**

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- [https://www.icrw.org/wp-content/uploads/2018/08/ICRW\\_SBHDonorBrief\\_v4\\_WebReady.pdf](https://www.icrw.org/wp-content/uploads/2018/08/ICRW_SBHDonorBrief_v4_WebReady.pdf)
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## **Unit 10: Application of Ethical Standards to Finance**

### **CONTENTS**

Objective

Introduction

10.1 Satyam Scam

10.2 Harshad Mehta Scam

10.3 PNB Scam

10.4 The Global Financial Crisis

10.5 Main causes of the Global Financial Crisis

10.6 How the Global Financial Crisis Unfolded

10.7 Types of Financial Scams

10.8 Financial Accounting & Financial Standards

10.9 Professional Ethics in Finance

10.10 Principles of Accounting Standards

Summary

Keywords

Self Assessment

Answer for Self Assessment

Review Questions

Further Readings

### **Objective**

After completing this unit, you'll be able to :

- Describe the meaning of Financial Scams
- Elaborate the Satyam scams
- Prepared the Detailed Report of Harshad Mehta Scams
- Define the PNB Scams
- Develop Understanding about Global Financial Crisis
- Define Financial Standard and its Principles

### **Introduction**

Financial Scams have emerged as the biggest risks which companies are exposed to, and are increasingly becoming a big threat. Incidents of frauds are increasingly at an alarming rate and in the process:

- Destroy the confidence of investors in stock markets
- Results in enormous destruction in wealth of investors
- Damage the reputation of the affected company, its management and board of directors
- Erode the ability of affected companies to borrow and thus creating financial stress.

In case of frauds involving large amounts causing going concern issues (raising doubts in the ability of the company to continue its operation in the near- future)-e.g. Enron, Lehman brothers

Regulations are being regularly tightened to ensure monitoring, vigilance and disclosure mechanisms including whistle blowers' complaints. It is a universal truth that fraudsters are always a step ahead of regulators.

We must accept that frauds are inevitable, and companies should lay down strong systems, processes, corporate governance practices and a robust recruitment process to ensure that the right people with integrity and value systems are hired.

It is also important to create awareness among employees through rigorous training mechanisms, as to areas exposed to fraud and ensure that frauds are impartially investigated and culprits are punished, in time.

## **Main corporate scams in India:**

### **10.1 Satyam Scam**

When the global financial crisis of 2008 hit, India was experiencing not only a financial but also an ethical crisis. Consider a hypothetical scenario in the stock market in which a company's most fundamental financials are altered. This is how Satyam Computer Services wound up.

Early in 2009, the Satyam scandal (Satyam computers scam) was eventually disclosed. Analysts have dubbed the scam "India's Enron." Today, we'll look at how the scandal that rocked the country in the midst of a recession was perpetrated, its consequences, and how it was handled.

#### **I. The Flawless Public Facade**

Rama Raju and Ramalinga Raju, brothers, formed Satyam Computer Services Ltd in Hyderabad in 1987. (henceforth Raju). In the ancient Indian language Sanskrit, the word signified 'Truth.' The company started with 20 people and provided IT and BPO services to a variety of industries.

The company's first success led to it being listed and chosen for an IPO on the BSE in 1991. Following this, Deere and Company became the company's first Fortune 500 client. This allowed the company to expand quickly and become one of the market's leading competitors.

After TCS, Wipro, and Infosys, Satyam quickly rose to become the industry's fourth largest IT software exporter.

Satyam had over 50,000 employees and was active in over 60 countries during the height of its prosperity. Satyam had become the poster child for an Indian success tale. Its financials were also flawless. In 2003, the company was valued at \$1 billion. Satyam rapidly surpassed the \$2 billion milestone in 2008.

During this time, the company grew at a CAGR of 40%, with operating profits averaging 21% and a stock price rise of 300 percent. Satyam has now become a role model for other businesses. MZ Consult awarded it the 'Golden Peacock Award' for Corporate Accountability in 2008 for being a "pioneer in Indian Corporate Governance and Accountability."

Mr Raju was also well-known in the sector for his commercial skills, and in 2008 he received the Ernest and Young Entrepreneur of the Year Award.

Satyam's board of directors agreed late in 2008 to acquire Maytas, a real estate company owned by Mr Raju. This did not sit well with shareholders, and the decision was reversed within 12 hours, causing a drop in the stock price. Satyam was forbidden from doing business with any of the World Bank's direct connections for an eight-year term on December 23rd.

The World Bank issued one of the harshest penalties on an Indian outsourcing company. Satyam was accused by the World Bank of failing to maintain documentation to justify fees charged to its subcontractors and of providing illegal benefits to bank employees.

Was it true, however, that these allegations were real? Satyam was India's crown jewel at the time! Satyam responded two days later, demanding that the World Bank explain itself and apologize for its actions, which had harmed Satyam's investor confidence.

#### **II. What was Behind the Curtains?**

On January 7th, 2009, the markets got Mr Raju's resignation, coupled with a confession that he had manipulated accounts worth Rs. 7000 crores, as investors were still dealing with the failed

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### Unit 10: Application of Ethical Standards to Finance

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acquisition of Maytas and claims by the World Bank. Investors and clients from all across the world were taken aback. This could not possibly be happening!

We'd have to travel back to 1999 to figure out what was going on. In order to fulfill analyst expectations, Mr Raju began exaggerating quarterly profits. For example, quarterly revenues were exaggerated by 75% and profits were overstated by 97% in the reports released on October 17, 2009. Raju and the company's worldwide head of internal audit had collaborated on this.

Mr Raju utilized his computer to generate a series of bank statements in order to inflate the balance sheet with money that did not exist. To exaggerate revenue, the company's worldwide director of internal audit developed bogus customer identities and fake invoices.

As a result, the company would have easier access to loans, and the perception of its success would lead to a rise in the stock price. Additionally, the funds generated in the US markets never made it to the company's financial sheets. But that wasn't enough for Raju; he went on to construct bogus employee records and withdraw their pay on their behalf.

The increasing share price prompted Raju to sell as many shares as he could while still remaining a member of the company. This allowed Raju to profit from their high-priced sales. He also took out \$3 million a month in salary on behalf of non-existent staff.

### III. Where did the money go?

Raju had built a fantastic IT firm and was also interested in real estate. In the early 2000s, Hyderabad's real estate market was flourishing. Raju was also said to have knowledge of the blueprint (route) for a metro system that was to be developed in Hyderabad.

In 2003, the metro plans were drawn out for the first time. Raju quickly invested all of the funds in real estate, hoping to benefit handsomely once the metro was operational. He also established Maytas, a real estate firm.

However, the real estate sector, like all other sectors, was severely impacted by the 2008 crisis. By that time, almost a decade of financial statement manipulation had resulted in massively overstated assets and underreported liabilities. A total of over \$1.04 billion in bank loans and cash went missing from the records. The chasm was simply too large to bridge!

Whistleblowing attempts were also beginning to emerge at this point. Krishna Palepu, the company's director, received anonymous emails from the alias Joseph Abraham. The fraud was discovered thanks to the mail. Palepu transferred it to another director and their auditor, S. Gopal krishnan of PwC.

Palepu was promised by Gopal krishnan that the mail contained no lies, and that a presentation will be made before the audit committee on December 29th to reassure him. The date was eventually changed to January 10th, 2009.

Regardless, Raju had a last resort. A buyout of Maytas by Satyam was part of the strategy, which would close the gap that had grown over time. The fresh financials would prove that the money had been spent on Maytas. This strategy, however, was thwarted due to shareholder opposition.

Raju was obliged to place himself at the mercy of the law as a result of this. It was like riding a tiger and not understanding how to get off without being eaten, Raju later explained.

### IV. Lesson from the Scam

- PwC were the external auditors to the company and it was their duty to examine the financial records and ensure that they are accurate."
- "It is surprising how they did not notice 7561 fake bills after auditing Satyam for almost 9 years."
- "Suspicion towards PwC was later increased when it was found out that they were paid twice the fees for their services."

### V. Aftermath of Satyam Scam Exposure

Raju was arrested two days after his confession and charged with criminal conspiracy, breach of trust, and forgery. On that day, the shares sank to Rs.11.50, down from Rs.544 in 2008. The CBI investigated the home of the youngest Raju sibling and discovered 112 sales deeds for various land purchases. The CBI also discovered 13,000 forged personnel records at Satyam, claiming that the fraud was over Rs. 7000 crores.

PwC first stated that they were unable to detect the fraud because they relied on information provided by management. PwC's license was temporarily withdrawn for two years after it was found guilty. Investors were also wary about other PwC-audited corporations. The stock prices of these companies fell by 5-15 percent as a result of this. The Sensex dropped 7.3 percent as the news of the scandal broke.

The Indian stock markets were in a state of turmoil. Realizing the potential impact on stock markets and future FDI, the Indian government moved quickly to take action. They started looking into it and soon nominated a new board of directors to Satyam. The board of directors set a target of selling the company in the following 100 days.

The board of directors recruited Goldman Sachs and Avendus Capital to help expedite the sale in order to achieve this goal. In order to instill trust, SEBI hired retired Supreme Court justice Barucha to oversee the transaction. On April 13, 2009, a number of companies submitted bids. Tech Mahindra won the deal and went on to buy Satyam for a third of its original value before the fraud was discovered.

Raju and two other defendants were granted bail on November 4, 2011. Raju, his two siblings, and seven others were sentenced to seven years in prison in 2015.

## VI. Closing Thoughts

There hasn't been another scam involving CAs and audit firms like the Satyam Scam. The increasing sophistication of these frauds has increased the importance of such specialists, emphasizing the importance of ethics and CG in their responsibilities. These kinds of white-collar crimes reflect badly not only on the corporation, but also on the industry and the country.

### 10.2 Harshad Mehta Scam

The year 1992 is remembered as a watershed moment in Indian scam history. For the first time, the country's stock market was manipulated ingeniously that year.

The 'Securities Scam,' as it became known, was one of the worst scams on the Indian stock market to date, involving a fraud of over Rs 4,000 crore.

The stock market eventually crashed as a result of a systematic fraud involving bank receipts and stamp papers. The heist shocked the country and, in the end, transformed the game on Dalal Street.

#### **Key points about Harshad Mehta Scam :**

1. Harshad Mehta, a well-known and registered broker, manipulated the Bombay Stock Exchange (BSE) with his colleagues by exploiting banking system flaws.
2. Mehta is accused of working with bank workers to get phony bank receipts (BRs). He utilized these BRs to persuade other banks to lend him money under the guise of government securities lending (G-Secs).
3. This money was then invested in the stock market, causing share values to skyrocket by up to 4,400 percent. Mehta then sold these shares for a substantial profit and repaid the money to the banks.
4. Mehta cheated banks to the tune of approximately Rs 4,000 crore. Banks learned that they were in possession of bogus BRs with no value after his stock market scam was discovered and revealed.
5. As a result, the BSE Sensex increased from 2,000 to 4,000 points in March 1992.

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*Unit 10: Application of Ethical Standards to Finance*

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6. As the markets proceeded to reach new highs, people began to see him as the 'Big Bull,' and began purchasing the stocks he had invested in. Many retail investors ended up putting large sums of money into equities.
7. The Mehtas were raided by the tax agency on February 28, 1992, after the scheme was discovered. A number of documents as well as stock certificates were seized.

The CBI conducted a search of the Mehtas on June 4, 1992. Harshad Mehta's tax return for the assessment year 1992-93 was consequently rejected. In 1992, Mehta was sentenced to prison.

8. In 1992, the Reserve Bank of India established the Janakiraman Committee to present a complete picture of the scam. In the aftermath of the Haeshad Mehta scandal, a joint parliamentary committee (JPC) was formed in 1993 to investigate irregularities in securities and banking transactions.
9. Mehta was found guilty of 74 criminal offenses by the Bombay High Court and the Supreme Court. His legal fights stretched on until 2001, when he died of a heart collapse in jail. He was 47 years old at the time.
10. The Harshad Mehta fraud resulted in a slew of improvements to India's financial regulatory framework. The Securities Laws (Amendments) Act of 1995 expanded Sebi's jurisdiction, allowing it to regulate depositories, foreign institutional investors (FIIs), venture capital funds, and credit rating organizations. Sebi may make it mandatory for corporations issuing securities to make disclosures in order to maintain investor interest.

Since the scandal, the Indian stock market has gone a long way. Other stock market scams have occurred over the years, wiping out investors and leaving regulatory organizations red-faced. Mehta, on the other hand, was the one who started it all. The events he choreographed serve as a constant reminder to both investors and authorities to maintain vigilance.

### **10.3 PNB Scam**

Punjab National Bank (PNB) announced on February 14th, 2018, that it had stolen around 1.8 billion dollars. This news shocked the country, and all eyes were on the perpetrator, Nirav Modi, a wealthy diamond magnate. This article details the true nature of the fraud, its repercussions and just how Nirav Modi and his associates pulled off one of the biggest bank scams in Indian history.

The PNB scandal was essentially a case of financial fraud perpetrated by Nirav Modi and his friends with the help of senior Punjab National Bank officials. To fully comprehend the hoax and all it entails, we must first grasp a few other fundamental principles.

#### **SWIFT Transfer:**

The Society for Worldwide Interbank Financial Telecommunications (SWIFT) is a Belgian cooperative society. SWIFT's principal function is to transport secure financial messages from one bank to another. That is, if one bank wishes to send a message to another, SWIFT transports the message in a safe and secure manner without modifying it. SWIFT is frequently mistaken as a money transfer system; however, this is not the case. SWIFT does not settle or clear fund transfers; it just sends and receives encrypted messages.

In the instance of PNB, the two workers evaded the central banking system (CBS), which handles daily financial transactions and posts updates, and instead used SWIFT to shift millions of dollars across borders every hour.

#### **Letter Of Undertaking :**

A letter of undertaking (LOU) is a document that importers use to conduct their business.

For example, an Indian businessman with operations in the United States may purchase raw materials from a seller for a given amount (ex. 100 crore) and may be required to pay the amount in a short period of time, which may be impossible at the time. As a result, the Indian businessman approaches a bank in India and provides security in the amount of the cost he must pay, in exchange for which he requests that his bank issue a LOU. The bank issues a letter of credit and

sends a message via SWIFT to the supplier's bank, guaranteeing the money owed by the Indian businessman. This guarantees that the commercial transaction goes smoothly.

In the case of PNB, LOUs were issued in Nirav Modi's favor, circumventing the bank's reporting system by sending SWIFT messages to foreign banks without authority. Nirav Modi was able to obtain LOUs without filing any securities with the help of senior PNB officials. These LOUs were then sent to banks in other countries via SWIFT messaging.

### **How did the perpetrators get caught ?**

According to a 2018 Hindustan Times investigation, two PNB workers have been sending unauthorized LOUs for the previous seven years. This lasted until one of them retired and was replaced by a new employee. When Nirav Modi's firm requested a new set of guarantees in January, the new employee sought collateral. Firestar's reps (Nirav Modi and his colleagues) stated that they had never been asked for a guarantee before. This sparked an investigation, which eventually resulted in the truth about the phony LOUs being revealed.

### **Legal Angle:**

Fraud is defined as any dishonest act or behavior by which one person earns or has the deliberate aim to gain an advantage over another. In a fraud, the victim suffers either a direct or indirect loss. While the Indian Penal Code does not go into great length about fraud, it does have some sections that deal with the elements of fraud. Cheating, concealment, forgery, counterfeiting, and breach of trust are all examples of this.

In a contractual sense, fraud refers to and encompasses any actions taken by a contracting party, or with his express authority or orders, or by his agents, with the goal of deceiving another party or his agent, or inducing them to enter into a contract. All of this should be understood in light of Section 17 of the Contract Act.

Banking fraud is on the rise in the modern era, and it is more frequent than ever. When compared to regular thefts and robberies, the amount misappropriated in crimes like banking fraud is in the thousands and crores. In most nations, bank fraud is a federal offense. Simply described, banking fraud is the use of potentially illegal methods to get money, assets, or other property owned or held by a financial organization, or in some situations, money from depositors by impersonating a bank or other financial institution.

### **Impact and Resulting Aftermath:**

1. PNB was left with bank guarantees worth more than Rs 11,400 crore, which it must pay to a variety of parties, including the State Bank of India, Allahabad Bank, and Union Bank. The payments were expected to be made in the coming months.
2. In addition, after the case's results were made public, the banking, jewelry, and insurance industries were severely hampered, with substantial negative consequences.
3. Serious doubts were raised about the overall credibility of public sector banks, as well as whether regulators such as the RBI and SEBI were carrying out their responsibilities to the appropriate standard.

To prevent further abuse of the medium, the Reserve Bank of India immediately prohibited banks from issuing guarantees in the form of letters of undertaking (LOU). It was also agreed that commercial banks in India will stop issuing Letters of Understanding (LoUs) for trade-related credits for imports with immediate effect. The RBI has also given banks until April 30 to connect their basic banking systems (CBS) to the SWIFT (Society for Worldwide Interbank Financial Telecommunication) system. Meanwhile, Nirav Modi was arrested in London after an arrest warrant was issued for him on charges of criminal conspiracy, cheating, dishonesty, fraud, breach of trust, and breach of contract.



## Conclusion

The PNB fraud has left an indelible mark on India's banking system. The government is now more aware of the banking sector and its varied activities, which is a positive effect. The swindle also provides a chance for both the government and the reserve bank to implement changes. While the Fugitive Economic Offenders Act is a solid start, it can't be the only piece of law passed in this area. It is critical that we continue to advocate for banking reform in order to avoid tarnishing the reputations of old and well-established banks like the PNB in the future.

## 10.4 The Global Financial Crisis

Between mid-2007 and early-2009, the global financial crisis (GFC) was a period of unprecedented stress in global financial markets and banking systems. During the Global Financial Crisis, a slump in the US housing market served as a spark for a financial crisis that expanded from the US to the rest of the globe via global financial system links. Many banks around the world suffered significant losses and needed government assistance to stay afloat. As the main industrialized economies endured their biggest recessions since the Great Depression in the 1930s, millions of people lost their employment. Recovery after the financial crisis was also significantly slower than it had been in previous recessions that had not been accompanied by a financial crisis.

## 10.5 Main causes of the Global Financial Crisis

A variety of reasons explain the GFC and its severity, as they do other financial crises, and people are currently discussing the relative relevance of each factor. Some of the most important characteristics are as follows:

1. Excessive risk-taking in a favorable macroeconomic environment: Economic conditions in the US and other countries were favorable in the years leading up to the Great Recession. Inflation, unemployment, and interest rates were all relatively low, and economic growth was solid and consistent. House prices soared as a result of this climate. Expectations that property prices would continue to grow prompted households, particularly in the United States, to borrow excessively to buy and construct homes. Property developers and households in European countries (including Iceland, Ireland, Spain, and other Eastern European countries) borrowed excessively due to a similar anticipation of rising house prices. Many of the mortgage loans were for amounts close to (or even exceeding) the purchase price of a house, particularly in the United States. Investors seeking short-term profits by 'flipping' houses and 'subprime' borrowers (who have higher default risks because their income and wealth are relatively low and/or they have missed loan repayments in the past) accounted for a big share of such risky borrowing.

For a variety of reasons, banks and other lenders were willing to make progressively huge amounts of hazardous loans:

- Individual lenders competed to issue ever-larger amounts of housing loans, which appeared to be quite profitable at the time due to the favorable economic climate.
- Many lenders who provided housing loans did not thoroughly analyze clients' ability to repay their debts. This represented the widely held belief that favorable conditions will persist. Lenders also had little incentive to be cautious in their loan decisions because they did not expect to lose money. Instead, they sold massive quantities of loans to investors, typically in the form of mortgage-backed securities, which were made up of thousands of individual mortgage loans of variable quality. MBS products became more sophisticated and opaquer over time, yet they were still recognised as extremely safe by external agencies.
- MBS investors made the error of thinking they were purchasing a very low-risk asset: even if some of the mortgage loans in the package were not repaid, it was anticipated that the

majority of the loans would be repaid. Large US banks, as well as foreign banks from Europe and other nations, were among the investors looking for larger returns than could be found in their own markets.

2. **Increased Borrowing by Banks and Investors:** Banks and other investors in the United States and abroad borrowed increasing amounts in the run-up to the GFC to expand their lending and purchase MBS products. Borrowing money to buy an asset (also known as increasing leverage) increases possible earnings while also increasing potential losses. As a result, when home prices began to collapse, banks and investors suffered significant losses as a result of their excessive borrowing. Furthermore, banks and certain investors have increasingly borrowed money for very short periods of time, even overnight, to buy assets that could not be sold rapidly. As a result, they grew more reliant on lenders, including other banks, to extend new loans as old short-term loans were repaid.
3. **Regulation and Policy errors:** Subprime loans and MBS products were regulated too loosely. In particular, the institutions that manufactured and sold the complicated and opaque MBS to investors were not adequately regulated. Not only were many individual borrowers given loans that they were unlikely to repay, but fraud – such as overstating a borrower's income and over-promising investors on the safety of the MBS products they were being sold – was becoming more widespread.

Furthermore, as the crisis progressed, many central banks and governments failed to recognise the extent to which faulty loans had been extended during the boom, as well as the numerous ways in which mortgage losses were spreading throughout the financial system.

## **10.6 How the Global Financial Crisis Unfolded**

1. **US house prices fell, borrowers missed repayments:** Falling US housing values and an increasing number of borrowers unable to service their loans were the drivers for the Great Recession. House prices in the United States peaked in mid-2006, coinciding with a surge in the supply of newly constructed homes in some locations. As home prices began to decrease, the percentage of borrowers who defaulted on their loans increased. Because the share of US households (including owner-occupiers and investors) with huge loans had risen dramatically during the boom and was larger than in other countries, loan repayments were particularly sensitive to housing prices in the US.
2. **Stresses in the financial system:** Around the middle of 2007, the financial system began to show signs of stress. Because many of the residences confiscated after borrowers missed payments could only be sold at prices below the loan level, some lenders and investors began to suffer significant losses. As a result, investors became less willing to buy MBS and actively sought to sell their holdings. As a result, MBS prices fell, lowering the value of MBS and, as a result, MBS investors' net worth. As a result, investors who bought MBS with short-term loans found it much more difficult to refinance them, thereby exacerbating MBS selling and price falls.
3. **Spillovers to other countries:** Foreign banks were active participants in the US housing market throughout the boom, including purchasing MBS, as previously mentioned (with short-term US dollar funding). Banks from the United States also had significant operations in other nations. The issues in the US housing market were able to spread to other countries' financial systems and economies thanks to these interconnections.

