

**Commercial and Business Incorporation:**

**Enhancing the notion of corporation to include an ethical statement**

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## **AUTHOR'S DECLARATION FOR ELECTRONIC SUBMISSION OF A THESIS**

I hereby declare that I am the sole author of this thesis. This is a true copy of the thesis, including any required final revisions, as accepted by my examiners.

I understand that my thesis may be made electronically available to the public.

## **Abstract**

Today's modern, Canadian, business corporations are hugely influential in determining public policy and many aspects of people's lives. Because this influence permeates so much of our social construct, we expect corporations to act in an ethical manner. Yet, at the very baseline of legal incorporation, there is not a requirement for corporations, *per se*, to be ethical or to act in an ethical manner. This situation has set up a form of ethical dualism, with individual citizens being required to act in certain prescribed manners, while corporations, which in most cases comprise individual citizens, are allowed to ignore or even to flaunt similar ethical rules and standards. In this investigative paper on corporate applied ethics, I will examine arguments for and against the notion of including ethical responsibility statements within the concept of incorporation. This paper will provide a historical framework in which to view some of the complexities involved, and examine certain influential assertions made by Milton Friedman.

The paper will begin with a look at what is meant by corporation in this context. This will be followed by an analysis of the arguments put forward by Milton Friedman in his famous essay "The Social Responsibility of Business is to Increase Its Profits" and other related arguments. These other arguments, as objections to the inclusion of ethics within the notion of corporation, fall into three main types: objections to concept; to ability; and to process. I will review each in turn, with the hope that, by dispelling the Friedmanian arguments against corporate ethical inclusion, a new baseline for incorporation might be established.

The second part of the paper will examine what kind of ethics might best suit the corporation. It will also consider ethical growth with respect to business. The paper will conclude with a suggestion as to how the inclusion of ethics within the notion of incorporation might be accomplished.

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*To my wife, Debbie,  
for her unwavering support*

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*One travels through life hopeful of finding answers and, if not the answers, the way to the answers. Thank you to all who ease that path.*

V.R. Ackroyd

*As to the speculative money markets, we are distracted from their innate rationality by the disorder they create. Reason here lies in the methods and skills of application. From the technocrat's point of view, the disorder of the speculative markets is the problems of others. From within they see the purest application of abstract theory, extremely complex, requiring specialist skills. Best of all, they see a world separated from any hint of reality. The finest technical minds seemed to be attracted precisely by this separation from the real.*

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*θ*

*θ*

*Power without responsibility is a basic form of illiteracy or ignorance.*

John Ralston Saul

*The Unconscious Civilization*

CBC Massey Lecture Series, 1995

(Toronto: Anansi Press, 1995)

## **Introduction**

The business, or commercial, corporation is an integral part of modern social organizations, particularly those in western societies. Increasingly, corporations have been provided with powers by law, rules and regulations that include authority, control and influence seemingly similar to the powers afforded to individuals. These corporations are publicly expected, though not necessarily legally bound, to act in an ethical manner. The very reasons for incorporation mention nothing about the necessity to act in an ethically, or even an environmentally, responsible manner. Individuals who exist in societies are expected to act in an ethically responsible manner, as dictated by social mores, as well as the laws, rules and regulations that guide them and allow them to function in society in a reasonably efficient manner. Corporations are artificial constructs, originally created to enable groups of individuals to perform certain limited tasks, but those now wield enough power, control and influence to change society, to the good of some and to the detriment of others. Although corporations, like individuals, are required to follow laws, rules and regulations, which vary between jurisdictions, the fundamental basis for the existence of the corporation does not include, or even allude to, a requirement that corporate business be conducted in an ethical manner. This situation has created a form of ethical duality in which individuals are expected to act in certain ways, and in which certain groups of individuals as corporations are allowed to act in ways that are somehow different. This difference has caused some corporations, particularly certain multinational economic giants, to ignore or to flaunt ethical rules and to become viewed as villains in the public eye.

In Canada, there are three main reasons to incorporate: to ensure the perpetuity of the entity, to limit liability to shareholders, and to maximize profits to shareholders. Is it time to enhance the reasons for incorporation to include ethical responsibility statements?

## What is a Corporation?

A corporation is a legal entity classified “as a legal person that has standing to sue and be sued, distinct from its stockholders. The legal independence of a corporation prevents shareholders from being personally liable for corporate debts.”<sup>1</sup> A corporation can take many forms, including for-profit, government-owned, municipal, cooperative, and partnerships. In this paper, I will concentrate on the modern business corporation, which is characterized by having three abilities: 1) to transfer shares; 2) to outlive its founders (be perpetual); and 3) to have limited shareholder liability for certain corporate actions (including the payment of corporate debt, the payment of corporate lawsuits and judgments, corporate criminal acts and, depending on the jurisdiction, for criminal acts by corporate officers and directors). In this paper, “incorporation” will mean the initial legal process to establish a corporation which will thereafter be granted these abilities.

Corporations are provided with legal rights and obligations similar to those of individuals: the rights to own property, assets and debt; to be a party to contracts; to make rules and laws to govern their affairs; to hire agents; and, as legal entities, to sue and be sued. As corporations are legal entities, it is the government (and, through the government, the courts) which determines the rights and duties of corporations. The type of corporation which we will be

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<sup>1</sup> Cornell University Legal Information Institute, “Corporations,” Cornell University, <http://www.law.cornell.edu/wex/index.php/Corporations> (last accessed December 18, 2007).

concerned with in this paper is the for-profit, non-governmental corporation with one or more shareholders.

## Why Is There So Much Current Interest in This Topic?

There exists an industry set up to uncovering the wayward ways of modern corporations. Newspaper articles, documentaries and books are devoted to the subject. There are many examples from which to draw conclusions: environmental crises caused by shipping, such as the 1989 Exxon Valdez oil spill in Alaska; the 1984 Union Carbide release of poisonous gas in Bhopal, India; and the 2001 Enron corporate financial debacle, which caused thousands of jobs to be lost, and pension funds to be devastated, when the company filed for bankruptcy, after corporate executives misled investors. These examples are but a small sample of the number of corporate ethical issues<sup>2</sup> that have surfaced worldwide over the last quarter of a century. The scope of the modern business corporation, and its web of corporate entanglements, is shown by an examination of the 2002 Prestige “incident” wherein a tanker that “(was) registered in the Bahamas, was managed in Greece, and carried oil for a Swiss