4. Failure of financial firms, panic in financial markets: Following the fall of the US financial giant Lehman Brothers in September 2008, financial tensions reached an all-time high. This, together with the bankruptcy or near-failure of a number of other financial organizations around the same time, sparked a global panic in financial markets. Investors began withdrawing funds from banks and investment funds around the world because they had no idea who would be the next to fail or how vulnerable each institution was to subprime and other troubled loans. As a result, financial markets became dysfunctional as everyone attempted to sell at the same moment, and many organizations seeking new funding were unable to do so. As confidence plummeted, businesses and people both were less ready to invest and spend. As a result, the US and other economies entered their greatest recessions since the Great Depression.

## 10.7 Types of Financial Scams

1. Chit Funds: A chit fund comprises a group of members, called subscribers. An organizer brings the group together and administers the activities of the group. The system acts as a borrowing scheme, because subscribers are able to access large sums of money before they've paid the full amount. It also acts as a savings system, because each subscriber contributes every month and may retrieve a large sum in the future while receiving their share of the surpluses. Sometimes, the winner is drawn by picking a chit out of a box. (The term chit fund comes from such an arrangement.) Both organizers and subscribers in chit funds are exposed to credit risk.
2. Ponzi Schemes: A Ponzi scheme is a type of investment fraud in which monies supplied by new investors are used to pay stated returns to existing investors. Ponzi scheme organizers frequently entice new investors by promising to put money in opportunities that promise large returns with minimal risk. Rather than participating in genuine investing activities, many Ponzi schemes concentrate on obtaining fresh money to make promised payments to earlier-stage investors and to spend for personal expenses.

The scheme is named after Charles Ponzi, a con artist in the 1920s who promised New England investors a 40 percent return on their investment in just 90 days, compared to a 5 percent return on a savings account.

Ponzi aimed to make money by profitably buying and selling international mail coupons using the differential in exchange rates between the dollar and other currencies.

3. Pyramid Investment Schemes: A pyramid scheme is a risky and unsustainable business strategy in which a small number of top-level members attract newer members. Those who enrolled them pay up front expenses to those who enrolled them. A percentage of the subsequent fees received by newer members is also kicked up the chain as they recruit their own underlings. These operations, known as "pyramid frauds," are banned in several nations.

### How Does a Pyramid Scheme Work?

Pyramid schemes get their name from the fact that they resemble a pyramid structure, starting with a single point at the top and gradually widening toward the bottom.

Let's make the following assumptions: The number "one" represents Founder Mike, who sits alone at the top of the heap. Assume Mike recruits ten second-tier persons to the level directly below him,

and each novice is required to pay him a cash fee to join. Not only do those buy-in costs go straight to Mike's wallet, but each of the ten new members must also recruit ten tier-three members (for a total of 100), who must pay fees to the tier-two recruiters, who must then send a percentage of their earnings back up to Mike.

Those brave enough to take the pyramid plunge, according to the hard-sell presentations made at recruitment events, will theoretically gain big income from the recruits below them. In practice, though, the pool of potential members tends to dry up with time. When a pyramid scheme goes bust, the top operatives walk away with a lot of money, while the majority of the lower-level members walk away empty-handed.

The vast majority of pyramid schemes do not include the selling of genuine products or services with any inherent value, as they rely mainly on fees from new recruits.

## **10.8 Financial Accounting & Financial Standards**

Accounting and financial professionals must follow ethical guidelines that govern the type of business they do, the people they serve, and how they apply their abilities. Professional accounting and finance groups, as well as the Financial Accounting Norms Board, set most ethical standards. Small business owners who plan to provide their own accounting services or hire accountants should be familiar with accounting concepts and basic financial ethical standards in order to preserve a positive reputation for their companies.

### **U.S. Generally Accepted Accounting Principles**

US generally accepted accounting principles are standards that determine how accountants in the United States perform and prepare their reports, as determined by the FASB. For the sake of transparency, accounting documents must be seen by a number of persons outside of the organization. Comparing financial statements would be inefficient, and hiding information would be easy, if each company developed its own accounting reporting systems. The U.S. The Securities Exchange Commission and the American Institute of Certified Public Accountants, according to the FASB, accept the FASB's power to develop standards.

### **Competence**

Competence is listed as one of the fundamental ethical criteria finance professionals must uphold by professional organizations such as the Association for Financial Professionals and the Association for Accountants and Financial Professionals in Business. Accountants and financial professionals must not only have a secure education and practice that equips them for their roles, but they must also maintain their education by acquiring new information that could affect their practices in order to be competent. They must, among other things, keep up with GAAP. Financial professionals, according to the American Institute of CPAs, must be honest and have integrity.

### **Objectivity**

Accountants must be neutral and avoid conflicts of interest, according to the Association for Accountants and Financial Professionals in Business and the American Institute of CPAs. They cannot, for example, perform accounting services for companies in which they have a financial stake. Working for a corporation owned by a family, for example, would not appear neutral and could throw suspicion on the financial professional's objectives, even if they can conduct themselves honestly. Although it is often impossible to prevent conflicts of interest, such as in the case of a family business, many financial professional organizations caution against dishonest methods such as falsifying documents to achieve a planned result.

### **Confidentiality**

Financial professionals have access to a lot of personal information while working with a client's financial information. This contains not just financial data, but also personnel names and contact information, as well as the names and locations of companies with whom the company conducts business. Financial experts are required by ethical standards to keep that information secret unless directed to do so by a court of law. Financial professionals must not utilize this information for

"unethical or illegal benefit," according to the Association for Accountants and Financial Professionals in Business.

## **10.9 Professional Ethics in Finance**

Countless scandals and news articles have surfaced in the financial business involving professionals who have deceived investors, employers, and peers. There's no denying that greed is a powerful feeling, yet unethical behavior may sometimes be traced back to a lack of understanding of basic financial principles.

We can better understand how the industry can not only achieve but exceed these requirements by looking at several situations that frequently arise during the course of a financial professional's career and how these situations should be handled.

### **Handling Material Non-Public Information**

Many securities professionals may encounter situations where they come into possession of substantial non-public information. This information is defined as anything that has the potential to influence the price of a security but has not yet been made public.

For Example, You have just obtained material non-public information if your company's CEO tells you during a meeting that impending earnings numbers will be poor. You may be tempted to call your broker and execute a sell order to avert a capital loss as a stockholder in your company. However, this would be considered as insider trading, and the penalties for doing so are far more severe than any potential paper loss.

For a range of financial experts, material non-public information can take a variety of forms.

A portfolio manager with a strong interest in a number of small-cap stocks, for example, could have a significant impact on short-term market movement based on any significant sales or purchases of those stocks. It would be unethical for the manager to tell a select "high-value" client who may own the stock independently before selling the shares if the manager wants to divest a substantial position in a small-cap stock based on a recommendation from one of their firm's buy-side analysts. Despite the fact that it may not appear to be much, insider trading regulations have most definitely been broken, and the parties involved may face legal action.

### **Reporting Unethical Activities**

We know what's on your mind... "I'm a trustworthy person who would never put myself in a situation where my morals would be called into question." That may be true, but professional ethics and standards are an industry-wide effort that extends beyond individual ethics.

It's not enough to distance yourself from a coworker or peer who engages in questionable behavior. You may be held liable for any punitive actions taken as a result of your knowingly enabling illegal or unethical behavior to continue. Although no one wants to have to report a coworker or friend, it is ultimately your obligation to guarantee that fair practices are followed in the financial field, and speaking up for one's ethics should be a top priority.

Professionals can also advise employers to promote a work environment that is free of conflicting pressures. Implementing a "Chinese Wall" between various divisions, such as a brokerage and an advising division, for example, can prevent insider information from being leaked and brokers, advisers, analysts, and other professionals from getting caught in the middle of a security breach. Additionally, when any securities are discussed for underwriting or ratings change, investment banks may use gray lists. No workers may intentionally trade any securities that may be influenced by the bank's conduct, according to such listings.

### **Examples of Unethical Accounting Practices**

When a corporation does not follow the norms of generally accepted accounting principles, or GAAP, unethical accounting practices arise. The GAAP guidelines are set down by the federal government. Not recognising revenue before a client receives a shipment, not recognising revenue-related expenses, and not writing down poor inventory are all examples of non-compliance with GAAP.

By recognising revenue for inventory that is still in the firm's ownership, a company can inflate its sales. A client must take physical possession of the inventory, according to GAAP. A corporation can still bill the customer, but it won't appear on its profit and loss statement as a sale. GAAP includes regulations that apply to expenses as well. "Cooking the books" refers to a corporation that capitalizes expenses and records them on the balance sheet rather than as an expense. Between 1999 and 2002, the telecommunications behemoth MCI documented its revenue and expenses in an unethical manner. Arthur Andersen, the now-defunct public auditor, signed off on MCI's financial statements while also defrauding the company.

A business might potentially understate its costs by failing to write off bad inventory. Inventory that is no longer saleable or functional is referred to as bad inventory. To inflate net profits and consequently financial success, an unethical corporation could postpone writing down the expense.

## **10.10 Principles of Accounting Standards**

A company's financial reports must be accessible, reliable, and comparable to the reports of other companies in order for financial accounting to be effective. To do this, your company's reports must adhere to a set of rules and principles known as Generally Accepted Accounting Principles (GAAP).

The rules that apply to every financial statement issued by a corporation to external users or third parties, such as investors, clients, creditors, competitors, and lawyers, are referred to as GAAP.

Note that GAAP only applies to firms in the United States; other nations have their own financial reporting rules, such as the International Financial Reporting Standards (IFRS).

The Generally Accepted Accounting Principles (GAAP) entails some fundamental principles and concepts such as matching principle, full disclosure, cost principle, relevance, conservativeness, credibility, reliability, and economic entity.

1. **Cost Principles:** The cost principle is a financial accounting theory that tracks the value of short and long-term assets (cash amounts). It implies that the accounting officer will document transactions at the moment they occurred.

For example, if a customer wants to buy a car worth \$20,000 for \$15,000, the car firm will record \$15,000 as the amount paid on the balance sheet rather than the \$20,000 actual value.

The most valuable properties and assets of a firm are not declared under this premise. Search engine rankings, online domain names, trademarks, a team of employees, and other assets are examples of these assets. Inflation and fluctuations in the market do not affect the cost recorded for an asset

2. **Full Disclosure Principle:** The full disclosure concept asserts that a corporation should provide all required and adequate information to provide a complete understanding of its financial statements.

Because external users are unfamiliar with the firm's operations, it is the corporation's responsibility to provide easy-to-understand information about the organization.

The principle requires that the notes to a company's financial statements include numerous schedules and disclosures. The financial examination of accounting statements requires a thorough understanding of a company's details.

3. **Economic Entity Principle:** This approach enables the financial accountant to distinguish between the sole proprietorship business's transactions and the lone proprietor's personal transactions. It also implies that a company entity's activities should be recorded independently from those of the owner.

A sole proprietorship, partnership, governmental agency, or corporation are examples of several types of business entities.

This principle is important because it simplifies accounting methods for external users when they receive financial statements.

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*Unit 10: Application of Ethical Standards to Finance*

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4. **Matching Principle:** This accounting concept requires you to utilize the accrual method rather than the cash method of accounting. The reason for this is that the company's revenue and expenses must be in sync. It implies that revenues and any related expenses should be recorded in the same accounting period.

The matching concept ensures that financial statements such as income statements, balance sheets, and others are recorded consistently.

5. **Relevance:** The financial statements of a corporation should be allocated to external users at the conclusion of the accounting period in order for them to remain relevant. In essence, punctuality is also important for staying relevant.

To do so, the accounting officer must conclude all financial statements as soon as possible. During a fiscal year, the accounting officer must be available at all times.

6. **Conservativeness:** When there are ambiguities, this approach permits the accountant to recognise and report expenses and liabilities, but only acknowledges assets and revenues when possession is certain. Even when there are doubts in financial transactions, it enables for clear recording.

When there are two appropriate techniques of recording financial transactions, it is also a guideline that advises an accountant to choose the alternative approach that provides lower asset or income quantities.

7. **Realibility:** Accountants' integrity is guided by this principle. Accountants are required to be objective and trustworthy. Every business audits its financial accounts to ensure that the figures in the statements are accurate and reliable for external users.

Some of the effects of these financial accounting principles on financial statements are:

- The accrual method of accounting
- Revenues and expenses reported on the income statement
- Assets and liabilities reported on the balance sheet, and
- Stockholders' equity is reported on the balance sheet.

These principles make it simple for external users to compare financial statements from different organizations. GAAP has a number of complex and difficult rules that are established based on the examination of complex business transactions. It also includes accounting standards that are specialized to certain industries, such as banking and insurance. GAAP is usually large and detailed due to these difficulties. Some statements published by an accounting authority known as Financial Accounting Standards Boards are included in the Generally Accepted Accounting Principles (GAAP) (FASB). It is a non-profit organization that investigates current needs and develops accounting standards to fulfill those needs.

## **Summary**

- Financial Frauds happen when someone deprives you of your money or otherwise harms your financial health through misleading, deceptive, or other illegal practices. This can be done through a variety of methods such as identity theft or investment fraud.
- Each time a financial scam is executed, the nation's economy, taxpayer's money, and trust in institutions is eroded. The only remedy is effective and stringent checks and balances at every stage of an organization—public or private.
- Society for Worldwide Interbank Financial Telecommunications (SWIFT) is a Belgian cooperative society. SWIFT's principal function is to transport secure financial messages from one bank to another.
- A letter of undertaking (LOU) is a document that importers use to conduct their business.

- A chit fund comprises a group of members, called subscribers. An organizer brings the group together and administers the activities of the group. The system acts as a borrowing scheme, because subscribers are able to access large sums of money before they've paid the full amount.
- A Ponzi scheme is a type of investment fraud in which monies supplied by new investors are used to pay stated returns to existing investors. Ponzi scheme organizers frequently entice new investors by promising to put money in opportunities that promise large returns with minimal risk.
- A pyramid scheme is a risky and unsustainable business strategy in which a small number of top-level members attract newer members. Those who enrolled them pay up front expenses to those who enrolled them.
- An accounting standard is a common set of principles, standards, and procedures that define the basis of financial accounting policies and practices. Accounting standards apply to the full breadth of an entity's financial picture, including assets, liabilities, revenue, expenses and shareholders' equity.
- Accounting and financial professionals must follow ethical guidelines that govern the type of business they do, the people they serve, and how they apply their abilities. Professional accounting and finance groups, as well as the Financial Accounting Norms Board, set most ethical standards.
- A company's financial reports must be accessible, reliable, and comparable to the reports of other companies in order for financial accounting to be effective. To do this, your company's reports must adhere to a set of rules and principles known as Generally Accepted Accounting Principles (GAAP).

### Keywords

**SWIFT Transfer:** The Society for Worldwide Interbank Financial Telecommunications (SWIFT) is a Belgian cooperative society. SWIFT's principal function is to transport secure financial messages from one bank to another. That is, if one bank wishes to send a message to another, SWIFT transports the message in a safe and secure manner without modifying it.

**Letter of undertaking (LOU) :** It is a document that importers use to conduct their business.

**Fraud :** Fraud is defined as any dishonest act or behavior by which one person earns or has the deliberate aim to gain an advantage over another.

**Chit Fund:** A chit fund comprises a group of members, called subscribers. An organizer brings the group together and administers the activities of the group. The system acts as a borrowing scheme, because subscribers are able to access large sums of money before they've paid the full amount.

**Ponzi Scheme:** A Ponzi scheme is a type of investment fraud in which monies supplied by new investors are used to pay stated returns to existing investors. Ponzi scheme organizers frequently entice new investors by promising to put money in opportunities that promise large returns with minimal risk.

**Pyramid Investment Schemes:** A pyramid scheme is a risky and unsustainable business strategy in which a small number of top-level members attract newer members.

### Self Assessment

1. \_\_\_\_\_ is a specialized branch of accounting that keeps track of a company's financial transactions.

A. Cost accounting



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*Unit 10: Application of Ethical Standards to Finance*

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- B. Management accounting
- C. Financial Accounting
- D. Corporate accounting

2. Financial accounting is governed by \_\_\_\_\_

- A. local standards only
- B. international standards
- C. local as well as international accounting standards
- D. company's internal top management only

3. \_\_\_\_\_ is the scope of financial accounting.

- A. Collection and processing of data
- B. Verifying or auditing data
- C. Publishing data
- D. All of the above

4. Which is not a benefit of financial accounting?

- A. Maintaining systematic records
- B. Protecting and safeguarding business assets
- C. Historical in nature
- D. Facilitates rational decision making

5. Which is not a limitation of financial accounting?

- A. Inadequate information to fix up the price of products manufactured
- B. Lack of data for comparison of cost of operation of the firm with other firms in the industry
- C. The data available is historical in nature
- D. Complies with the various legal requirements

6. \_\_\_\_\_ are the basis of the business's financial accounting.

- A. Accounting records
- B. Bookkeeping
- C. Sales Volume
- D. Both A & B

7. Financial accounting provides accounting information to the \_\_\_\_\_ though the information is useful for internal purposes also.

- A. external users
- B. internal users
- C. company
- D. competitors

8. Financial accounting reports include \_\_\_\_\_
- A. profit and loss account
  - B. directors report
  - C. balance sheet and auditors report
  - D. all of the above
9. Financial accounting reports lay greater emphasis on the \_\_\_\_\_
- A. objectivity of data
  - B. Flexibility of data
  - C. Relevancy of data
  - D. Subjectivity of data
10. Financial accounting statements are subject to \_\_\_\_\_
- A. Cost audit
  - B. Forensic audit
  - C. Statutory audit
  - D. Non statutory audit
11. \_\_\_\_\_ are the components of financial statements.
- A. profit and loss account and balance sheet
  - B. cash flow and fund flow statement
  - C. notes and schedules
  - D. All of the above
12. \_\_\_\_\_ helps to find out the profit made on loss sustained in a particular accounting period through transactions and events.
- A. Income statement
  - B. Profit and loss account
  - C. Trading account
  - D. None of the above
13. Punjab National Bank (PNB) announced on
- A. February 14th, 2018
  - B. February 18th, 2019
  - C. February 14th, 2019
  - D. February 16th, 2018
14. Which of the following is a type of financial Scams?
- A. Ponzi Scheme
  - B. Chit funds
  - C. Pyramid Investment Scheme

D. All of the above

15. What is the full form of SWIFT?

- A. Safe Window for Interbank Financial Transactions
- B. Safe Window In case of Financial Transaction
- C. Society for Worldwide Interbank Financial Telecommunication
- D. Safe Window Institute For Transactions

### **Answer for Self Assessment**

- |       |       |       |       |       |
|-------|-------|-------|-------|-------|
| 1. C  | 2. C  | 3. D  | 4. C  | 5. D  |
| 6. D  | 7. A  | 8. D  | 9. A  | 10. C |
| 11. D | 12. B | 13. A | 14. D | 15. C |

### **Review Questions**

1. Elaborate the Satyam Scam in your own wordings?
2. What lesson did you learn from the Satyam Scam?
3. What aftermath of Satyam Scam Exposure?
4. Write Short Note on:
  - a) Harshad Mehta Scam
  - b) PNB Scam
5. Differentiate between SWIFT Transfer and Letter Of Undertaking (LOU) ?
6. Explain the Main Causes of the Global Financial Crisis?
7. How the Global Financial Crisis Unfolded?
8. Discuss different types of Financial Scams?
9. What is a Pyramid Investment Scheme? How does a Pyramid scheme work?
10. What are the Accounting Standards? List down the principles of Accounting Standards?



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## Unit 11: SEBI and RBI

### CONTENTS

Objectives

Introduction

- 11.1 Concept Of SEBI
- 11.2 Objectives of SEBI
- 11.3 Powers of SEBI
- 11.4 Structure of SEBI
- 11.5 Functions of SEBI
- 11.6 Roles of SEBI
- 11.7 Guidelines of SEBI for Corporate Governance
- 11.8 RBI-Reserve Bank of India
- 11.9 Functions of RBI
- 11.10 Reserve Bank of India's Credit Policy
- 11.11 Board of RBI
- 11.12 Functions of Various Departments of RBI

Summary

Keywords

Self Assessment

Answers for self Assessment

Review Questions

Further Readings

### Objectives

After completing this unit, you will be able to:

- Discuss the concept of SEBI
- Develop the understanding about the Objectives of SEBI
- Explain the powers, roles and structures of SEBI
- Elaborate on the Guidelines of SEBI of Corporate Governance
- Describe the meaning of Reserve Bank of India
- Provide details regarding the functions of RBI
- understand regarding the Reserve Bank of India's Credit Policy
- Describe the board of Reserve Bank of India
- Explain in details About the functions of Various Departments of RBI

### Introduction

SEBI is the Securities and Exchange Board of India , and the existence of SEBI ensures that any unwelcome market activity would be prevented.

SEBI is a market regulator that aims to maintain a level of equilibrium in day-to-day stock market activity by establishing regulatory frameworks. In India, there are currently 17 exchanges in

operation, all of which are governed by SEBI norms, including the NSE and BSE. The Securities and Exchange Board of India has regional offices in New Delhi, Kolkata, Chennai, and Ahmedabad, as well as its headquarters in Mumbai. In addition to Jaipur, Bangalore, Guwahati, Bhubaneswar, Patna, Kochi, and Chandigarh, SEBI has opened local offices in Jaipur, Bangalore, Guwahati, Guwahati, Bhubaneswar, Patna, Kochi, and Chandigarh.

With effect from September 28, 2015, SEBI began regulating the commodity derivatives market under the Securities Contract Regulation Act (SCRA) 1956, and the Forward Contracts Regulation Act (FCRA) 1952 was superseded with effect from September 29, 2015.

SEBI was founded in 1988 and given constitutional validity on January 30, 1992 by the Government of India, bypassing the SEBI Act, 1992 in the Indian parliament.

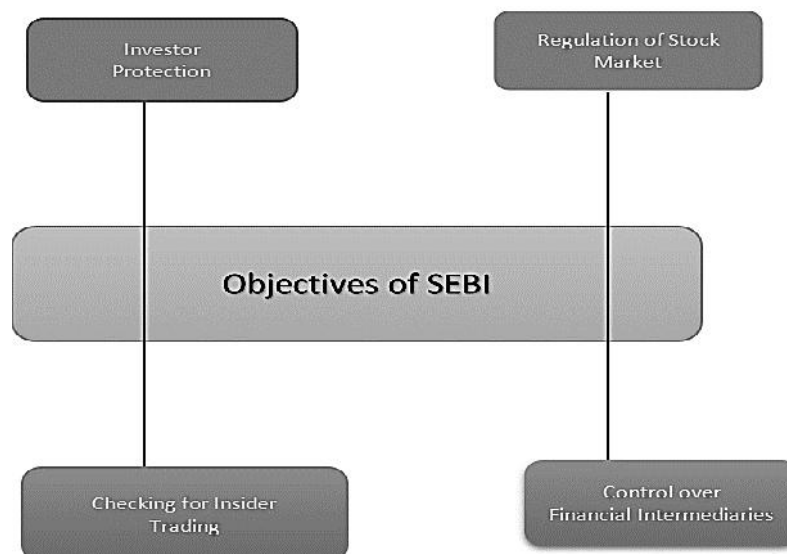
### 11.1 Concept Of SEBI

Initially, SEBI acted as a watchdog and lacked the authority of controlling and regulating the affairs of the Indian capital market. Nonetheless, in the year 1992, it got statutory status and became an autonomous body to control the activities of the entire stock market of the country. The statutory status of the SEBI authorized it to conduct the following activities:

1. SEBI got the power of regulating and approving the by-laws of stock exchanges.
2. It could inspect the accounting books of the recognized stock exchanges in the country. It could also call for periodical returns from such stock exchanges.
3. SEBI became empowered to inspect the books and records of financial Intermediaries.
4. It could constrain companies from getting listed on any stock exchange.
5. It could also handle the registration of stockbrokers.

### 11.2 Objectives of SEBI

- **Investor Protection:** The capital market is meaningless without active investors. As a result, it is critical to protect the interests of investors. Protecting investors' interests include sheltering them from erroneous information provided by enterprises, minimizing the risk of default, and so on. Thus, the top purpose of the SEBI (Securities And Exchange Board of India) is to offer security to the investors.



- **Regulation of Stock Markets:** SEBI regulates the stock markets to ensure that effective services are offered to all the parties involved like brokers, merchant bankers, and other intermediaries to promote professionalism. Moreover, it also has to ensure fair practices.

- **Checking for Insider Trading:** Insider trading is defined as the trading of a business's securities by individuals who have access to non-public information about the firm (such as directors, promoters, and others). These individuals have access to confidential company information. This is detrimental to the interests of ordinary investors. Insider trading is prohibited in a number of nations. It is unfair to other investors who do not have access to the information for this reason. SEBI has already taken a number of efforts to prevent insider trading.
- **Control over Financial Intermediaries:** In order to manage the capital markets, it is critical to maintain a tight eye on the activity of brokers and other intermediaries.

SEBI (Securities and Exchange Board of India) has worked with great passion to fulfill its objectives since its inception. The risk of default has lessened as a result of improvements in the securities markets, such as capitalization requirements, margin, and the establishment of clearing institutions.

### 11.3 Powers of SEBI

(1) **Powers over stock exchanges and intermediaries:** SEBI has broad authority over stock exchanges and securities intermediaries. For inspection/scrutiny and other purposes, it can request information from stock exchanges and intermediaries about their business dealings.

(2) **Monetary penalty powers:** SEBI has the authority to levy monetary penalties on capital market intermediaries and other market players for a variety of infractions. It has the power to suspend their registration for a limited time.

(3) **Powers to take action in relation to given functions:** SEBI has the authority to take action in relation to assigned functions. It can, for example, give guidance to various intermediaries or impose specific restrictions to protect investors' interests.

(4) **Insider trading powers:** SEBI has the authority to supervise insider trading and the functions of merchant bankers.

(5) **Powers under the Securities Contracts (Regulation) Act:** On September 13, 1994, the Ministry of Finance published a Notification delegating many of its powers under the Securities Contracts (Regulation) Act to SEBI in order to effectively regulate stock exchanges. The Finance Ministry has also given SEBI the authority to nominate three members to each stock exchange's Governing Body, as opposed to the previous practice of the government making such nominations.

(6) **Powers to regulate stock exchanges' business:** SEBI has the authority to regulate stock exchanges' business, as well as the business of intermediaries in the securities market and mutual funds, as well as fraudulent and unfair trade practices in securities, and the regulation of stock acquisitions and takeovers of companies.

### 11.4 Structure of SEBI

SEBI has a corporate framework comprising of various departments each managed by a department head. There are about 20 departments under SEBI. Some of these departments are corporation finance, economic and policy analysis, debt and hybrid securities, enforcement, human resources, investment management, commodity derivatives market regulation, legal affairs, and more. The hierarchical structure of SEBI consists of the following members:

- The chairman of SEBI is nominated by the Union Government of India.
- Two officers from the Union Finance Ministry will be a part of this structure.
- One member will be appointed from the Reserve Bank of India. Five other members will be nominated by the Union Government of India.

## **11.5 Functions of SEBI**

The SEBI performs functions to meet its objectives. To meet three objectives SEBI has three important functions.

These are:

- i. Protective functions
- ii. Developmental functions
- iii. Regulatory functions.

1. **Protective Functions:** These functions are performed by SEBI to protect the interest of investor and provide safety of investment. As protective functions SEBI performs following functions:

(i) **It Checks Price Rigging:** Price rigging refers to manipulating the prices of securities with the main objective of inflating or depressing the market price of securities. SEBI prohibits such practice because this can defraud and cheat the investors.

(ii) **It Prohibits Insider trading:** Insider is any person connected with the company such as directors, promoters etc. These insiders have sensitive information which affects the prices of the securities. This information is not available to people at large but the insiders get this privileged information by working inside the company and if they use this information to make profit, then it is known as insider trading, e.g., the directors of a company may know that company will issue Bonus shares to its shareholders at the end of year and they purchase shares from market to make profit with bonus issue. This is known as insider trading. SEBI keeps a strict check when insiders are buying securities of the company and takes strict action on insider trading.

(iii) **SEBI prohibits fraudulent and Unfair Trade Practices:** SEBI does not allow the companies to make misleading statements which are likely to induce the sale or purchase of securities by any other person.

(iv) SEBI undertakes steps to educate investors so that they are able to evaluate the securities of various companies and select the most profitable securities.

(v) SEBI promotes fair practices and code of conduct in security market by taking following steps:

(a) SEBI has issued guidelines to protect the interest of debenture-holders wherein companies cannot change terms in midterm.

(b) SEBI is empowered to investigate cases of insider trading and has provisions for stiff fine and imprisonment.

(c) SEBI has stopped the practice of making preferential allotment of shares unrelated to market prices.

2. **Developmental Functions:** These functions are performed by the SEBI to promote and develop activities in stock 5 exchange and increase the business in stock exchange. Under developmental categories following functions are performed by SEBI:

(i) SEBI promotes training of intermediaries of the securities market.

(ii) SEBI tries to promote activities of stock exchange by adopting flexible and adaptable approach in following way:

(a) SEBI has permitted internet trading through registered stock brokers.

(b) SEBI has made underwriting optional to reduce the cost of issue.

(c) Even initial public offer of primary market is permitted through stock exchange

3. **Regulatory Functions:** These functions are performed by SEBI to regulate the business in the stock exchange. To regulate the activities of stock exchange following functions are performed: (i) SEBI has framed rules and regulations and a code of conduct to regulate the intermediaries such as merchant bankers, brokers, underwriters, etc

(ii) These intermediaries have been brought under the regulatory purview and private placement has been made more restrictive.

(iii) SEBI registers and regulates the working of stock brokers, sub-brokers, share transfer agents, trustees, merchant bankers and all those who are associated with stock exchange in any manner.



- (iv) SEBI registers and regulates the working of mutual funds etc.
- (v) SEBI regulates takeover of the companies.
- (vi) SEBI conducts inquiries and audit of stock exchanges

## 11.6 Roles of SEBI

This regulatory authority operates as a watchdog for all capital market participants, and its principal goal is to create an atmosphere for financial industry lovers that make the securities market more efficient and smooth. SEBI also has a significant economic impact. To do so, it assures that the three primary actors in the financial market, namely issuers of securities, investors, and financial intermediaries, are taken care of.

**Issuers of Securities:** These are corporate entities that raise capital from a variety of sources in the market. This organization ensures that they have a safe and transparent environment in which to operate.

**Investor:** Investors are the ones who keep the financial markets afloat. This regulatory authority is in charge of ensuring a free-from-misconduct environment in order to regain the trust of the general public who invest their hard-earned money in the markets.

**Financial Intermediaries:** These are the individuals who serve as intermediaries between issuers and investors. They ensure smooth and secure financial transactions.

## 11.7 Guidelines of SEBI for Corporate Governance

Most shareholders agree that management's presence on the board brings detailed expertise to the board's decision-making processes, but this can also create conflicts between acting in management's best interests and the shareholders' best interests.

Thus, SEBI has enlisted the following guidelines:

- Boards must have at least six directors.
- Half of the directors must be independent directors.
- Increasing the number of board meetings from four to five per year.
- Including at least one female independent director.

## 11.8 RBI-Reserve Bank of India

The Reserve Bank of India, as the country's apex court, wields great influence and oversees the banking sector. It holds a monopoly on the printing of banknotes and the country's monetary system. The Reserve Bank of India Act, 1934 governs the power and functions of the Reserve Bank of India in relation to the issue of bank notes and the currency system. Aside from that, the Banking Regulation Act of 1949 gives the Reserve Bank specific powers and functions.

## 11.9 Functions of RBI

The main functions are those that each nation's central bank undertakes all over the world. In general, these functions are in keeping with the goals for which the bank was established. It includes the Central Bank's core functions. They are made up of the following tasks.

1. **Issuing Currency Notes:** With the exception of one rupee notes and coins of smaller denominations, the RBI has sole jurisdiction or monopoly over issuing currency notes. The RBI has released these currency notes as legal tender. It is currently available in Rs. 2, 5, 10, 20, 50, 100, 500, and 1,000 denominations. The RBI has the authority to not only issue and withdraw currency notes, but also to swap them for other denominations. These notes are issued with gold bullion, foreign securities, rupee coins, exchange bills and promissory notes, and government of India bonds as collateral.

2. **Banker to other banks:** The RBI, as the country's apex supervisory organization, has the legal authority to supervise, assist, and direct other commercial banks. The Reserve Bank of India (RBI)

has the ability to regulate the number of bank reserves and allow other banks to create credit in that proportion. Every commercial bank is required to save a portion of its reserves with its parent, the RBI. Similarly, these banks request the RBI for funds when they are in need or in a hurry. As a result, it is known as the lender of last resort.

3. **Banker to the Government:** The RBI, as the apex regulatory authority, is required to act as an agent for both the federal and state governments. It conducts a variety of banking functions on behalf of the government, including accepting deposits, paying taxes, and making payments. Even at the international level, it serves as a government representative. It manages government accounts and advises the government on financial matters. On behalf of the government, it handles government public debts and maintains foreign exchange reserves. When the government is in a financial bind, it can use its overdraft capacity.

4. **Exchange Rate Management:** It is the RBI's most important function. It must plan domestic policies in this approach in order to ensure the rupee's external value stability. It must also develop and implement a foreign exchange rate policy that will aid in achieving exchange rate stability. It is necessary to bring demand and supply of the foreign currency (US Dollar) closer together in order to preserve exchange rate stability.

5. **Credit control function:** Credit is created by the country's commercial banks in response to economic demand. However, if credit creation is unrestrained or unregulated, it can lead to inflationary cycles in the economy. When credit creation falls below the appropriate level, however, the economy's growth suffers. The RBI, as the country's central bank, must seek growth while maintaining price stability. As a result, it uses a variety of credit control methods to oversee commercial banks' credit generating capacity.

6. **Supervisory Function:** The RBI has been given extensive authority to oversee the country's financial industry. It has the authority to provide licenses for the establishment of new banks, the opening of new branches, determining minimum reserves, inspecting the operations of commercial banks in India and overseas, and guiding and directing commercial banks in India. Periodic inspections and audits of commercial banks in India are possible.

#### **Developmental / Promotional Functions of RBI**

Central banks, particularly in emerging countries like India, must undertake a variety of functions in addition to the traditional ones. These are country-specific duties that may alter depending on the needs of that country. Since its founding, the RBI has acted as a promoter of the financial system. Below are some of the RBI's most important development functions.

1. **Development of the financial system:** Financial institutions, financial markets, and financial products make up the financial system. A sound and efficient financial system is a prerequisite for the country's rapid economic development. The Reserve Bank of India (RBI) has supported the formation of major banking and nonbanking institutions to meet the credit needs of various sectors of the economy.
2. **Development of Agriculture:** The RBI must pay special attention to the credit needs of agriculture and related activities in an agrarian economy like ours. It has been of assistance in this regard by enhancing the flow of credit to this sector. Previously, the Agriculture Refinance and Development Corporation (ARDC), the National Bank for Agriculture and Rural Development (NABARD), and Regional Rural Banks were in charge of credit (RRBs).
3. **Provision of Industrial finance:** The key to speedier economic development is rapid industrial growth. In this sense, the timely and adequate supply of finance to small, medium, and big businesses is critical. In this regard, the RBI has always played a key role in the establishment of special financial institutions like ICICI Ltd., IDBI, SIDBI, and EXIM BANK, among others. The key to speedier economic development is rapid industrial growth. In this sense, the timely and adequate supply of finance to small, medium, and big businesses is critical. In this regard, the RBI has always played a key role in the establishment of special financial institutions like ICICI Ltd., IDBI, SIDBI, and EXIM BANK, among others.
4. **Provisions of Training:** The RBI has always attempted to provide necessary training to banking industry employees. The Reserve Bank of India has established bankers' training

colleges in a number of locations. NIBM (National Institute of Bank Management), BSC (Bankers Staff College), and CAB (College of Agriculture Banking) are just a few examples.

5. **Collection of Data:** The RBI, as the country's main monetary body, collects, processes, and disseminates statistical data on a variety of topics. Interest rates, inflation, savings and investments, and so on are all included. For researchers and policymakers, this information is extremely useful.
6. **Publication of the Reports:** The Reserve Bank has its own publishing department. This section collects and publishes statistics on a variety of economic sectors. The RBI publishes reports and bulletins on a regular basis. There are weekly reports from the RBI, an annual report from the RBI, and a report on the trend and progress of commercial banks in India, among other things. This material is also made available to the general public at a reduced cost.
7. **Promotion of Banking Habits:** The RBI, as the country's central bank, is continually working to encourage good banking practices. It institutionalizes savings and takes steps to expand the banking system's reach. It established a number of institutions, including the Deposit Insurance Corporation (1962), UTI (1964), IDBI (1964), NABARD (1982), NHB (1988), and others. People's banking habits are developed and promoted by these organizations. During the economic reforms, it took a number of steps to encourage and promote banking in India.
8. **Promotion of Export through Refinance:** The Reserve Bank of India (RBI) is always working to promote the availability of financing for international trade, particularly exports from India. By refinancing their lending for export purposes, the Export-Import Bank of India (EXIM Bank India) and the Export Credit Guarantee Corporation of India (ECGC) are aided.

### Supervisory Functions of RBI

The reserve bank also has a number of supervisory responsibilities. It is in charge of overseeing and regulating the whole banking and financial system. The following are some of its supervisory responsibilities.

1. **Granting license to banks:** The RBI grants license to banks for carrying its business. License is also given for opening extension counters, new branches, even to close down existing branches.
2. **Bank Inspection:** The RBI grants license to banks working as per the directives and in a prudent manner without undue risk. In addition to this it can ask for periodical information from banks on various components of assets and liabilities.
3. **Control over NBFIs:** The Non-Bank Financial Institutions are not influenced by the working of a monetary policy. However, RBI has a right to issue directives to the NBFIs from time to time regarding their functioning. Through periodic inspection, it can control the NBFIs.
4. **Implementation of the Deposit Insurance Scheme:** The RBI has set up the Deposit Insurance Guarantee Corporation in order to protect the deposits of small depositors. All bank deposits below Rs. One lakh are insured with this corporation. The RBI work to implement the Deposit Insurance Scheme in case of a bank failure.

### 11.10 Reserve Bank of India's Credit Policy

The Reserve Bank of India's credit policy strives to achieve better growth while maintaining price stability. Higher economic growth entails producing more goods and services in various areas of the economy; price stability, on the other hand, does not imply no change in the general price level, but rather inflation control. The credit policy strives to increase the amount of money available for agricultural and industrial activity. The role of other commercial banks is critical when credit policy is enacted. The flow of credit from commercial banks to various sectors of the economy is determined by the actual cost of credit and the availability of cash in the economy.

**11.11 Board of RBI**

- Bank affairs are governed by the Central Board of Directors.
- The Central Board consists of officials and non-officials appointed by the Government of India for a period of four years.
- Official Directors include the Governor and no more than four Deputy Governors.
- The RBI has four local boards in four regions to represent the territorial and economic interests of local co-operative and indigenous banks.

**11.12 Functions of Various Departments of RBI**

- **Urban Banks Department:**RBI regulates the interest rates on deposits & advances, also prescribes minimum reserves & liabilities to be maintained. Also refinance facilities to state co-operative banks.
- **Rural Planning & Credit Department:**Facilitates credit to rural, agriculture &small scale industries, policy on priority sector lending, support to NABARD etc.
- **Foreign Exchange Department**
  - Timely realization of export proceeds and reviews.
  - Licensing banks to deal in foreign exchange, collecting data related to forex transactions from authorized dealers on daily basis for exchange rate management.
  - Also lay down policy guidelines for risk management to forex transactions in bank.
- **Department of Banking Operations & Development**
  - Undertaking scheduled and on-site inspections of banks.
  - Determining the criteria for the appointment of statutory auditors and assessing audit performance and disclosure standards.
  - Dealing with financial sector frauds and attending the complaints received against banks and FI's from public, banks & Government.
- **Legal Department:** To tender legal advice on various matters referred by the operational departments/offices/associates of the reserve bank.
- **Department of Government and Bank Accounts:**Acting as a banker to the banks, administering public debt of both central & state government.
- **Monetary Policy Department:**Preparation of monetary budget, periodic review of monetary, review of CRR & SLR stipulations, analysis of data on developments in money market.
- **Internal Debt Management Dept.:** Managing Internal Debt, Auctioning the Government Debt from time to time, Introduction of new instruments, smoothening the maturity structure of debt.
- **Department of Economic Analysis & Policy**
  - Analyzing the basic issues & problems affecting the Indian economy.
  - Serves as a primary source of data & information relating to aspects of Indian economy.
  - Prepares monetary & credit aggregates, balance of payments and external debt statistics, internal debt & government finance statistics, and flow of funds & financial savings.

## Summary

- SEBI is a market regulator that aims to maintain a level of equilibrium in day-to-day stock market activity by establishing regulatory frameworks.
- In India, there are currently 17 exchanges in operation, all of which are governed by SEBI norms, including the NSE and BSE.
- The Securities and Exchange Board of India has regional offices in New Delhi, Kolkata, Chennai, and Ahmedabad, as well as its headquarters in Mumbai. In addition to Jaipur, Bangalore, Guwahati, Bhubaneswar, Patna, Kochi, and Chandigarh, SEBI has opened local offices in Jaipur, Bangalore, Guwahati, Guwahati, Bhubaneswar, Patna, Kochi, and Chandigarh
- With effect from September 28, 2015, SEBI began regulating the commodity derivatives market under the Securities Contract Regulation Act (SCRA) 1956, and the Forward Contracts Regulation Act (FCRA) 1952 was superseded with effect from September 29, 2015.
- SEBI was founded in 1988 and given constitutional validity on January 30, 1992 by the Government of India, bypassing the SEBI Act, 1992 in the Indian parliament.
- The Reserve Bank of India, as the country's apex court, wields great influence and oversees the banking sector.
- RBI holds a monopoly on the printing of banknotes and the country's monetary system.
- The Reserve Bank of India Act, 1934 governs the power and functions of the Reserve Bank of India in relation to the issue of bank notes and the currency system. Aside from that, the Banking Regulation Act of 1949 gives the Reserve Bank specific powers and functions.

## Keywords

- **SEBI:** SEBI is the Securities and Exchange Board of India , and the existence of SEBI ensures that any unwelcome market activity would be prevented.
- **RBI:** The Reserve Bank of India, as the country's apex court, wields great influence and oversees the banking sector. It holds a monopoly on the printing of banknotes and the country's monetary system.
- **Supervisory Function:** means the management body acting in its supervisory functions of overseeing and monitoring management decision-making
- **Refinance:** A refinance occurs when the terms of an existing loan, such as interest rates, payment schedules, or other terms, are revised.
- **Financial Intermediaries:** These are the individuals who serve as intermediaries between issuers and investors.
- **Developmental Functions:** These functions are performed by the SEBI to promote and develop activities in stock 5 exchange and increase the business in stock exchange.
- **Currency notes:** Currency - Banknotes in India are currently being issued in the denomination of Rs 10, Rs 20, Rs 50, Rs 100, Rs 200, Rs 500 and Rs 2000. These notes are called banknotes as they are issued by the Reserve Bank of India.
- **Stock market:** The stock market broadly refers to the collection of exchanges and other venues where the buying, selling, and issuance of shares of publicly held companies take place.
- **Investors:** An investor is any person or other entity (such as a firm or mutual fund) who commits capital with the expectation of receiving financial returns.
- **Credit Policy:** A credit policy contains guidelines that structure the amount of credit granted to customers, as well as how collections are to be conducted for delinquent accounts.

**Self Assessment**

1. The Chairman of Securities and Exchange Board of India is appointed by the \_\_\_\_\_.
  - A. Ministry of Finance
  - B. Reserve Bank of India (RBI)
  - C. Stock Exchanges
  - D. None of the above
  
2. The headquarters of the Securities and Exchange Board of India are in \_\_\_\_\_.
  - A. Mumbai
  - B. New Delhi
  - C. Kolkata
  - D. Chennai
  
3. Who is the Current Chairman of the Securities and Exchange Board of India?
  - A. C B Bhave
  - B. Ajay Tyagi
  - C. U K Sinha
  - D. None of the above
  
4. The Securities and Exchange Board of India was constituted on \_\_\_\_\_.
  - A. 10th July 1991
  - B. 11th October 1989
  - C. 12th April 1988
  - D. None of the above
  
5. Which of the following statements about the Securities and Exchange Board of India is correct?
  - A. One of the objectives of setting up SEBI was to protect the interests of investors.
  - B. SEBI was established under the Securities (Contract and Regulation) Act, 1956.
  - C. SEBI was formed from among the Directors of stock exchanges in India.
  - D. SEBI issued various rules and regulations to help bring monetary gains for investors.
  
6. The Securities and Exchange Board of India has a department for cases related to diversion of funds, resources and bank loans by promoters of a company. What is the name of that department?
  - A. Financial Corporation and Investigation Department
  - B. Corporation Finance Investigation Department
  - C. Funds and Stocks Investigation Department
  - D. Funds and Securities Investigation Department
  
7. Which of the following is not a public sector unit?
  - A. Reserve Bank of India (RBI)

- 
- B. Securities and Exchange Board of India (SEBI)  
C. State Bank of India (SBI)  
D. Industrial Development Bank of India (IDBI)
8. Which of the following is a function of the Securities and Exchange Board of India?  
A. Promote fair practices and prohibit fraudulent activities related to securities trading.  
B. Check price rigging of securities.  
C. Prohibit insider trading by barring companies from buying their shares in the secondary market.  
D. All of the above.
9. The Securities and Exchange Board of India has allowed celebrities to endorse \_\_\_\_\_.  
A. Mutual Funds  
B. Insurance  
C. Stocks and shares  
D. Dividends
10. The Reserve Bank of India was established on \_\_\_\_\_.  
A. April 1, 1935  
B. July 12, 1982  
C. May 26, 2006  
D. September 30, 2005
11. Who works as RBI's agent at places where it has no office of its own?  
A. State Bank of India  
B. Ministry of Finance  
C. Government of India  
D. International Monetary Fund
12. Which of the following is true about the functions performed by RBI -  
(i) It is the Bank of Issue  
(ii) It acts as banker to the Government  
(iii) It is the banker of other banks  
(iv) It regulates the flow of credit  
A. Both (i) and (ii)  
B. Both (iii) and (iv)  
C. All the Above  
D. None of the above
13. Which among the following is incorrect?  
A. RBI is the Bank of Issue  
B. RBI acts as Banker to the Government

- C. RBI is Banker's Bank
- D. RBI does not regulate the flow of credit-

14. Which of the following is true about the restrictions on RBI?

- (i) It is not to compete with the commercial banks.
  - (ii) It is not allowed to pay interest on its deposits.
  - (iii) It cannot engage directly or indirectly in trade.
  - (iv) It cannot acquire or advice loans against immovable property.
  - (v) It is prohibited from purchasing its own shares or the shares of any other bank or any company or granting loans on such security.
- A. Only (i),(ii),(iii), and (iv)
  - B. Only (v)
  - C. All the above
  - D. None of the above

15. According to which guidelines did the Government pick up the entire SBI shares held by the RBI?

- A. National Stock Exchange of India
- B. Securities Commission
- C. Financial Regulations
- D. Securities and Exchange Board of India (SEBI)

### Answers for self Assessment

- |       |       |       |       |       |
|-------|-------|-------|-------|-------|
| 1. A  | 2. A  | 3. B  | 4. C  | 5. A  |
| 6. A  | 7. D  | 8. D  | 9. A  | 10. A |
| 11. A | 12. C | 13. D | 14. C | 15. D |

### Review Questions

1. What Are the Main Functions of Rbi?
2. What Are Rbi Monetary Policy Objectives?
3. What is Cash Reserve Ratio (crr)?
4. What is Statutory Liquidity Ratio (slr)?
5. Write short note on:
  - a) Reverse Repo Rate
  - b) Bank Rate
  - c) Repo Rate
6. Elaborate guidelines of SEBI of Corporate Governance?
7. List down the powers of SEBI and its Structures?



8. What are the Roles of SEBI in Regulating Business Organization?
9. Discuss the short note on Reserve Bank of India's Credit Policy?
10. List Down the functions of various departments of RBI?
11. What do you mean by SEBI? Explain its Objectives?
12. Discuss various functions of Securities and exchange board of India?



### Further Readings

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### Web Links

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## Unit12: Application of Ethical Standards to Marketing

### CONTENTS

Objective

Introduction

12.1 Defining Marketing-Related Factors

12.2 Needs, Wants and Demand

12.3 Marketing Components

12.4 Marketing Tasks

12.5 Marketing Concepts

12.6 Marketing Mix

12.7 4Ps and 4Cs of Marketing

12.8 Labelling

12.9 Tips for Launching a Product

12.10 Advertising Objectives

12.11 The Advertising Message

12.12 Ethics in Advertising and Promotion

12.13 Channels of Distribution

Summary

Keywords

Self Assessment

Answer for Self Assessment

Further Readings

### Objective

After this lecture, you will be able to:

- Define the marketing related factors
- Describe the Marketing Concept and mix
- Elaborate the legal aspects of package design as a marketing tool
- Develop complete understanding about labelling
- Explain the ethics in product launching and pricing
- Explicite the ethics in Advertising and Promotion
- Develop Understanding regarding Channels of Distribution

### Introduction

Marketing is as old as civilization. Though marketing is talked and discussed in business terms today, its origin goes back to the ancient civilization when man used symbols, signs and material artifacts to transact and communicate with others. Modern marketing revolves around the concepts, which are age old. The first signs that man made to communicate with others gave birth to the idea of marketing. The evolution of marketing has made it a structured discipline to study; otherwise, marketing did exist in the ancient past.

Marketing was also used as a synonym for the art of selling in the past. Even today much confusion exists between marketing and selling amongst students of management and practitioners, regarding the two dominant modes of business and exchange. This unit is an attempt to clarify the doubts in the your mind regarding what marketing is; how marketing has evolved over a period of time and has come to be known as modern marketing concept. You will also be exposed to the real meaning of customer orientation, customer focus and similar concepts that allow marketing to score higher than selling.

## 12.1 Defining Marketing-Related Factors

Marketing starts with customers and ends with customers. Creation of superior customer value and delivering high levels of customer satisfaction are at the heart of present-day marketing. It is a matter of common sense to appreciate the key marketing success factors. In case a company really endeavours to understand customer needs, carefully studies competition, develops and offers superior value at a reasonable price, makes these products available at places convenient to customers, and communicates with them effectively and efficiently, such products have every reason to be in demand and will sell consistently.

Successful companies have one common trait. They are all very strongly customer-focused in their orientation. Many other factors contribute to achieving business success, such as developing great strategy, committed and skilled human resources, reliable and fast information systems, and excellent implementation and control. But in the final analysis, the focus and dedication of all these companies is to really understand customers' needs and wants as much as possible and create satisfied customers in their target markets.

In case someone asks several people what they think marketing is, the chances are these casually picked persons will reveal a variety of descriptions in their responses. Probably, the first two items describing marketing will be advertising and personal selling, as these two are the most visible aspects of marketing for most people. Marketing includes many more activities than what most people realise. The shortest definition of marketing is satisfying consumer needs in a socially responsible way at a profit. Authors of marketing books have defined marketing in different words.

A few of these definitions are mentioned here.

**The American Marketing Association defines marketing as:** "Marketing is an organisational function and a set of processes for creating, communicating, and delivering value to customers and for managing customer relationships in ways that benefit the organisation and its stakeholders."

**Philip Kotler** says, "Marketing is a societal process by which individuals and groups obtain what they need and want through creating, offering, and freely exchanging products and services of value with others".

**Pride and Ferrel's** definition says, "We define marketing as the process of creating, distributing, promoting, and pricing goods, services, and ideas to facilitate exchange relationships in a dynamic environment".

"Marketing is a total system of business activities designed to plan, price, promote, and distribute want-satisfying products to target markets to achieve organisational objectives". (*William J. Stanton, Michael J. Etzel, and Bruce J. Walker, Fundamentals of Marketing, McGraw-Hill, 1994.*)

"It (marketing) is the whole business seen from the point of view of its final result, that is, from the customer's point of view". (*Peter F. Drucker, Practice of Management (1954).*)

The essence of all these definitions of marketing is satisfying customer needs and wants. Apparently, this core objective sound simple, but it is not. Research shows that in many cases customers either have inhibitions about revealing their real needs or wants by intent or may not really know themselves. It is believed that the subconscious is the real storehouse of deep-rooted motives. To the extent possible, marketers undertake consumer research and try to learn about the target customers' needs and wants, and design appropriate marketing programmes to satisfy target customers.



**Caution** Keeping in view the definitions of marketing, some important aspects of modern marketing can be distinguished:

## Unit 12: Application of Ethical Standards to Marketing

1. Marketing is a societal process.
2. Marketing deals with customer needs, wants, products, pricing, distribution, and promotion.
3. Marketing focuses on delivering value and satisfaction to customers through products, services, ideas, etc.
4. Marketing facilitates satisfying exchange relationships.
5. Marketing takes place in a dynamic environment.
6. Marketing is used in both for-profit and not-for-profit organisations.
7. Marketing is extremely important to businesses and the economy of a country.

### **12.2 Needs, Wants and Demand**

The very existence of human beings spells the presence of needs, and marketing thinking starts with this very important realisation. It is wrong to believe that anyone can invent needs. Needs are part of the basic fabric of human life. A need can be defined as a felt state of deprivation of some basic satisfaction. This means that unless the individual feels deprived of some basic satisfaction, at least for this individual, the need does not exist. Humans have a long list of needs, some very basic and others complex. The basic needs are physiological or biogenic in nature, and individuals are born with them. These needs are essential to sustaining human life such as need for air, water, food, shelter, clothing, and sex. These basic needs are also referred to as primary needs. Other types of needs are those that individuals learn as a result of being brought up in a culture and society such as need to belong, acquire knowledge, self-expression, self esteem, prestige, power, achievement, etc. These are considered as secondary needs, also called acquired needs and generally believed to be the result of an individual's subjective psychological makeup and relationship with others.



Example: To differentiate between need and want, let us assume four individuals are hungry; their need is food. Assuming they have the resources to get involved in acquiring food to satisfy hunger, they go to McDonald's. One orders a vegetable burger; the second orders a puff, the third asks for a chicken burger, and the fourth buys a huge ice cream. All of them are eating some variation of food to satisfy hunger. The specific satisfier that an individual looks for defines the want. Therefore, wants are specific satisfiers of some needs.

Individual wants are shaped by culture, life style, and personality.



Example: An individual buys a Mercedes as a status symbol and a tribal chief in some remote area of Amazon rain forests sticks an eagle feather in his headgear as status symbol.

To satisfy any given need, different people may express a variety of wants and the total number of wants for all sorts of needs is apparently unlimited. Just because people have needs and wants is not enough to affect exchanges. The resources to acquire the products are limited for every individual and hence people want to buy products that they believe will provide the maximum value and satisfaction for their money. When the want is backed by purchasing power, it is called the demand and marketers are particularly interested in demand rather than just needs or wants.

Marketing aims at identifying human and social needs and endeavours to satisfy them by creating, communicating, and delivering products and services. According to Kotler, marketers are involved in marketing 10 different entities: tangible products, services, events, information, ideas, places, persons, experiences, properties, and organisations to accomplish the objective of delivering satisfaction to customers.

People buy products only because these are seen as means to satisfy certain needs or wants. The concept of product is broad in its meaning and includes everything that is capable of satisfying a need and can be a physical product, service, idea, person, place, or organisation. Marketers make a sensible distinction between goods and services to place them in right perspective. Physical products are tangible and services are intangible. People acquire products or buy the services not so much for the sake of being the owner or consumer, but to derive the benefits they provide. Who would buy food just to look at it? No one presumably would buy a refrigerator to just own it but for the reason that it provides the benefit of protecting the food from becoming stale and keeping it fresh. A large family with more resources will probably buy a bigger two door refrigerator, while a

nuclear two or three member family with lesser resources may perhaps want a smaller capacity refrigerator.

### **12.3 Marketing Components**

Marketing is the effective procedure of generating responses, hopefully in a predictable manner.

The components of marketing are:

1. **Ongoing review, Augmentation of business, Marketing Strategies:** Continuing to assess the strengths and weakness of the business and its marketing strategies with reference to continuously improving strategies.
2. **Conducting Market Research:** Estimation the size, potential of your customer market and understanding the industry and economic drivers with reference to the strengths and weaknesses of your competitors.
3. **Customer Perspective:** Understand the customer perspective. Very often, this is where the seed of innovation begins as we learn more about the customer perspective, we start to be able to identify new, emerging customer needs.
4. **Differentiating:** Standing out from your competitors based on price or value or developing a niche market where you are the dominant player.
5. **Creating Visibility:** Keep your business clearly visible to your target customer groups. If not, what things you need to do to become more visible to each of the customer group that you serve?



Example., Developing a marketing communications strategy and branding strategies will help you do this.

6. **Developing Channels to Distribute Product/Service:** To develop deep and wide channels for distributing your product and/or services.
7. **Establishing a Marketing Budget:** Budgeting for the cost of all promotional activity - salaries/commissions of sales people, advertising, sales promotions, trade show promotions, print/media packages, etc.
8. **Trial, Error:** To finance trial, error with your marketing activities to determine what works best.
9. **Tracking Results:** Track your marketing results to determine what's working the best.
10. **Following Through:** Keep your promises to your customers with reference to the customer service and operations providing on-time, quality product.

### **12.4 Marketing Tasks**

In a nutshell, marketing is demand management and the demand for products and services often requires different approaches for a variety of reasons. There may also be other situations where demand management would require different types of handling.



Example: Demand for hotel accommodation at Mussoorie declines during a severe winter.

Philip Kotler and Sidney J. Levy identified eight major demand states in two different articles:

**Negative Demand:** This situation is faced when a major part of the target market dislikes the product and may even pay a price to avoid it. The marketing task is to unearth and analyse the reasons for this state, and to learn if a product redesign or change in marketing mix elements can help.



Example: Unpleasant and painful medical treatment has a negative demand.

**No Demand:** The customers may be unaware or indifferent towards the product. The remedy is to create product awareness and connect product benefits to customers' needs and wants.



*Example:* Small brands often face no demand situation.

**Dormant Demand:** This may occur when the currently available products fail to satisfy the strong needs that customers feel. To meet the latent demand more effectively, the marketing task is to develop product or service if the market size is favourable.



*Example:* Cigarettes with no ill effects.

**Demand:** Sooner or later, companies face this situation with respect to their products or services. The task is to reverse this trend, and marketing should find out the reasons and take swift remedial action. New markets, product feature modification, or more focused and effective promotion may hold the solution.



*Example:* There is a falling demand for desktops these days.

**Fluctuating Demand:** Many companies experience this pattern, the demand varying according to the season, or festivals, etc. The task is to synchronise marketing efforts to alter the demand pattern by adopting flexible pricing, and sales promotion techniques.



*Example:* Air conditioners, Refrigerators, etc. have fluctuating demand.

**Full Demand:** This is a situation all companies aspire and work for. The task is to maintain the level of demand and keep pace with the changing customer preferences and ever increasing competition and monitor customer satisfaction.



*Example:* A situation where the no. of shirts produced by the manufacturers meets the level of demand.

**Excess Demand:** At this demand level, the company is unable to meet the demand level. The only option usually available is to find ways to decrease demand temporarily or permanently. Generally, marketing seeks to discourage overall demand through demarketing, either by increasing prices or reducing promotion and services. Selective demarketing involves reducing demand from those markets that are less profitable.



*Example:* Popular models of cars, like Maruti Suzuki Swift, have excess demand.

**Unwholesome Demand:** This concerns managing demand for harmful products. The marketing task is to make the public aware about the dangers and harmful effects caused through misuse or over use of such products by using appropriate degree of fear appeals, price hike, or reduced availability.



*Example:* Cigarettes and other nicotine products.

## 12.5 Marketing Concepts

Since the later part of the 19th century, marketing has gradually evolved through various marketing orientations. These stages in marketing evolution present a generalised picture and a sufficiently significant number of companies have adopted the most modern marketing concept or philosophy.

A marketing orientation (also called the marketing concept, or consumer focus) is one that allows the wants and needs of customers and potential customers to drive all the firm's strategic decisions. The firm's corporate culture is systematically committed to creating customer value. In order to determine customer wants, the company usually needs to conduct marketing research. The marketer expects that this process, if done correctly, will provide the company with a sustainable competitive advantage.

This consumer focus can be seen as a process that involves three steps. First customer want are researched, then the information is disseminated though out the firm and products are developed, then finally customer satisfaction is monitored and adjustments made if necessary.

The concept of marketing orientation was developed in the late 1960s and early 1970s at Harvard University and at a handful of forward thinking companies. It replaced the previous sales orientation that was prevalent between the mid 1950s and the early 1970s, and the production orientation that predominated prior to the mid 1950s.

### **I. Production Concept**

This concept, viewed as one of the oldest of managerial orientations, typically aimed at achieving as high an output as possible. This philosophy assumed that customers would be more interested in acquiring conveniently available, reasonably priced, and well-made products. Keeping in view the market behaviour prevailing in times when customers did not have much choice, it was a sound approach. The focus of managers, generally having backgrounds in manufacturing and engineering, was to concentrate on achieving increasingly higher efficiency in production, lower production costs, and more intensive distribution. Even today, this approach seems to be quite sensible in relatively underdeveloped and developing economies because customers are more interested in owning a product and not overly concerned about finer features and aesthetic appeal. In general, one important condition seems to be favourable to adopt production orientation: when the masses look for a cheaper product and demand far exceeds production.



*Example:* In India, The National Textile Corporation (NTC) and all its subsidiaries are sticking to this philosophy while producing textiles for the huge, poverty-stricken population in this country. Their philosophy and positioning is reflected in their ad, "Clothiers of the nation with affordable prices." In the global scenario, for nearly three decades Intel Corporation focused on achieving increasingly high production output of its successive generations of processors so as to bring down the prices of each improved version.

The production concept is unlikely to get discarded for a very long time to come, because there would always be products and populations of such a nature that some companies would feel comfortable with this philosophy.

### **II. Product Concept**

The Product Concept has the proposition that consumers will favor those products that offer attributes like quality, performance and other innovative features. Managers focus on developing superior products and improving the existing product lines over a period of time. Innovations in the scientific laboratory are commercialized and consumers get an opportunity to know and use these products. This is called "Technology Push Model". The problem with this orientation is that managers forget to read the customer's mind and launch products based on their own technological research and scientific innovations. Many times it is observed that innovations enter in the market before the market is ready for the product. Innovative products are launched without educating the customers about them and the probable benefit or value that the customer is likely to get by using the new products.



*Example:* The Golden Eye Technology was brought to the Indian market by the television major Onida but the market could not perceive the benefit of this advantage. Subsequently, as the customers became aware of the various brands and technology related to televisions, LG brought the new technology to the market and achieved marketing success.

### **III. Selling Concept**

Sales concept seems to be based on a lurking apprehension that customers will not buy the product in sufficient quantities unless aggressively pressurized. The selling concept was the major means of increasing sales and profits during 1920s to 1950s in the developed countries of that period.

## Unit 12: Application of Ethical Standards to Marketing

Companies believed that the most important marketing activities were personal selling, advertising, and distribution. Selling concept is geared towards converting existing product(s) into cash rather than first finding and then satisfying customer needs. Sales concept is often observed in practice when companies show heavy reliance on their promotional capabilities based on "hard sell" approach. It is obvious that if a company's products do not match the changing tastes and requirements of customers, with many alternative choices available, managers might be inclined to go for aggressive promotional efforts to sell enough quantities.



*Example:* In his book, *The End of Marketing as We Know It*, Sergio Zyman writes that the purpose of marketing is to sell more stuff to more people more often for more money in order to make more profit. Of late, this has been happening in case of some Credit Cards in our country.

Generally, "hard sell" is often seen in case of products or services that people buy without giving much thought to the matter, such as non-essential goods, and tend to postpone such purchases. With ever intensifying competition, products becoming more standardised without any meaningful differentiation i.e., commoditization, heavy promotional efforts in all possible manners are bound to remain the practice, in order to grab more share of the customers' purse. The consequences of "hard sell" might harm the customer base to the extent that, in some cases, they might even bad-mouth the product if the product fails to match up to their expectations

### IV. Marketing Concept

After World War II, the variety of products increased, people had more discretionary income, and could afford to be selective and buy only those products that more precisely met their changing needs and wants. However, these needs were not immediately obvious. Sometime during the mid-1950s, there was growing recognition among American business people that merely efficient production and extensive promotion, including hard selling, did not guarantee that customers would buy products. With the passage of time, more knowledge, and experience, customers increasingly seemed unwilling to be persuaded. More and more companies found that determining what customers wanted was a must before making a product, rather than producing products first and then persuading them to buy. The key questions became:

1. What do customers really want?
2. Can we develop it while they still want?
3. How can we keep our customers satisfied?

Thus, the marketing concept era began. Marketing concept proposes that an organisation should focus on customer needs and wants, coordinate its efforts, and endeavour to accomplish organisational goals. Geraldine E Williams reported that the CEO of Nike said, "For years we thought of ourselves as a production-oriented company, meaning we put all our emphasis on designing and manufacturing the product. But now we understand that the most important thing we do is market the product." The major focus of all sets of organisational activities should be satisfying customer needs. This requires carefully listening to customers as a student listen to a teacher. Stanley F Slater and John C Narver reported that there is positive relationship between market orientation and performance.

Sometimes, philosophies that sound quite reasonable and appear attractive on paper, are difficult to put into practice. To embrace the marketing concept as the guiding philosophy, the concerned firm must accept certain general conditions and manage some problems. Alan Grant and Leonard Schlesinger are of the view that market-orientation requires organisation-wide generation of market intelligence across departments, and organisation wide responsiveness to it. It means establishing a reliable information system to learn about real needs of customers and design the right need satisfying solutions. Setting up an information system can usually be an expensive proposition and requires committing money and time to its development and maintenance. Company-wide coordination may require restructuring the internal operations and overall objectives in case of one or more departments. Appreciating the critical role of marketing, the head of marketing has to be part of the top management team. Acceptance and implementation of marketing concept demands support of top management and other managers and staff. To inculcate a customer-orientation culture, it is necessary that employees at all levels in the organisation should understand the value of the customer and the importance of the customer satisfaction. Obviously, the internal customers (company employees at all levels) themselves should be satisfied and motivated to promote an



organisation-wide culture that puts high value on creating a satisfied customer. For this, the company has to ensure an appropriate work environment and take care of their legitimate needs. Benson P. Shapiro is of the opinion that a company is customer focused if the answers are "yes" to the four critical questions:

1. Are we easy for customers to do business with?
2. Do we keep our promises?
3. Do we meet the standards we set?
4. Are we responsive to customer needs?

**The marketing concept emphasises three main principles:**

### **1. Customer-oriented Planning and Implementations**

It should be the sole aim of all employees, irrespective of their department or functional area, to satisfy customers' needs. It would require carefully segmenting the market on the basis of the right criteria, targeting suitable segment(s), learning about customer needs and wants, analysing and spotting the right opportunities and matching them with the company's strengths.

### **2. Coordination of all Organisational Activities**

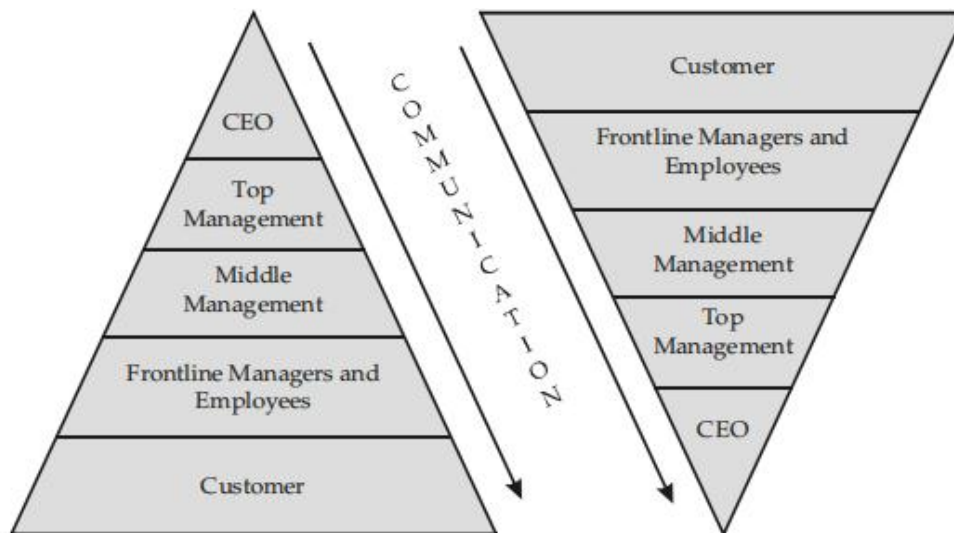
Mainly product planning, pricing, distribution, and promotion should be combined in a sensible and consistent manner, and the head of marketing should be a part of top-level management.

### **3. Coordinated Marketing is Critically Important to achieve Organisational Goals**

The reward of doing the job well will bring in sales and profits because without profits, the firm cannot survive, neither would it be in a position to improve its offers.



*Example:* Marketing concept is significantly different from production concept and selling concept. Not long ago, Indian auto companies, Hindustan Motors, Premier Automobiles, and Bajaj Auto hardly showed any consideration for customers, producing obsolete models in large numbers (demand exceeded the supply). Though the prices kept on increasing, little was done to improve the models. Bajaj was the only manufacturer of scooters preferred by customers and to own one, customers had to deposit money in advance and wait for five to ten years before they could become proud owners. It is only after the entry of Maruti cars, with Japanese collaboration, that things started changing. Premier Auto, and Hindustan Motors experienced major setbacks, sales declined and ultimately there were hardly any willing buyers. In the beginning, Maruti found it difficult to meet the demand and buyers willingly booked the car and waited for delivery. Bajaj Auto faced a similar situation as customers had many choices of two-wheelers. The position now appears as if almost every auto manufacturer is desperately trying to please customers. Customers have strong preferences for certain features and price ranges. Maruti has even started selling second-hand, reconditioned, and reliable cars from its outlets to customers looking for such deals, in order to expand its hold on the market.



In line with the marketing concept, it is imperative that the typical pyramid depicting an organisation needs to be inverted to pursue marketing concept. In an inverted position, the customer will occupy the highest pedestal and top management will be at the bottom position. The communication flow will start from the customer, and the employees and executives will look up to learn what the customer wants and then respond to the inputs. This is the way to offer desired value, deliver more satisfaction, and help retain the customer.



Did you know? Marketing concept is sometimes interpreted as a philosophy of attempting to satisfy all customers' needs with no concern for the cost. This would seem to be a sure way to financial disaster. The marketing concept is consistent with the idea of taking into consideration only those customer segments that the company can satisfy both effectively and profitably. The firm has to earn profits to survive, offer new and better products and services, and be a meaningful member of society. A company might therefore choose to offer less costly products and services to unprofitable customer segments, or even avoid them altogether. Being market-oriented pays dividends and has a significant effect on company performance.

## 12.6 Marketing Mix

Marketing mix is a major concept in modern marketing and involves practically everything that a marketing company can use to influence consumer perceptions favourably towards its products or services so that consumer and organisational objectives are attained. Marketing mix is a model of crafting and implementing marketing strategy. Prof. Neil H. Borden first used the term "marketing mix" in 1949 to include in the marketing process factors such as distribution, advertising, personal selling, and pricing. Borden claims that the phrase came to him while reading James Culliton's description of the activities of a business executive: (An executive) "a mixer of ingredients, who sometimes follows a recipe as he goes along, sometimes adapts a recipe to the ingredients immediately available, and sometimes experiments with or invents ingredients no one else has tried." [Wikipedia: James Culliton, *The Management of Marketing Costs*, Research Division, Harvard

University (1948)].

There are virtually dozens of marketing mix tools. However, Prof. E. Jerome McCarthy classified the "Marketing Mix Variables" in terms of 4 Ps: Product, Price, Place (distribution) and Promotion. These 4 Ps represent the tactical controllable factors and vary in case of different products and target markets. This classification is believed to be quite popular in marketing circles across the world.

Product Decisions	Price Decisions	Place Decisions	Promotion Decisions
Brand name	Pricing strategy	Distribution channels	(push, pull, etc.)
Functionality	Suggested retail price		
Styling	Wholesale price	Market coverage	Advertising
Quality	Various discounts	- intensive	Sales promotion
Safety	Seasonal pricing	- selective	Personal selling
Packaging	Bundling	- exclusive	PR/publicity
Repairs & support	Price flexibility	Inventory	Promotional budget
Warranty Accessories and Services	Price discrimination	Warehousing	
		Order processing	
		Transportation	

Three other marketing mix classifications by: (1) Albert Frey, (2) William Lazer and Eugene J. Kelly, and (3) Mary Bitner and Bernard Booms are worth noting. Frey's two-factor classification includes, (1) The Offering: product, packaging, brand, price, and service. (2) Methods and Tools includes distribution channels, personal selling, advertising, sales promotion, and publicity. The second classification proposed by Lazer and Kelly includes three factors: (1) Goods and Services Mix, (2) Distribution Mix, and (3) Communications Mix, and Bitner and Boom's includes 7 Ps. However, the 4Ps remain the most popular classification in terms of marketing mix.



**Do You Know?** A more recent marketing mix classification proposed by Robert Lauterborn focuses on customer's point of view and includes: (1) Customer Benefit, (2) Customer Cost, (3) Customer Convenience, and (4) Communication. Lauterborn's view is that 4Ps correspond to customer's 4Cs.



**Caution**

McCarthy's Classification (4Ps)

Lauterborn's Classification (4Cs)

1. Product.

Customer Benefit.

2. Promotion.

Communication.

3. Place (distribution).

Customer Convenience.

4. Price.

Customer Cost.

Marketing management strives to develop the most appropriate combination of marketing mix variables for each product to match the needs of the target market. Marketing mix elements are altered to accommodate the changing market conditions and changing marketing strategies adopted by competing companies.

## 12.7 4Ps and 4Cs of Marketing

### 1. Product (Customer Benefit)

In the marketing mix, the product or service is the most important element. There is an old saying in marketing: "Without a good product, you have nothing." Product is directly related to satisfying the customer needs and wants in the target market. Customers acquire products for the singular reason that they are perceived as the means to satisfying their needs and wants.

According to Philip Kotler, "A products anything that can be offered to a market for attention, acquisition, use, or consumption that might satisfy a need or want". In effect, according to this definition products include physical products, services, persons, places, organisations and ideas. Various product attributes such as quality, variety, design, brand, packaging, services, and warranties, etc., can be manipulated depending on what the target market wants. This may ultimately affect the product quality that can be kept high or low. Marketers also develop other product aspects such as service, packaging, labelling, instruction manual, warranties, and after sales service. Customers always look for new and improved things, which is why marketers should improve existing products, develop new ones, and discontinue old ones that are no longer needed or wanted by customers.



Example: Shampoo, Soap, hair oil, Cream, detergent, juices, etc. are products from HUL; Savings account, current account, Fixed deposits, credit cards, etc. are products from banking companies; Consulting services, India as a tourism destination, Avatar (the movie) are also products.

## 2. Promotion (Marketing Communications)

Promotion is a key element of marketing programme and is concerned with effectively and efficiently communicating the decisions of marketing strategy, to favourably influence target+ customers' perceptions to facilitate exchange between the marketer and the customer that may satisfy the objectives of both customers and the company. In reality, everything that a company does has the potential to communicate something to the target customers. For instance, the price of a product has the potential to communicate to target customers a certain image of the product.



Example: A low-priced designer dress is unlikely to attract high-profit, well-heeled target customers, while less affluent buyers may find the designs too avantgarde for comfort.

The major elements of promotion mix include advertising, personal selling, sales promotion, direct marketing, and publicity. A company's promotion efforts are the only controllable means to create awareness among publics about itself, the products and services it offers, their features, and influence their attitudes favourably. It is critically important for marketing managers to create a strong marketing mix, because any weak element not complementing others can adversely affect the chances of a product's success in the market-place. All the marketing mix elements should complement others to communicate effectively with target market. The best products and high class promotional efforts would not sell if they products are not available at distribution outlets.

## 3. Distribution (Customer Convenience)

Decisions with respect to distribution channel focus on making the product available in adequate quantities at places where customers are normally expected to shop for them to satisfy their needs. The aim of the management is also to keep the physical distribution costs (that would include inventory, transportation, and storage) as low as possible. Depending on the nature of the product, marketing management decides to put into place an exclusive, selective, or intensive network of distribution, while selecting the appropriate dealers or wholesalers. The right choice of these factors can give a company some competitive advantage.



Example: A low-priced product consumed regularly on an ongoing basis should be available at as many outlets as possible (intensive distribution) otherwise consumers would buy any other substitutes that are more conveniently available. On the other hand, for purchasing products such as CTV, washing machine, computer, or other similar durable items, consumers don't mind visiting some selected dealers (selective distribution), and for high-end, very expensive items such as Mercedes Benz cars, expensive and exclusive jewellery status watches and accessories, etc., customers are quite willing to visit exclusive dealerships, even if there are just one or two in the city (exclusive distribution).

## 4. Price (Customer Cost)

Pricing decisions are almost always made in consultation with marketing management. Price is the only marketing mix variable that can be altered quickly. Price variable such as dealer price, retail price, discounts, allowances, credit terms, etc., directly influence the development of marketing strategy, as price is a major factor that influences the assessment of value obtained by customers. Price can be kept as high or low, or at any level in between these two extremes. Too high would be the point at which any meaningful sales are not possible because the target customers won't accept the product, and too low would be the point at which company would incur losses instead of profits. Price is said to be an important competitive tool, and intense price competition between rival companies often culminates in a price war and the contestants generally end up gaining nothing. The customers, however, enjoy the benefit of low prices till such time that good sense prevails between contestants and prices are brought back to normal. In case of certain products, price becomes the indicator of product quality and helps impart an image to the product.



*Example:* Coke charging a fixed amount of money on their soft drinks, salons charging a fee for the services rendered, teachers charging a fee for the lessons given, etc.

## **12.7 The legal aspects of package design as a marketing tool**

Product packaging has the ability to communicate with customers in ways that go beyond its core function. Packaging design characteristics can offer a visual message leading to consumer awareness, or "secondary meaning," for the product and its source, in addition to typical useful features like mechanical strength and user friendliness. This silent voice of package design, which is effectively a promotion of the package's "tradedress," might become a valuable asset for market penetration and product valuation.

Consumers are bombarded with visual clues from packaging that are supposed to convey while they wander the aisles of grocery stores, flip through commercials, or even sit in a movie theatre. Packaging design components, in addition to typical trademark and tagline statements that give recognisable stimuli, add to the seemingly constant stream of noisy, yet quiet speech for the subconscious. Containers of various forms and colours are identified. Our minds form a variety of associations based on what we know about a product or the firm that sells it.

- **Consistent, Purpose use**

Trade dress rights are founded on learned association resulting from consistency of design characteristics in the market ("usage in commerce"), just as any language is learnt by association. Use of the trade dress in the market, like with any trademark right, is required for rights to develop. Unlike other forms of intellectual property rights, which can grant exclusivity rights as soon as a document is filed with the Patent or Copyright Offices, trademark rights require at least some secondary meaning in the marketplace. Furthermore, continuous, long-term use is more likely to yield tradedress rights.

Although some trademark rights are based on something that is considered to be "inherently distinctive," it is widely accepted that the shape or design of a product or its packaging is not inherently distinctive and must instead derive distinctiveness from consistent and recognisable market use. Gatorade® bottles, Tic Tac® dispensers, and the shape of a Toblerone® candy bar's container are examples of tradedress rights for a product package.

- **Plan for Developing Rights**

A federal trademark registration can be obtained for a specific configuration of a design that is responsible for consumer recognition, just as traditional trademarks. This is especially true for packaging design characteristics that have been in use for a long time and are easily identifiable in the market. For example, the shape of Solo Cup Co.'s popular coffee cup lid, which is sold at Starbucks® and other locations, has been registered as a product configuration trademark.

A few important approaches may be used to reach to the point of obtaining a threshold level of customer "secondary meaning."

When the packaging design is first introduced, one option is to use design patents. Design patents, which are used to protect the aesthetic look of package features, give the owner of the patented design 14 years of exclusivity. Unlike utility patents, which cover functional aspects of a product, design patents cover the appearance of the package. These nonfunctional, aesthetic characteristics are identical to those that can be identified as trade dress.

Advertisement is another strategy for promoting possible trade dress. When Owens Corning was seeking trade dress designation for the hue pink for their fibreglass insulation, for example, advertising campaigns were critical. Similarly, a marketing effort like "look for our [fill in the blank] form with a [colour] cap" could be just as powerful as a tradedress in promoting the packaging's appearance.

A commonality of design characteristics across a complete product range, or extended use of the design for related product lines, is another strategy for advancing tradedress. For example, a sports

## Unit 12: Application of Ethical Standards to Marketing

drink with the identical bottle-design characteristics in a single serving as those utilised in a bulk quantity may be beneficial in recognising trademark rights.

- **Avoid pitfalls**

Beyond the use of mechanisms to protect trademark rights, there are various potential hazards that could threaten such rights, depending on the specific market environment and product kind. A risk like this is caused by three common factual scenarios.

1. There is inconsistency. The design aspects should be incorporated across a product range, included in multiple sizes of packaging, and displayed in commercials and promotions to ensure consistency of use.
2. Claims in advertisements or promotions that are "functional." Trademark, as a trademark right, only applies to elements that aren't primarily practical and instead offer a visual or commercial impression that can be linked to the product's source or quality. As a result, remarks made regarding the packaging, such as laudatory marketing of the functional characteristics or some ostensibly functional superiority, might raise doubts about whether trademark rights exist, and may prompt competitors to contest trademark rights.
3. Patent protection for utility inventions. Obtaining a utility patent for functional parts of package design characteristics may risk eventual trademark rights, however this is debatable in some situations. As a result, utility patent applications should avoid covering anything that is intended to be kept as a trademark product feature.

In conclusion, much of what endangers trademark rights may be controlled or managed. The likelihood that the design aspects are considered solely practical and thus not capable of being a trademark is perhaps the greatest risk to the effective establishment of trademark rights. Proper planning can help to alleviate these issues while also hastening the creation of consumer secondary meaning.

Packaging design as a trademark is a subtle type of marketplace communication that may be used to promote sales and brand loyalty. It may also result in the right to bar competitors from identical designs.

Packaging design characteristics can be devised with a purposeful strategy and a strategic plan in mind, with the goal of generating trademark rights to significant goodwill for a product line and its company. Such trademark rights should be harnessed rather than jeopardized by market assertions that are harmful.

## **12.8 Labelling**

The display of a label on a product is known as labelling. A label on a product's container, packaging, or the product itself contains information about the product. It also contains cautionary statements. Some items, for example, state that they contain traces of nuts and should not be consumed by anyone who are allergic to nuts. The type and amount of information that a label must provide is determined by the applicable safety and shipping legislation.

- **Food Labelling Regulations in India**

All prepackaged food products sold in India must conform with the Food Safety and Standards (Packaging and Labeling) Regulations, 2011. The Food Safety and Standards Authority of India, which is part of the Ministry of Health and Family Welfare, released the Food Safety and Standards Regulation, 2011. The regulations governing food labelling in India are examined in this article.

- **Applicability of Food Labelling Regulations**

Food labelling regulations in India require all "prepackaged" or "pre-packed food" to adhere to the labelling requirements. Prepackaged food, according to the rules, is food that has been placed in a package of any kind in such a way that the contents cannot be changed without tampering and is ready for sale to the consumer.

- **General Labelling Requirements**

The following labelling requirements must be complied with by all prepackaged food sold in India:

- The label must be in English or Hindi or Devnagri language. In addition to the above, the label can contain information in any other language, as required.
- The label must not contain information about the food that could be deemed to be false, misleading, deceptive or otherwise create an erroneous impression regarding the product.
- The label must be affixed to the container in such a manner that it would not easily be separated from the container.
- The contents or information presented in the label should be clear, prominent, indelible and readily legible by the consumer.
- If the container is covered by a wrapper, then the wrapper must contain necessary information or make the label of the product inside readily legible by not obscuring.
- The name of the food must be mentioned along with the trade name and description of the food contained. In case the food contains more than one ingredient, then a list of ingredients must be presented in descending order of their composition by weight or volume, as the case may be, at the time of its manufacture;

In addition to the above, there are various regulations concerning labelling that apply to various types of pre-packaged foods. Hence, it's important to consult a qualified FSSAI Consultant about the label, prior to launch.

### **Nutritional Information**

Nutritional Information or nutritional facts per 100 gm or 100ml or per serving of the product must be given on the label along with the following information:

- energy value in kcal;
- the amounts of protein, carbohydrate (specify the quantity of sugar) and fat in gram (g) or ml;
- the amount of any other nutrient for which a nutrition or health claim is made:

It is important to note that any "health claim" or "nutrition claim" or "risk reduction" claim made in the label will be thoroughly scrutinized by the FSSAI authorities. Hence, any such claim must be validated by test data. As per the rules, the following is the definition for "health claim", "nutrition claim" and "risk reduction" claim:

**"Health claims"** include nutrition claims that describe the physiological role of the nutrient in growth, development, and normal body functions, as well as other functional claims that describe the specific beneficial effect of the consumption of food or its constituents, in the context of the total diet, on normal functions or biological functions.

**"Nutrition claim"** refers to any statement, suggestion, or implication that a food includes specific nutritional qualities, such as protein, fat, carbs, vitamins, and minerals, in addition to its energy value.

In the context of health claims, **"risk reduction"** refers to considerably changing a major risk factor for an illness or health-related condition.

- **Veg and Non- Veg symbol**

A brown colour filled circle inside a square with a brown outline must appear on every package of "non-vegetarian" food. If a food contains solely egg as a non-vegetarian component, the maker may state such and include the non-vegetarian emblem.

The symbol for packaged vegetarian food should be a green colour filled circle inside a green square

### Name and Complete Address of the Manufacturer

Every package of food must include the manufacturer's name and complete address. In the event of imported food, the package must include the importer's name and entire address in India.

- **Net quantity**

All packaged foods must include the appropriate quantity by weight, volume, or number. The weight of the wrappers and packing materials must be subtracted from the net quantity of the commodity contained in the package.

- **lot number of batch identification**

All packaged food must have a lot number, batch number, or code number on it so that it can be tracked during manufacturing and delivery. Only bread and milk, even sterilised milk, are exempt from this restriction.

- **Date of manufacturing and packaging**

The label must state the day, month, and year in which the product was made, packed, or pre-packed. When it comes to food goods with a shelf life of more than three months, the "Best Before Date" can include the month and year of manufacturing. The date, month, and year in which the commodity is manufactured, processed, or pre-packed must be included on the label with the best before date if the shelf life is less than three months.

- **Country of origin for Imported Food**

The country of origin of imported food should be mentioned on the label of the food. In the event that a food product undergoes processing in a second nation that alters its nature, the processing country should be regarded the country of origin for labelling reasons.

- **Instruction for use**

If necessary, instructions for use, including reconstitution, should be given on the label to guarantee proper food utilisation.

### What is product launching strategy?

A product launch strategy is a strategy for bringing a new product to market. It entails a series of actions and steps taken by various team members leading up to the product launch date. Sharing new features or goods as part of a product launch plan aims to attract consumers to utilise the product and develop the brand as much as possible.

### Why is it important to have a product launch strategy?

A product launch is necessary to attract clients and develop traction in the market. You can attract clients' attention with a product launch. They will learn about your company and potentially other products in addition to discovering the new offering. A product launch is an excellent opportunity to convert potential clients into committed ones.

A well-thought-out product launch strategy can also benefit the company's image. You demonstrate that you value your consumers' opinions by producing a product that satisfies their needs. They might admire you for it and become brand ambassadors. More customers may buy your products as a result of the greater exposure, resulting in more revenue.

### Essential Elements to include in a product Launch Strategy

**Product development:** Developing a product that people want or need is essential for a successful product launch.

**Customer and market research:** Gathering input from customers and researching the competition allows you to develop your product and identify your ideal client. When you debut your product, your research will help you deliver the perfect message.



Allow a few clients to try your goods initially and collect feedback to gauge your development. Testing might uncover necessary improvements and assist you in continuing to develop the product.

### Steps to Create a Product Launch Strategy



### 12.9 Tips for Launching a Product

- Encourage word-of-mouth (WOM)

Concentrate on the clients who enjoyed the product and urge them to tell others about it via personalised promotional materials. They may wish to inform others about how fantastic the product is. Those people might strive to like it as well, thereby continuing the WOM circle.

- **Maintain an optimistic attitude**

To get your potential users' attention and maintain their experience enjoyable, send them relevant messages. Sending them too much information can demotivate them. Deliver items that offer value and suit their requirements instead. Users that have a positive experience are more likely to provide positive comments, which helps your product launch succeed.

- **Start small**

Instead of wasting time and money releasing to a huge audience in the hopes of achieving a quick win, start with a small, targeted segment of the market and strive for long-term success. You can start with prototypes to determine which one customers like, and then test your marketing concepts to discover which one is most effective. Before reaching higher, this process must be validated. The target audience is more likely to suggest your product and share their experiences, which will attract new customers and feed the growth system.

- **Utilize pre-orders**

## Unit 12: Application of Ethical Standards to Marketing

You can provide early adopters access to your product before it goes live. This method might assist you in confirming your pricing approach and establishing a community. Giving your initial customers a discount or releasing a limited supply will assist generate a sense of urgency, which can help improve your first sales.

### **Ethics Issues of Pricing strategy**

A product's or service's pricing has a significant impact on how well it sells. Producers and merchants use ethical pricing techniques to maximise profits while avoiding deceiving competitors or customers. Despite this, consumer perceptions of fair pricing are influenced by competition prices, convenience, availability, and other variables. Unscrupulous marketers may try a variety of unethical pricing techniques, but business rules safeguard competitors and consumers. To avoid illegal or unethical pricing, it's a good idea to study various pricing tactics.

- **Basic pricing considerations**

Producers offer products at wholesale prices to cover labour, materials, and overhead while yet leaving a reasonable profit margin. Retailers typically mark up the price to two or three times the wholesale cost to cover employee salaries and overhead, as well as to provide a profit margin for the company and its shareholders. Retailers occasionally lower prices to boost sales of specific products or sell huge quantities of popular items.

- **Truth in Advertising**

Companies' price comparison advertisements are bound by trade laws. A automobile dealer that claims to sell for thousands less than competitors must be able to show proof of both the competitor's and their own prices.

Advertisers who post a low-cost product when there isn't much of it in stock are frequently engaging in an illegal bait-and-switch strategy with a vast inventory of a similar product at a much higher price.

- **Price reductions for liquidation**

Firms sometimes reduce prices to clear out obsolete inventory or make room for new product lines. To introduce new products to the market and encourage people to try them, some suppliers establish exceptionally low pricing.

Some companies offer steep discounts on old inventory in order to use the funds to develop new products, pay down debt, or meet other financial obligations. These are not examples of illegal pricing; they happen every day.

- **Pricing for Loss-Leaders**

Restaurants frequently advertise promotions on dinners, desserts, or drinks that just cover their costs. In some circumstances, these low-cost options are actually losing money. Loss leads are items or services that are meant to lead to the sale of other goods or services, resulting in a profit.

Tennis balls are sold at or below cost in Big Box retailers near the back of the store. These stores want to attract wealthier tennis players, who will notice other products on their walk to and from the tennis balls and spend more money on impulse purchases. If the pricing isn't intended to harm a competitor, it's legal.

- **Strategies of Predatory Pricing**

According to Price Intelligently.com, predatory pricing is when a company sells things at a loss in order to put competitors out of business. Companies that do this usually do so with the intention of raising consumer prices once the competition has vanished. This form of undercutting is protected by federal laws.

- **Market Monopolization**

When there is just one source of a product, it is called a monopoly. Monopolies are prohibited under federal antitrust laws, which safeguard market competition. The American Telephone and Telegraph Corporation (AT&T) was a monopoly in the field of communications.

In 1982, the government split the firm up, resulting in the formation of numerous competing phone companies. Fixing prices or dividing markets among rivals to impede competition is also unlawful. When one company sets pricing for the whole market, this is known as an assumed monopoly.

## **12.10 Advertising Objectives**

Objectives help communications between the ad agency accounts executive and the creative team members, and help coordinate the efforts of copywriters, media specialists, media buyers, and professionals involved in advertising research. Objectives also provide a standard against which the results can be measured.

Sales are a convenient and really attractive advertising objective for many managers but they are usually unsuitable for most advertising managers because advertising is just one factor among many others that influence sales. Other factors that may have a significant effect on sales are product features, price, distribution, personal selling, publicity, packaging, competitors' moves, and changing buyer needs, etc.

Many experts recognise the fact that advertising creates delayed or carryover effect and no matter how much money is spent on advertising, it may not necessarily have an immediate impact on sales. The carryover effect creates additional difficulty in determining the precise relationship of advertising and sales. Darral G. Clarke found that for low-priced, mature, and frequently purchased products the carryover effect of advertising on sales lasts, up to nine months.

Understanding specific consumer problems is often the key to developing appropriate advertising campaign. Advertising creates its most powerful impact when it is used to solve narrowly defined Short-term advertising objectives are realistic and long-term objectives are ambitious. Advertising communications objectives can be put in a pyramid form. First the lower-level objectives, such as awareness, knowledge or comprehension are accomplished. Subsequent objectives may focus on moving prospects to higher levels in the pyramid to elicit the desired behavioural responses such as, associating feelings with the brand, trial, or regular use etc. It is easier to accomplish ad objectives located at the base of the pyramid than the ones towards the top. The percentage of prospective customers will decline as they move up the pyramid towards more action-oriented objectives, such as regular brand use. Irrespective of the fact whether the brand is new or established, the pyramid can be used to determine appropriate advertising objectives. What is required is to determine, where the target audience lies with respect to the various levels in the pyramid. Some possible objectives can be:

1. Increasing the percentage of target consumers who associate specific features or benefits with company's brand.
2. Increasing number of target consumers who prefer company's brand rather than competing brands.
3. Increasing company's brand usage rate among existing consumers.
4. Encouraging company's brand trial among non-users.

Russell H. Colley proposed DAGMAR (Defining Advertising Goals for Measured Advertising Results) approach. He also proposed 52 advertising objectives. Colley believed communications effects are the logical basis for setting advertising objectives.

"Advertising's job, purely and simply, is to communicate to a defined audience, information and a frame of mind that stimulates action. Advertising succeeds or fails depending on how well it communicates the desired information and attitudes to the right people at the right time and at the right cost."

DAGMAR approach proposes that communications objectives be based on a hierarchical model with four stages:

1. **Awareness:** Involves making target audience aware of the existence of the brand or company.
2. **Comprehension:** The purpose is to develop an understanding among audience of what the product is and what it would do for them.

## Unit 12: Application of Ethical Standards to Marketing

3. **Conviction:** The objective is to create a mental disposition among target audience members to buy the product.
4. **Action:** To motivate target audience to purchase the product or service.

Behavioural Dimensions	Steps Toward Purchase	Advertising for Various Stages
<p><b>Conative</b> The realm of motives. Ads stimulate or direct desires.</p>	<p><b>Purchase</b></p> <p>↑</p>	<p>POP advertising. Testimonials Price/quality appeals</p>
<p><b>Affective</b> The realm of emotions, attitudes, and feelings</p>	<p><b>Conviction</b></p> <p>↑</p> <p><b>Preference</b></p> <p>↑</p>	<p>Comparative ads. Argumentative copy.</p>
<p><b>Cognitive</b> The realm of thoughts. Beliefs.</p>	<p><b>Liking</b></p> <p>↑</p> <p><b>Knowledge</b></p> <p>↑</p> <p><b>Awareness</b></p>	<p>"Image" copy. Status, glamour appeals.</p> <p>Descriptive copy. Slogans, jingles, etc.</p> <p>Ad repetition, teaser ads.</p>

It is interesting to note that advertising communication objectives awareness, knowledge or comprehension, liking, preference, and conviction are all mental responses, not visible to an observer. One can easily appreciate that, advertising objectives in terms of audiences' purchase behaviour are fundamentally just two: Product trial and repeat purchase. Both of these are observable and measurable.



Task: Suppose you are the advertising manager for a detergent brand. Set the objectives for your advertising campaign.

### 12.11 The Advertising Message

Advertising message involves everything that the marketer plans to say in its ads and how it plans to say both verbally and non-verbally are critical aspects.

Both the advertising agency and the client team must understand and agree to these four elements of advertising strategy before beginning any creative work. In most advertising agencies, the account management is responsible for developing strategy. In some agencies, depending on the necessity, account planners first research the market. Then they prepare the advertising strategy in consultation with account management personnel and their final approval. After completing the task of strategy development, account department prepares a creative brief (often referred as copy platform, a work plan, copy or creative strategy document) to communicate the strategy to the creative team. It is a simple written statement of the most significant issues to consider and guide the team in the development of an advertisement or campaign. The statement addresses the following issues:

1. **Who?** Who is the potential customer in terms of geographic, demographic, behavioristic and psychographics qualities? What is the personality profile of a typical prospect?
2. **Why?** Does the consumer have specific needs and wants the ad message should focus upon and appeal to? There are two broad categories of appeals. Rational appeals are directed at the consumer's practical, functional need for the product or service, whereas the emotional appeals aim at the consumer's psychological, social and symbolic needs.
3. **What?** Are there any special features of the product or service to satisfy the consumer's needs? What factors support the product claim? How is the product positioned? What image or personality of the brand can be created or has been created? What perceived strengths or weaknesses of the brand need to be addressed?

4. **Where, when, and how?** In which market area, what time of the year and through what medium will these messages be delivered?
5. **What style, approach, or tone** (emotional or factual) will the campaign use? Generally what will the copy say?

### **12.12 Ethics in Advertising and Promotion**

Tobacco was promoted as a health-promoting product in the early days of corporate life, particularly throughout the 1940s and 1950s. In recent years, an advertisement that fails to follow ethical standards has been regarded a lawbreaker.

- When it comes to ethical dilemmas in advertising content, sexuality is a prominent topic of debate. Violence is a serious ethical concern in advertising, especially when the content is not intended for minors.
- Even when certain sorts of advertising are of great interest to others, they may offend certain groups of individuals. Female hygiene products, as well as treatment for hemorrhoids and constipation, are examples. Condom commercials are vital for AIDS prevention, but some people regard them as a way of encouraging promiscuity, which is undesirable and fiercely opposed in many societies.
- Instead of highlighting the inherent advantages of their own products or services, a negative advertising policy allows the advertiser to highlight numerous shortcomings of competitors' offerings. Such measures are frequently promoted in political advertisements.

### **12.13 Channels of Distribution**

Direct marketing is one of the most contentious forms of advertising, especially when it involves unwanted solicitations.

Commercials on television and over the phone, as well as direct mail, are common examples. Telemarketing and electronic spam both test the boundaries of ethical norms and law.

Shills and Astro turfing are the best instances of marketing messages disguised as impartial product reviews and endorsements, or the creation of ostensibly independent watchdog or review organisations. On Amazon, fake reviews can be published. Shills are usually employed for message transmission, but they can also be used to inflate auction prices, such as on EBay.

### **Summary**

1. Marketing is a dynamic and all pervasive subject in business, that makes the whole organization ready to serve the customers. So, success of a business largely depends on the success of marketing.
2. There are various definitions to marketing. We can generalize the definition, through the definition of the famous marketing author, Phillip Kotler who defines marketing as a social activity directed towards satisfying customer needs and wants through an exchange process. It is a process of identifying consumer needs, developing products and services to satisfy consumer needs, making these products and services available to the consumer through an efficient distribution network and promoting these products and services to obtain greater competitive advantage in the market place.
3. This emphasizes optimum utilization of resources and concerted effort on the part of the

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*Unit 12: Application of Ethical Standards to Marketing*

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marketing manager to deliver higher value to customers and greater profit to the organization.

4. Marketing, as a concept, has evolved over a period of time and has witnessed changes and modifications with the progress of civilization. It has augmented exchange with dominating paradigms in marketing.

5. They are production concept, product concept, selling concept, marketing concept and societal concept. People often confuse between selling and marketing.

While selling is more about product push, marketing is about identification and satisfaction of customer need. While selling focuses on the interest of the seller, marketing takes a more welfare view and focuses on consumer satisfaction. Customers and companies are involved in an exchange process in marketing.

6. Customer value is the net of expected benefits of customers and cost involved in acquiring the product or service. Benefits can be product benefits, brand or company benefits, functional or performance benefits, service benefits and emotional or self-expressive benefits.

7. Relationship marketing is based on the principle that current customers are the key to long-term business success.

8. Advertising strategy will include the determination of the advertising objectives that helps in understanding and evaluating the campaign in a better way, situational analysis that helps in knowing the current market conditions pertaining to advertisements, defining the target audience that helps channel all the efforts in the right direction and allocation of budget.

9. A campaign is an interrelated and coordinated set of promotional activities that focus on some single theme or idea and is built to accomplish some predetermined objective(s).

10. An advertising plan aims at matching the right target audience to the right message and presents it in the right medium to reach that audience.

11. Marketing plan provides the details pertaining to brand share, anticipated market conditions, competitors' share and past moves, and any legal constraints concerning the product category.

12. A critical decision is to define the specific target audience for the product or service and involves finding and precisely defining those variables that indicate who and where are the best prospects in respect to demographic characteristics, geographic location, psychographic variables, and behavioural patterns.

13. Objectives help communications between the ad agency accounts executive and the creative team members, and help coordinate the efforts of copywriters, media specialists, media buyers, and professionals involved in advertising research.

14. It is interesting to note that advertising communication objectives awareness, knowledge or comprehension, liking, preference, and conviction are all mental responses, not visible to an observer.

15. Advertising message involves everything that the marketer plans to say in its ads and

how it plans to say both verbally and non-verbally are critical aspects.

16. Budget decisions are critical as the money spent on advertising may mean, the difference between success and failure. The greatest power of advertising lies in its cumulative, long term reinforcement effect.

17. According to Leo Bogart, the Great Idea in advertising is far more than the sum of the recognition scores, the ratings and all the other superficial indicators of its success; it is in the realm of myth, to which measurements cannot apply.

### Keywords

- **Customer Satisfaction:** Consumer satisfaction (goods or services) is the result of a subjective comparison of expected and perceived attribute levels.
- **Marketing:** A societal process, by which individuals and groups obtain what they need and want through creating, offering and freely exchanging products and services of value with others.
- **The Marketing Concept:** It proposes that the reason for success lies in the company's ability to create, deliver and communicate a better value proposition through its marketing offer in comparison to the competitors for its chosen target market.
- **The Product Concept:** It has the proposition that consumers will favor those products that offer the most attributes like quality, performance and other innovative features.
- **The Production Concept:** It emerges out of the production orientation. The basic proposition is that customers will choose products and services that are widely available and are of low cost.
- **The Selling Concept:** It proposes that customers, be they individual or organizations will not buy enough of the organization's products unless they are persuaded to do so through selling effort.
- **The Societal Marketing Concept:** It proposes that the enterprise's task is to determine the needs, wants and intentions of the target market and to deliver the expected satisfaction more effectively and efficiently than the competitors' in a way to preserve or enhance the consumer's and society's well being
- **Advertising Creativity:** Ability to come up with unique and effective ideas
- **Big Idea:** Idea that is creative and that clicks with audiences
- **Brand Comprehension:** Know facts and attributes of the brand
- **Psychographic Segmentation:** Segments audience on the basis of life-styles, values and attitudes.

### Self Assessment

1. Marketing is a continuous relationship building process.
  - A. True
  - B. False
  
2. Concept of exchange is the central idea behind marketing.
  - A. True

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*Unit 12: Application of Ethical Standards to Marketing*

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- B. False
3. Human needs are limited.
- A. True  
B. False
4. The situation where the customer is totally unaware about the existence of a product is referred to as a negative demand situation.
- A. True  
B. False
5. It is generally seen that companies offering financial services use.....concept more.
6. Production concept was primarily used at the advent of .....
- 7 ..... classified "marketing mix variables" in terms of 4Ps
- A. Prof. E. Jerome McCarthy  
B. Albert Frey  
C. William lazer  
D. Bernard Booms
- 8.. 4Cs was being classified by.....
- A. Jokily  
B. Booms born  
C. Launder booms  
D. Lauterborn
9. ....is the only marketing mix variable can be altered quickly.
- A. Product  
B. Price  
C. Place  
D. Promotion
10. 4Ps includes which one of the following?
- A. Process  
B. Prize  
C. Place  
D. Packing
11. what is advertising?
- A. publicity  
B. sales promotion  
C. paid information



D. all the above

12. The \_\_\_\_\_ is the foundation of any advertising or marketing campaign.

- A. Research.
- B. Target segmentation
- C. Creative brief.
- D. Media planning.

13. In the history of packaging of the food industry, which among these was never a material of packaging?

- A. Bakelite
- B. Pottery and vases
- C. Iron and tin plated steel
- D. None of the mentioned

14. Which of the following is NOT a financial objective of Pricing?

- A. Rerun on Investment
- B. Corporate Growth
- C. Profit maximization
- D. None of the above

15. Which of the following is NOT a marketing objective?

- A. Positioning
- B. Volume Sales
- C. Cash flow
- D. None of the mentioned

### **Answer for Self Assessment**

- |                             |       |       |       |            |
|-----------------------------|-------|-------|-------|------------|
| 1. A                        | 2. A  | 3. B  | 4. B  | 5. Selling |
| 6. IndustrialRe<br>volution | 7. A  | 8. D  | 9. B  | 10. C      |
| 11. D                       | 12. C | 13. D | 14. B | 15. C      |

### **Review Questions:**

1. Define marketing and explain the relevance of customers' needs and wants to the marketers.
2. 'Marketing starts with customers and ends with customers'. Do you agree with statement? Give suitable justifications for your answer.
3. State how marketing concept is significantly different from production concept and selling concept. Give the relevant examples from the current corporate environment.
4. Explain the importance of customer satisfaction? What is relationship marketing? Make a relationship marketing plan as per your knowledge.

### Unit 12: Application of Ethical Standards to Marketing

5. What are the reasons which indicate that consumers are less loyal now than in the past? List certain companies where consumers are loyal and discuss the factors leading towards this situation.
6. Discuss the concept of marketing mix. Explain the marketing mix of any one FMCG company, in brief.
7. 'Acquiring new customers vs. retaining old customers'. Give your viewpoints on this issue.
8. Elaborate on the Ethics in product Packaging, labelling, Launching and pricing advertisement and communication decisions?
9. Express your views on Bajaj Pulsar's 'Definitely Male' campaign. Was it a big idea? How did the campaign help in the growth of the brand?
10. "B2C companies often over-spend on advertising whereas the B2B companies under-spend on advertising". Substantiate (Use appropriate examples)
11. 'Customer value is the key to brand loyalty'. Discuss
12. DHL has launched a new promotional campaign in India wherein they stress on their wider reach. Their tagline says that "No one knows Asia-Pacific as we do". Analyse the message. What issues does this message address?



#### **Further Readings**

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#### **Web Links**

- <https://www.indiafilings.com/learn/food-labelling-regulations-in-india/>
- <http://www.thehindu.com/opinion/op-ed/Labelling-to-take-the-pinch-out-of-salt/article14467320.ece>
- [https://www.tutorialspoint.com/business\\_ethics/ethical\\_issues\\_in\\_marketing.htm](https://www.tutorialspoint.com/business_ethics/ethical_issues_in_marketing.htm)

## Unit 13: Consumer Rights and Privacy

### CONTENTS

Objective

Introduction

13.1 Consumer Rights

13.2 Importance of Consumer Rights

13.3 Concept Of Consumer Awareness

13.4 Importance of Consumer awareness

13.5 Need For Consumer Awareness

13.6 Right to Privacy

Summary

Keywords

Self Assessment

Review Questions

Further Readings

### Objective

After this lecture, you'll able to:

- Describe the Consumer Rights and its importance
- Develop Understanding about Consumer Awareness
- Define the Right to Privacy
- Differentiate between Consumer Protection Act, 1986 and Consumer Protection Act, 2019

### Introduction

"A consumer is the most important visitor on our premises. He is not dependent on us, we are on him. He is not an interruption to our work, he is the purpose of it. We are not doing a favor to a consumer by giving him an opportunity. He is doing us a favor by giving us opportunity to serve him." - Mahatma Gandhi

Despite the fact that India has strong and unambiguous laws protecting consumer rights, the situation of Indian consumers might be described as dire. The Consumer Protection Act of 1986 is the most important of the several laws that have been implemented to protect consumer rights in India. Individuals, firms, Hindu undivided families, and companies all have the right to use their consumer rights for the purchase of goods and services made by them under this law. It is critical that a consumer understands basic rights as well as the courts and procedures that follow when those rights are violated.

Consumer rights in India are summarized as follows:

- The right to be safe from all types of dangerous goods and services
- The right to be fully informed about all goods and services' performance and quality
- The liberty to choose the goods and services you want
- The right to be heard in all consumer-related decision-making processes.
- When consumer rights are violated, the right to seek redress is available.
- Complete consumer education is a legal right.

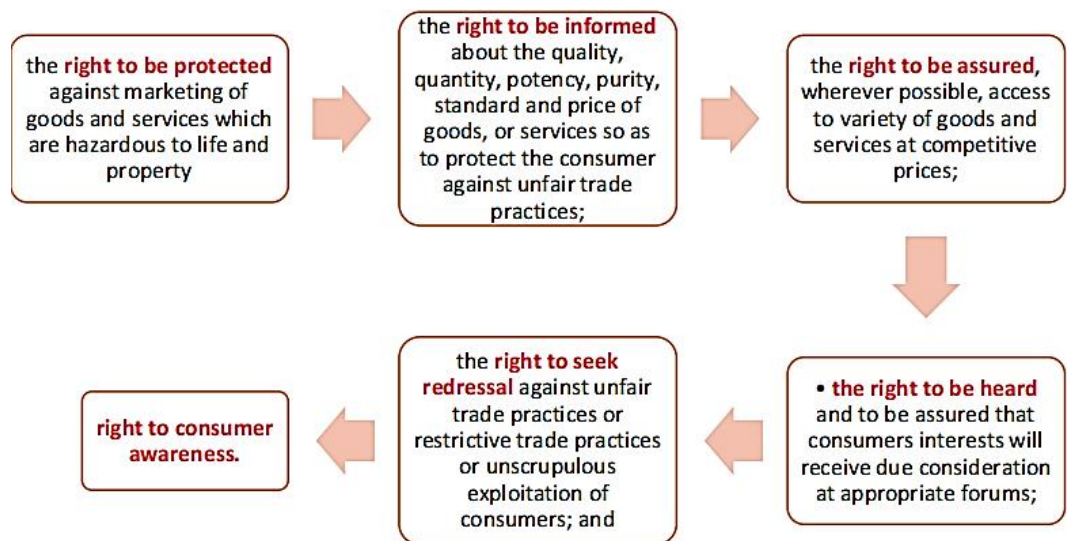
The Consumer Protection Act of 1986, as well as other legislation such as the Weights, Standards, and Measures Act, can be drafted to ensure fair competition in the market and the free flow of accurate information from providers of products and services to those who consume them. In fact, any country's level of consumer protection is widely recognized as an accurate indication of its progress. The high level of expertise developed by goods and service providers in their marketing and selling activities, as well as various sorts of promotional chores such as advertising, has resulted in a growing demand for more consumer awareness and protection.

#### Consumer Court:

- The goods or services purchased by a person or agreed to be purchased by a person has one or more defects or deficiencies in any respect
- A trader or a service provider resort to unfair or restrictive practices of trade
- A trader or a service provider if charges a price more than the price displayed on the goods or the price that was agreed upon between the parties or the price that was stipulated under any law that exist
- Goods or services that bring a hazard to the safety or life of a person offered for sale, unknowingly or knowingly, that cause injury to health, safety or life.

### 13.1 Consumer Rights

Consumer Right is defined as 'the Right to be informed about the quality, quantity, potency, purity, standard, and price of goods or services as the case may be, so as to protect the consumer against unfair trade practices'.



#### 1. Right to safety

The Right to Safety clarifies consumer protection from the marketing of goods and services that may be hazardous to life and property. You have the right to inquire about the product's quality, including its guarantee, quality mark, and certificates, in order to secure your own safety while purchasing a product. It is a well-known consumer right that strives to improve market quality and transparency, and the Consumer Court has also developed quality marks for various items such as ISA, AGMARK, and others to encourage consumers to purchase quality marked goods.

#### 2. Right to be Informed

A consumer has the right to know about the product's peculiarities before acquiring it. This right intends to assist every individual in inquiring about the quality of items, in addition to their amount, potency, purity, standard, and price, in order to eliminate unfair practises. It is critical that you have access to all relevant information about a product before making an informed purchase.

### Unit 13: Consumer Rights and Privacy

Among the various consumer rights, this one aids consumers in behaving wisely and responsibly, so protecting them against high-pressure sales tactics.

#### 3. Right to Choose

The Consumer Protection Act of 1986 also guarantees you the right to make your own decisions while purchasing products and services. Any merchant cannot compel a customer to buy a specific product or service, and if this occurs, the customer has the right to file a complaint with the Consumer Court. This is one of the major consumer rights that is better implemented in markets with more competition and a wider selection of goods offered at different prices or on simpler conditions where bargaining power is greater. It's known as the right to be guaranteed, and it allows buyers to purchase goods and services based on their choices and interests.

#### 4. Right to be Heard

It means that if a vendor breaches a customer's rights, the customer can file a complaint with the forum. Every consumer has the right to have their case heard in a Consumer Court or other organisation dedicated entirely to protecting consumer rights. This particular right focuses on empowering the Indian people to express themselves freely in the face of market misconduct.

#### 5. Right to Seek Redressal

Every customer has the right to express legitimate grievances and plights in order to protect themselves against unscrupulous exploitation. You have the right to seek redress for your issues and have your concerns addressed. A vast number of cases are heard at district levels on a daily basis and redressed properly.

#### 6. Right to Consumer Education

You must be aware of your rights and duties as a customer. This right strives to educate all consumers on their rights. Consumer organisations, educational institutions, and government policymakers all play an important part in consumer education by enlightening individuals about their rights, obligations, and reliefs.

## 13.2 Importance of Consumer Rights

➤ Importance from the consumer point of view:

1. **Consumer Ignorance:** We have gathered several features of consumer ignorance from their perspective. Consumer Ignorance, for example, must be addressed; consumers must understand how to exercise their rights and seek remedies.
2. **Unorganized Consumer:** We need a Consumer Organization that can bring consumers together and help them find solutions to their problems.
3. **Widespread Exploitation of Consumer:** Consumers are being exploited in a variety of methods, including adulteration, fraudulent practise, phoney weights, inadequate information on packed products, and misleading advertisements. For example, several goods claim to make you fair or reduce your weight, but when you use them, they do not deliver what they promise.

➤ Importance from Business point of View:

Do businesses really need to think about consumer protection, and is there a way to make it work for them as well? Let's take a look at some of the topics that can help us understand more.

1. **Long-Term Business Interest:** If a company wants to grow its client base over time, it must first satisfy its current customers. A delighted customer will bring in additional customers and expand the customer base through word of mouth.
2. **Business uses society's resources:** Businesses should not undermine customer confidence by using society's resources. As a result, businesses consider public interest when developing products.

3. **Social Responsibility:** Businesses have responsibilities to consumers, government agencies, and society, and they should work in a way that benefits people and their businesses, since this will help them grow.
4. **Moral Justice:** Businesses have a moral responsibility to society and consumers, and they should take steps that do not harm either. They should avoid exploitation in any form, including adulteration, unfair practises, defective products, and a reasonable price and weight.
5. **Government Intervention:** To avoid government intervention in the firm, which can be a time-consuming task. As a result, businesses should design their trade practises to be in the consumer's best interests.

### 13.3 Concept Of Consumer Awareness

Consumer awareness is the act of collecting enough information about the offerings they consume and using their consumer rights to protect themselves against market exploitation.

Government intervention is required in the process of consumer awareness since it is a question of public welfare.

This procedure entails successfully educating a customer about their rights and obligations for the sole purpose of ensuring their safety and protection from market abuse. The emphasis is on making information and recourse alternatives readily available.

or we can say,

Consumer awareness refers to the combination of the following :

- (i) The knowledge of the product purchased by the consumers in terms of its quality.



For example the consumer should know whether the product is good for health or not, whether the product is free of creating any environmental hazard or not etc.

- (ii) The education about the various types of hazards and problems associated with marketing of a product



For example, one way of marketing a product is advertisement through news papers, television etc. Consumers should have proper education about the bad effects of advertisement. They must also verify the contents of the advertisement.

- (iii) The knowledge about 'Consumer Rights' - This means that, first, the consumer must know that he/she has the right to get the right kind of product. Secondly, if the product is found out to be faulty in some manner, the consumer should have knowledge of claiming compensation as per the law of the land.

- (iv) The knowledge about consumer's own responsibilities- This implies that consumers should not indulge in wasteful and unnecessary consumption.

### 13.4 Importance of Consumer awareness

Below listed are a few points that state the importance of consumer awareness. Consumer awareness:

- Allows a customer to get the most enjoyment for the least money.
- Protects consumers in a marketplace from various forms of exploitation perpetrated by producers and sellers.
- A customer is protected from consuming significant amounts of dangerous products.
- Encourages a consumer to conserve rather than spend.

- As consumers become more aware of redress methods, it assists them in resolving difficulties with their purchases.
- Allows a society to develop in a healthy manner.

### **13.5 Need For Consumer Awareness**

The market today is flooded with very large number as well as varieties of goods and services. The number of producers and final sellers of the commodities have also increased many folds. So it has become very difficult to know as to who is a genuine producer or seller? It is practically not possible for consumers to personally come in contact with a producer or seller. Moreover in the age of advanced information technology the physical distance between consumer and producer/seller has also increased, since consumers can get their commodities at door step by booking orders over telephone or through internet etc. Similarly from among large varieties of commodities, it has become very difficult to know as to which one is genuine? People think that a product which has appeared in some advertisement must be good or the producer whose name is known through advertisement must be selling the right product. But this may not be true always. Much information is deliberately hidden in certain advertisements to mislead the consumers.

In case of packed food products and medicines, there is an expiry date which implies that the particular product must be consumed before that date and not at all after that date. This information is very important because it involves the health of the consumer. Some times it so happens that either such information is not provided or the seller deliberately did not give the information since the consumer did not ask for it or notice the inscription written on the product.

It also happens many times that a consumer buys goods and services without taking the bill or the seller does not provide the bill. This is done to avoid paying tax on the product to the government. Such a tax is value added tax (VAT) i.e. a type of tax that is place on a product whenever value is added at a stage of production and at final sale. If this tax is included then price of the product will be higher because of the tax and accordingly it will be acknowledged by providing the bill. But in order to attract the consumer by selling the product at a lower price, the seller deducts the tax and so does not provide the bill. Just because the price is less the consumer also does not bother to ask for the bill. Such practice creates two serious problems. One, the government is deprived of its tax revenue and two, the consumer may suffer if the product comes out to be faulty and he /she cannot even return the product or file a complaint since there is no bill to give proof of purchase.

Another major issue is that the consumers are not united. Producers have become stronger and organised because there are Producers' and Traders' Associations to protect their interest. But the buyers are still weak and unorganized. As a result the buyers are duped and deceived quite often.

Because of the above arguments it is very important for consumers to protect themselves from the unfair trade practices of the traders and service providers. They need to be aware of their rights as consumers and use them promptly.

It should be noted that consumer awareness is not just only about consumers' rights. It is a well known fact that many consumers around the world have been indulging in mindless and wasteful consumption because of their money power. This has divided the society into rich consumers and the poor. Similarly many consumers are also not bothered about the safe disposal of wastes after consumption is over which causes environmental pollution. By agreeing to pay a lower price for the product without asking for the bill, many consumers indirectly help the sellers to avoid paying tax to the government. Hence there is also need for consumer awareness to educate the consumers about their responsibilities.

Consumers also need to act more responsibly and join hands with the government.

### **13.6 Right to Privacy**

As previously stated, Article 21 of the Indian Constitution provides that "no individual shall be deprived of his life or personal liberty except in accordance with legal procedure." Article 21's right to life has been widely interpreted to entail more than simply survival, existence, or animal existence. As a result, it encompasses all aspects of life that make a man's existence more important, complete, and worthwhile, and the right to privacy is one of them. The Supreme Court held in *Kharak Singh v. State of Uttar Pradesh* that Regulation 236 of the Uttar Pradesh Police Regulation

was unconstitutional since it conflicted with Article 21 of the Constitution. The right to privacy is an element of the right to life and personal liberty, according to the Court. The Court had equated privacy with personal liberty in this case.

**In Govind v. State of Madhya Pradesh , Mathew, J.** accepted the right to privacy as an emanation from Art. 19(a), (d) and 21, but right to privacy is not absolute right. "Assuming that the fundamental rights explicitly guaranteed to a citizen have penumbral zones and that the right to privacy is itself a fundamental right, the fundamental right must be subject to restriction on the basis of compelling public interest". Surveillance by domiciliary visits need not always be an unreasonable encroachment on the privacy of a person owing to the character and antecedents of the person subjected to surveillance as also the objects and the limitation under which the surveillance is made. The right to privacy deals with 'persons not places'.

**In Smt. Maneka Gandhi v. Union of India & Anr.,(1978)** in this case SC 7 Judge Bench said 'personal liberty' in article 21 covers a variety of rights & some have status of fundamental rights and given additional protection u/a 19. Triple Test for any law interfering with personal liberty: (1) It must prescribe a procedure; (2) the procedure must withstand the test of one or more of the fundamental rights conferred u/a 19 which may be applicable in a given situation and (3) It must withstand test of Article 14. The law and procedure authorising interference with personal liberty and right of privacy must also be right just and fair and not arbitrary, fanciful or oppressive.

**In Naz Foundation Case (2009) Delhi HC** gave the landmark decision on consensual homosexuality. In this case S. 377 IPC and Articles 14, 19 & 21 were examined. Right to privacy held to protect a "private space in which man may become and remain himself". It was said individuals need a place of sanctuary where they can be free from societal control- where individuals can drop the mask, desist for a while from projecting on the world the image they want to be accepted as themselves, an image that may reflect the values of their peers rather than the realities of their nature

It is now widely accepted that article 21's right to life and liberty encompasses the right to privacy. The right to privacy is defined as "the right to be left alone." A citizen has the right to protect his or her own private, as well as the privacy of his or her family, marriage, reproduction, maternity, child-bearing, and education. Anyone who publishes anything on the foregoing topics without the person's consent could face a lawsuit for damages. If a person actively thrusts himself into controversy, or voluntarily invites or raises a controversy, the position will be different.

### **13.7 Consumer Protection Act**

<b>Key points</b>	<b>Consumer Protection Act, 1986</b>	<b>Consumer Protection Act, 2019</b>
<b>Pecuniary Jurisdiction</b>	District Forum( upto 20 lacs) State Commission (from 20 lacs to 1 crore) National Commission (from 1 Crore and above)	District Forum ( Upto 1 Crore) State Commission (from 1 crore to 10 Crore) National Commission ( from 10 crore and above)
<b>MRP/ Purchase Price</b>	Earlier MRP was a criteria to decide pecuniary jurisdiction.	Now discounted price/ actual purchase price is criteria.
<b>Territorial Jurisdiction</b>	Where seller has Office.	Where Complainant Resides or works.
<b>Regulator</b>	No such Provision.	Central Consumer Protection authority to be formed.
<b>Mediation</b>	No such Provision.	Court can refer for settlement through mediation (Section 80)



Unit 13: Consumer Rights and Privacy

<b>Appeal</b>	Earlier 30 days period for appeal against the order of District Forum (Section 15) Earlier 50% or 25,000 Whichever is less is to be deposited.	Now it is 45 days (Section 41) Now 50% of award amount.
<b>E-Commerce</b>	Earlier no specific mention.	Now all provision applicable to direct seller has been extended to e-commerce
<b>Review</b>	Earlier DCF did not have the power to Review.	Now DCF has power to Review
<b>Unfair Terms and Conditions</b>	No such provision.	Section 49 (2) and 59 (2) of the new act gives power to the state commission and NCDRC respectively to declare any terms of Contract, which is unfair to any Consumer, to be null and void.
<b>Authority</b>	District Consumer Forum state Consumer Forum National Consumer Dispute Redressal Commission.	District Commission, State Commission, National Consumer Dispute Redressal Commission.
<b>Composition of State Commission</b>	President & 2 Other members.	President & 4 other Members.

Summary

- The Consumer Protection Act is complex, applies to several jurisdictions, and is subject to frequent revision. Despite this, a lawyer or novice attorney can learn the area by following the suggestions outlined in this Research Guide. The government was established in 1986.
- The main goal is to make sure that customers get their money's value in terms of goods and services.
- Consumers have the right to protect themselves against marketing cost fixes on products and services that are dangerous to their lives and property.
- Customers have the right to acquire information on the quantity, consistency, purity, strength, and quality of products and services.
- Consumer Rights are also the obligation of the consumer to acquire things at reasonable costs.
- Consumer awareness is the act of collecting enough information about the offerings they consume and using their consumer rights to protect themselves against market exploitation.
- The Consumer Protection Act of 1986, as well as other legislation such as the Weights, Standards, and Measures Act, can be drafted to ensure fair competition in the market and the free flow of accurate information from providers of products and services to those who consume them. In fact, any country's level of consumer protection is widely recognised as an accurate indication of its progress.

- Consumer awareness is the act of collecting enough information about the offerings they consume and using their consumer rights to protect themselves against market exploitation.
- As previously stated, Article 21 of the Indian Constitution provides that "no individual shall be deprived of his life or personal liberty except in accordance with legal procedure."

### Keywords

- **Right to Safety-** Before buying, a consumer can insist on the quality and guarantee of the goods. They should ideally purchase a certified product like ISI or AGMARK.
- **Right to Choose-** Consumer should have the right to choose from a variety of goods and in a competitive price
- **Right to be informed-** The buyers should be informed with all the necessary details of the product, make her/him act wise, and change the buying decision.
- **Right to Consumer Education-** Consumer should be aware of his/her rights and avoid exploitation. Ignorance can cost them more.
- **Right to be heard-** This means the consumer will get due attention to express their grievances at a suitable forum.
- **Right to seek compensation-** The defines that the consumer has the right to seek redress against unfair and cruel practices or exploitation of the consumer.
- **Consumer Awareness** is an act of making sure the buyer or consumer is aware of the information about products, goods, services, and consumers rights. Consumer awareness is important so that buyer can take the right decision and make the right choice.
- **Right to Privacy** Article 21 of the Indian Constitution provides that "no individual shall be deprived of his life or personal liberty except in accordance with legal procedure."

### Self Assessment

1. Why do we need to have set rules and regulations for consumer rights?
  - A. To protect and promote the interest of the consumers against unethical and unfair trade practices.
  - B. To bring discipline in the country.
  - C. To provide police protection to consumers during a dispute with the sellers.
  - D. Its aim is to make all the sellers fair and honest.
2. When was the Consumer Protection Act passed in India?
  - A. 1968
  - B. 1986
  - C. 1984
  - D. 1976
3. In which year did the United Nations adopt the guidelines for consumer protection?
  - A. 1960
  - B. 1988

- C. 1985
- D. 1999

4. When was the 'Right to Information' Act passed?

- A. October 2005
- B. March 2006
- C. December 2007
- D. September 2003

5. What was the cause of the rise of consumer movement?

- A. The movement started to help consumers to form a group to protest against price rise.
- B. The movement grew out of consumers dissatisfaction due to unfair practices of sellers.
- C. The movement grew out of the satisfaction enjoyed by the consumers for fair practices of the sellers.
- D. The movement was started to help the sellers to promote their own interest and cheat consumers.

6. What can be the maximum claim amount at the district level of the consumer court?

- A. Less than 1 lakh
- B. 1 crore
- C. Upto 20 lakhs
- D. Above 1 crore

7. Which one of the following does not provide certificate of standardization in India?

- A. ISI
- B. Agmark
- C. Hallmark
- D. COPRA

8. When is 'National Consumers' Day' celebrated in India?

- A. 26th January
- B. 22nd October
- C. (c) 24th December
- D. (d) 25th December

9. The quasi-judicial machinery set up at the highest level for redressal of consumer disputes is:

- A. The District Forum
- B. The State Consumer Commission
- C. Consumers International
- D. National Consumer Disputes Redressal Commission

10. What was the name given to the agency at the global level for the protection of consumer rights?
- A. Consumer Court of Justice
  - B. International Consumer Forum
  - C. Consumers Commission
  - D. Consumers International
11. A chemist sold you a medicine of expiry date under which consumer right you can approach the consumer court ?
- A. Right of Safety
  - B. Right to Seek Redressal
  - C. Right to Education
  - D. Right to Equality
12. In October 2005, the Government of India enacted a law known as:
- A. Right to Choose Act
  - B. Right to Information Act
  - C. Women Reservation Act
  - D. Anti-corruption Act
13. When was the 'Right to Information Act' passed?
- A. In January 2002
  - B. In March 2004
  - C. In October 2005
  - D. In July 2007
14. Right to Information (RTI) Act was enacted by the Government of India in:
- A. October 2005
  - B. December 2005
  - C. January 2006
  - D. None of the above
15. District level consumer courts can settle claims upto:
- A. Rs 20 lakh
  - B. Rs 1 crore
  - C. Rs 50 lakh
  - D. Rs 80 lakh

**Answer for Self Assessment**

1. A            2. B            3. C            4. A            5. B

- |       |       |       |       |       |
|-------|-------|-------|-------|-------|
| 6. C  | 7. D  | 8. C  | 9. D  | 10. D |
| 11. A | 12. B | 13. C | 14. A | 15. A |

### Review Questions

- How can consumer awareness be spread among consumers to avoid exploitation in the market place? Explain any three ways.
- Analyse the importance of the three tier judicial machinery under consumer Protection Act(COPRA), 1986 for redressal of consumer disputes.
- Consumer awareness is essential to avoid exploitation in the market place? Support the statement.
- “Rules and regulations are required for the protection of the consumers in the market place.” Justify the statement with arguments.
- Explain with an example how one can use the right to seek redressal against unfair trade practices and exploitation.
- Explain the various rights and responsibilities of Consumer?
- Differentiate between the consumer Protection Act, 1986 and Consumer Protection Act, 2019?
- What is the need for Consumer Awareness?
- why should Right to Safety be practised by the consumer?
- What the information a consumer has a right to know when he is buying a product?



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## Unit 14: Current Trends in Business Ethics

### CONTENTS

Objectives

Introduction

14.1 Concept of Online Business

14.2 Ethics in Online Business: There is no Grey Area

14.3 E-Commerce Fraud

14.4 Types of Online Frauds

14.5 Online Scam Awareness: Staying Safer in Uncertain Times

Summary

Keywords

Self Assessment

Answer for Self Assessment

Review Questions

Further Readings

### Objectives

After completing this, you'll able to:

- Explain the Concept of Online Business
- Discuss the Ethics in Online Business
- Develop Understanding about E-Commerce Fraud
- Elaborate on the kinds of Fraud
- Complete Understanding about Cyber Law
- Spread the Awareness in Consumers regarding Online Scam

### Introduction

Online commerce includes any activity in which items and services are negotiated and paid for through the Internet. When someone inquires about your involvement in online business, they want to know if you buy and/or sell goods or services via the internet. In this situation, electronically means online or via the Internet.

Australia's Northern Territory Government has the following definition of online business:

"Online business is any kind of business activity that happens over the internet. Running an online business can include buying and selling online or providing an online service."

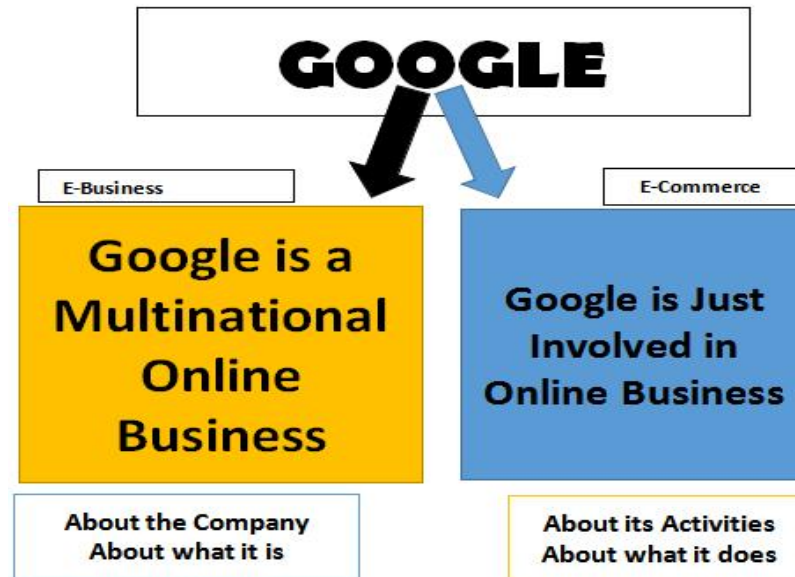
### 14.1 Concept of Online Business

**Online business means the activity or the company**

The word "online business" can apply to both the practice of purchasing and selling goods and services over the internet as well as specific businesses. To put it another way, the focus may be on what a firm does or is.

When discussing an activity, such as doing business online, it is referred to as e-Commerce. E-Commerce is a business paradigm in which commercial transactions are conducted over digital or electronic networks. Most of the time, this involves using the Internet.

For example, e-Bay is an online business that engages in e-Commerce. PayPal, Netflix, and Booking.com are all online companies that engage in e-Commerce.



We use the indefinite article (the word 'an') before the term when it refers to a firm. There is no definite article when referring to only the activity. Take a look at the following two sentences:

- PayPal is a web-based company. (When referring to a corporation, we use the term 'an')
- PayPal is involved in internet business (we don't use the word 'an' when referring to it).

When a company is referred to as an online business, it is referred to as an e-Business.

### Online business includes goods and/or services

Any type of company activity that takes place through the Internet is considered an online enterprise. Someone who sells goods over the Internet has an online business, as does someone who provides a service to paying consumers online.

An offline business is the polar opposite of an internet business. Because the Internet did not exist fifty years ago, all business activity were conducted offline. If you wanted to buy something, you had to go to the seller's actual location, call them, or mail them a check (British English: cheque).

Customers had to walk into a branch of their bank to withdraw money or make a transfer in the 1950s. Online banking was not possible because there were no personal computers, mobile phones, tablets, or the Internet.

### Online business grew and grew

The volume of online business has expanded considerably since the turn of the century. Unfortunately, many brick-and-mortar businesses, such as high-street stores, have had to bear the brunt of the consequences. There are substantially fewer retailers today on the high street (commercial street) of any advanced economy town or city than there were a few decades ago.

Consumers have gotten more interested in internet buying in recent decades, and they have visited their local establishments less frequently. Hundreds of thousands of physical stores were unable to cope and were forced to close.



People's shopping habits have shifted dramatically in the weeks running up to Christmas. When it comes to Christmas shopping, many individuals still love walking down the street and into businesses. However, many people nowadays choose to make all of their purchases online. They can compare things much more rapidly from the luxury of their home room or bedroom, avoiding irate crowds and cold weather.

## 14.2 Ethics in Online Business: There is no Grey Area

E-commerce businesses must adhere to strict ethics guidelines and requirements. This is more crucial now than ever before, given the recent series of e-commerce industry scandals.

"There is no way to succeed in business without the highest ethical standards" - Jordan Belfort

Ethics refers to what is moral or bad, whereas the law refers to what is legal and what is illegal, as determined by state courts. Ethics involves not only evaluating and analyzing numerous principled ideas and customs that serve as the foundation for judging certain norms or behaviors, but also examining and analyzing several principled beliefs and customs.

Even in the most stable of working conditions, establishing an ethical organizational culture is a difficult task. In a recent study, 80 percent of respondents said that ethics and compliance were critical in how organizations dealt with the epidemic.

Business ethics in the e-commerce industry directs and impacts how the company serves its consumers and treats its staff while being guided by the entrepreneur's personal ethics, which affects the company's organizational procedures, systems, and outcomes.

"There are no such things as corporate ethics; only ethics exist. And ethics makes no allowances for the real or imagined necessity of profit" Micahel Josephson says

COVID-19 has done a number of interesting things, including exposing various disparities that currently exist in our internet business ecosystem. In recent years, the ethical difficulties that our e-commerce industry faces have taken on new meanings and objectives.

There are a few globally recognized elements in the e-commerce industry that ultimately determine whether or not e-commerce enterprises are using ethical business practices. The following are some of those factors:

- **Transparency:** The practice of accurately and clearly representing facts relevant to what the company performs. E-commerce entrepreneurs must feel that a good customer relationship will have a greater impact on the company's success and stability. The public is more likely to trust an e-commerce company's service, product, or mission if it is open and honest. When a business issue requires explanation (whether it occurs within or outside the organization), it is critical for the corporation to provide complete disclosure.
- **Integrity:** The practice of e-commerce enterprises upholding ethical ideals, in effect encouraging staff to adopt ethical standards on a regular basis. Integrity is organized for online organizations in the areas of clear policies, guidelines, and relevant learning materials, as well as effective procedures and controls to enable the company avoid, detect, and respond to any inappropriate behavior.

Integrity motivates the e-commerce company to keep to its original decision, even when forced to do so. The activities of the e-commerce company, which believes in morality based on equality and justice, demonstrate strength and admirable organizational character, can be seen as a strong reflection of honor and courage by the consumers.

- **Trustworthiness:** The act of keeping promises and fulfilling obligations to consumers. This is critical because customers prefer to continue buying from companies they believe are trustworthy and ethical.

- **Loyalty** refers to all of the relationships that e-commerce enterprises cultivate and sustain. These partnerships may involve its employees, investors, and customers. In the long term, loyalty translates to business revenues, which value the company's and employees' progress.
- **Fairness:** The act of conducting business operations fairly and committing to using legitimate authority to serve clients fairly. To get a competitive advantage over their existing business competitors, e-commerce enterprises should only utilize clear and honorable tactics. In a company's recruiting methods, marketing campaigns, commercial relationships, and competitiveness within the e-business industry as a whole, fairness and equality should be reflected.
- **Compassion:** In online business, compassion is meeting business objectives such as serving the largest number of customers while inflicting the least amount of harm to customers and the environment while still making a profit.
- **Respect** is one of the most important aspects of any business. Respecting the rights, privacy, and dignity of its customers is a critical ethical norm for any country's e-commerce firms. Since e-commerce enterprises are expected to be held to the ethical standard of keeping information such as bank account details, health background, or social identity numbers discreet, respect also refers to maintaining client privacy.
- **Lawfulness** refers to following legal norms and obligations in business ethics. This could include things like taxation, workplace safety, and labor and employment rules.

E-commerce businesses that operate within the legal framework gain more credibility and respect from the public and their customers.

- **Responsibilities:** E-commerce businesses with higher ethical standards are aware of their obligations to their staff and customers. On that topic, we'd like to point out that the boundaries of such obligations are delineated by the organization's principles and mission to make rational judgments that benefit everyone.

"In business or in life, never deceive others. Four companies fooled me in 1995 – four companies that are now closed. Deception will not go a corporation very far "- Jack Ma

In the long term, adhering to business ethics benefits both e-commerce enterprises and the entire industry.

E-commerce enterprises must be cautious in ensuring that by regularly exhibiting ethical behavior, consumers will feel more at ease, allowing them to gain a significant and durable competitive advantage over competitors.

### **14.3 E-Commerce Fraud**

Any type of fraud that occurs on an ecommerce platform is referred to as ecommerce fraud. Ecommerce fraud includes using a stolen or phony credit card, creating a false identity, and advertising affiliate fraud. When a customer commits fraud on your online store, you, as the merchant, bear the expense, which has a negative impact on your revenue.

Unlike traditional fraud, internet fraud can be carried out using personal and credit card information, and the card does not need to be present during the transaction. Hackers steal personal and financial information and sell it on the black market in some situations. Although one sort of criminal fraud is more serious, there are other types of customer fraud, such as friendly fraud, in which a client makes a chargeback to receive a free goods and avoid payment.

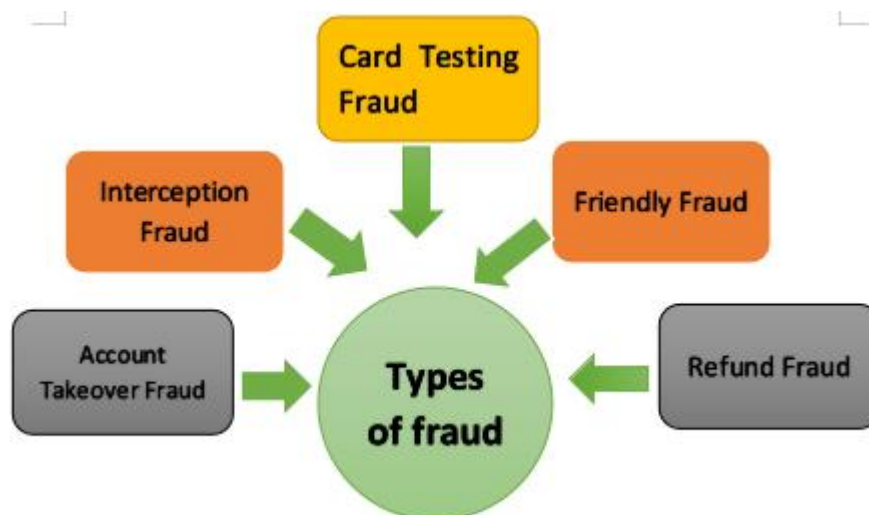
Part of the reason for the prevalence of ecommerce fraud today is that convictions are uncommon due to time and resource restrictions, the costs of gathering evidence, and other factors. As a result, ecommerce fraud prosecutions are uncommon, and it is best to integrate a high-quality fraud detection and prevention management system to eliminate fraud on your platform and minimize its revenue impact.

Ecommerce fraud is smart and developing, with fraudsters employing increasingly sophisticated strategies with each passing year. You must be correct every time, whereas malicious actors just need to be correct once. Let's take a look at the most typical sorts of online retail fraud before we look at measures to tackle it.

#### 14.4 Types of Online Frauds

To safeguard your ecommerce site, the best strategy to battle fraud is to first establish why fraud is occurring in the first place, and then design tactics to avoid and protect against these attacks. To begin, determine the sort of fraud that is occurring on your platform and then take immediate action to address it.

While fraudsters might utilize a variety of tactics, we'd like to highlight some of the most typical types of ecommerce fraud. These tactics have been effective against both small and major ecommerce sites. Recognizing them early on can save you from being a victim.



**Card Testing Fraud:** Card testing fraud (also known as card cracking) is a common way for ecommerce businesses to be defrauded. Card testing fraud, for example, increased by more than 200 percent in 2017, accounting for 16 percent of all ecommerce fraud and 7% for larger ecommerce companies.

Card testing fraud occurs when a person obtains one or more stolen credit card numbers, either through theft or through the purchase of card data on the dark web. Even while they have the credit card numbers, they have no idea whether they can use them to successfully execute a transaction or what the credit card's limit is.

Fraudsters visit an ecommerce website and make minor test purchases, frequently with the use of scripts or bots, in order to swiftly test several credit card numbers. These initial purchases are quite tiny because the goal is to see if the credit card can be used to complete transactions. They'll start making considerably more expensive purchases once they've figured out how to use a credit card number.

In the end, the tiny purchase testing strategy generally goes unnoticed. When larger purchases are made, merchants and harmed customers are more likely to realize they have been victims of card testing fraud. They may have been able to make many large purchases using stolen credit card information by that point.

**Friendly Fraud:** When someone purchases an item or service online and subsequently demands a chargeback from the payment processor, claiming the transaction was incorrect, this is known as friendly fraud. The credit card company or bank reimburses the consumer for the transaction value, which the retailer must still pay.

A chargeback scam occurs when a person makes assertions that appear to be genuine and honest, and in certain situations, that person is correct (thus the term "friendly fraud"). Friendly fraud, on the other hand, can be utilized to obtain free products.



For example, a fraudster could buy something from your online store and claim that it was never delivered, or they could tell their credit card company that they returned the item to the merchant but never received a refund, or they could even claim that they canceled the order but it was still delivered to them.

Chargeback fraud happens when someone contacts their credit card company to dispute a charge that they actually intended to make. Use a chargeback management software product to prevent fraud losses and assist with dispute resolution.

**Refund Fraud:** When someone uses a stolen credit card to make a purchase on an ecommerce website, this is known as refund fraud. The fraudster then contacts the ecommerce company and asks a repayment for an overpayment that was made by mistake. They ask for a return of the excess amount, but they also mention that their credit card has been closed, therefore the money will have to be provided via another manner. In the end, the original credit card charge is not returned, and the ecommerce business is liable to the cardholder for the entire amount.

The online merchant is caught in the middle when it comes to refund fraud. On the surface, the fraudster may appear to be making a valid claim, but in reality, they are attempting to steal money from your company.

**Account Takeover Fraud:** When someone acquires access to a user's account on an ecommerce store or website, this is known as account takeover fraud. This can be accomplished in a number of ways, including buying stolen passwords, security codes, or personal information on the dark web, or effectively executing a phishing scam against a specific consumer.

They can engage in fraudulent activities once they have gotten access to a user's account. They can, for example, update a user's account information, make purchases on ecommerce sites, withdraw funds, and even get access to other accounts for this person.

Account takeover fraud is a serious sort of identity theft that can harm victims as well as your company's reputation. Customers who believe their personal information is at risk on your website or ecommerce store are less likely to complete a transaction and will explore competitors who have better protection.

**Interception Fraud:** When fraudsters place orders on your ecommerce website with the same billing and shipping addresses as a stolen credit card, this is known as interception fraud. Their purpose is to intercept the package and seize the things for themselves once the order is placed.

This can be accomplished in a variety of ways. Before the goods is dispatched, they may contact a customer care person at your organization to change the address on the order. By doing so, they hope to receive the products while the victim makes the actual payment. They can also contact the shipper (whether it's FedEx, UPS, or another courier) and request that the shipment be rerouted to a different address. They may even wait for the physical delivery of the gift, sign for it, and grab it for themselves if they live close to the victim.

**Triangulation Fraud:** Three sorts of actors are required in triangulation fraud: the perpetrator, a shopper, and an online store. The con artist creates a storefront (on Amazon, Shopify, or another platform) to sell high-demand items at low costs.

The establishment of this shop attracts a large number of genuine clients who are looking for a great deal. Once these clients place orders on the fraudster's website, the fraudster purchases legal goods from your ecommerce website with stolen credit card numbers, and then sends those things to their customers. The victims are

- (1) individuals whose credit cards have been taken and
- (2) your ecommerce website, even though the fraudster's consumers may be obtaining genuine goods at an incredible price. After the fraudster uses stolen credit card information to place these orders, your ecommerce store distributes real things to them.

## 14.5 Online Scam Awareness: Staying Safer in Uncertain Times

As we adjust to a changed world, bad actors are also changing the tactics they use to take advantage of people. You may have already encountered schemes that leverage fear and anxiety to make you click, buy, or respond to malicious communications. Fortunately, a little awareness is all it takes to recognize the scams below and protect yourself and your family.

1. **Phishing Emails:** Our new normal means that many face-to-face transactions have moved to email. We are now relying on email for daily communications from schools, updates from our local businesses and so much more. Armed with this knowledge, online scammers are creating emails capitalizing on sensitive and relevant topics to lure you to hand over personal information.
2. **Stimulus Check:** A very topical scam today takes the form of a phony message from the government, or the IRS, asking you to submit personal information or file a tax form to receive a government stimulus check which can lead to identity theft. The government does not send email communications.
3. **Health Alerts:** Another popular scam plays on a sensitive topic today, our health.



Examples of this include emails masked as coming from a reputable health organization, such as the CDC, asking you to “click on a link to see health news in your area”. The link could download dangerous malware to your device.

1. **Working From Home:** While many of us are working from home now, we are seeing fraudsters take advantage of this through efforts like the “CEO Scam” where they spoof the email address of someone in your workplace with a position of power. Emails from this spoofed account typically include work-from-home policies or safety precautions and ask you to download an attached policy sheet, which may contain malware.
2. **Delivery Notices:** We are all relying on home deliveries more than ever now. Recent scams send a warning that your order or account is on “hold” until you verify some details, or that you need to click on an attachment to see the delivery time. Often they will spoof popular e-commerce sites, like FedEx or Amazon and deliver malware straight to your inbox.
3. **Social media scams :** Be wary of social media platforms. Scammers are using these outlets to advertise phony cures, medical equipment in bulk, and other schemes not unlike the ones used in the phishing emails above.
4. **Fake E-Commerce sites:** Hundreds of new e-commerce sites have been popping up offering everything from hard-to-find products, medical equipment, and more Some are legitimate middlemen hoping to turn a quick profit, but others are fake websites looking to collect your personal and financial information.

## Summary

- Online business is any kind of business activity that happens over the internet. Running an online business can include buying and selling online or providing an online service.
- The volume of online business has expanded considerably since the turn of the century. Unfortunately, many brick-and-mortar businesses, such as high-street stores, have had to bear the brunt of the consequences. There are substantially fewer retailers today on the high street (commercial street) of any advanced economy town or city than there were a few decades ago.
- Consumers have gotten more interested in internet buying in recent decades, and they have visited their local establishments less frequently. Hundreds of thousands of physical stores were unable to cope and were forced to close.
- People's shopping habits have shifted dramatically in the weeks running up to Christmas. When it comes to Christmas shopping, many individuals still love walking down the street and into businesses. However, many people nowadays choose to make all of their purchases online. They can compare things much more rapidly from the luxury of their home room or bedroom, avoiding irate crowds and cold weather.
- "There are no such things as corporate ethics; only ethics exist. And ethics makes no allowances for the real or imagined necessity of profit" Micahel Josephson says

## Keywords

- **Trustworthiness:** The act of keeping promises and fulfilling obligations to consumers. This is critical because customers prefer to continue buying from companies they believe are trustworthy and ethical.
- **Health Alerts:** Another popular scam plays on a sensitive topic today, our health. Examples of this include emails masked as coming from a reputable health organization, such as the CDC, asking you to "click on a link to see health news in your area". The link could download dangerous malware to your device.
- **Social media scams :** Be wary of social media platforms. Scammers are using these outlets to advertise phony cures, medical equipment in bulk, and other schemes not unlike the ones used in the phishing emails above.
- **Stimulus Check:** A very topical scam today takes the form of a phony message from the government, or the IRS, asking you to submit personal information or file a tax form to receive a government stimulus check which can lead to identity theft. The government does not send email communications.
- **Phishing Emails:** Our new normal means that many face-to-face transactions have moved to email. We are now relying on email for daily communications from schools, updates from our local businesses and so much more.
- **Account Takeover Fraud:** When someone acquires access to a user's account on an ecommerce store or website, this is known as account takeover fraud.
- **Refund Fraud:** When someone uses a stolen credit card to make a purchase on an ecommerce website, this is known as refund fraud.
- **Triangulation Fraud:** Three sorts of actors are required in triangulation fraud: the perpetrator, a shopper, and an online store. The con artist creates a storefront (on Amazon, Shopify, or another platform) to sell high-demand items at low costs.

- **Interception Fraud:** When fraudsters place orders on your ecommerce website with the same billing and shipping addresses as a stolen credit card, this is known as interception fraud.

### **Self Assessment**

(1) Tampering with Computer Source Documents is \_\_\_\_\_ offence.

- A. Bailable
- B. Non-bailable
- C. Non-cognizable
- D. Both (a) and (c)

(2) Every appeal to Cyber Appellate Tribunal shall be filed within a period of \_\_\_\_\_.

- A. 60 days
- B. 90 days
- C. 45 days
- D. 30 days

3) Order passed by Controller is challengeable before :

- A. High Court
- B. Cyber Appellate Tribunal
- C. Adjudicatory Officer
- D. Supreme Court

(4) Child pornography is an offence under section \_\_\_\_\_.

- A. 67 C
- B. 67 A
- C. 67 B
- D. 67 D

(5) Section 66 A is struck down by the judiciary in the case of :

- A. Shreya Singhal v/s U.O.I.
- B. Syed Asifuddin v/s State of A.P.
- C. Ranjit Udeshi v/s State of Maharashtra
- D. Regina v/s Hicklin

(6) The authentication to be affected by use of asymmetric crypto system and hash function is known as :

- A. Public key
- B. Private key
- C. Digital signature
- D. E-governance

(7) Which section of IT Act deals with the legal recognition of electronic records ?

- A. Section 4
- B. Section 2
- C. Section 5
- D. Section 6

(8) Which Section deals with cyber terrorism ?

- A. 66 C
- B. 66 B
- C. 66 D
- D. 66 F

(9) What is the maximum penalty for damage to computer, computer system ?

- A. Rs. 50 lakh
- B. Rs. 1 crore
- C. Rs. 5 crore
- D. 5 lakh

(10) What is the penalty for destroying computer source code ?

- A. Three yrs imprisonment or 5 lakh Rs. or both
- B. Three yrs imprisonment or 1 lakh Rs. or both
- C. Two yrs imprisonment or 2 lakh Rs. or both
- D. Three yrs imprisonment or 2 lakh penalty or both

(11) Amendment to IT Act 2000 came into effect on \_\_\_\_\_.

- A. 2008 Oct. 2
- B. 2009 July 3
- C. 2008 June 1
- D. 2009 Oct. 27

(12) Cyber squatting is associated with :

- A. Domain Name Dispute
- B. IP addressing dispute



- C. e-mail dispute
- D. Password dispute

(13) Which section of IT Act deals with the punishment for cheating by imprisonment by using computer resource ?

- A. Section 66 D
- B. Section 66 C
- C. Section 66 F
- D. Section 66 B

(14) Those who fail to furnish documents, return, report to the Controller of Certifying Authorities will be penalized upto :

- A. Rs. 5,000 per day
- B. Rs. 50,000
- C. Rs. 25,000 per day
- D. Rs. 1.5 lakh

(15) Licence to a Certifying Authority to issue electronic signature certificate will be valid for a period of :

- A. 5 yrs
- B. 10 yrs
- C. 2 yrs
- D. 7 yrs

### **Answer for Self Assessment**

- |       |       |       |       |       |
|-------|-------|-------|-------|-------|
| 1. B  | 2. C  | 3. B  | 4. C  | 5. A  |
| 6. C  | 7. A  | 8. D  | 9. B  | 10. D |
| 11. A | 12. A | 13. A | 14. D | 15. C |

### **Review Questions**

1. What do you mean by Online Business?
2. Write down the concept of E-commerce business as well its ethics?
3. Elaborate on the online frauds in product and service Business?
4. Differentiate between Product business and Service Business?
5. What is fraud? What are the types of frauds?

6. How do you detect online fraud?
7. How can eCommerce fraud be prevented?
8. Why are frauds common in ecommerce?
9. Discuss the concept of Consumer awareness to online Frauds?



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**LOVELY PROFESSIONAL UNIVERSITY**

Jalandhar-Delhi G.T. Road (NH-1)

Phagwara, Punjab (India)-144411

For Enquiry: +91-1824-521360

Fax.: +91-1824-506111

Email: [odl@lpu.co.in](mailto:odl@lpu.co.in)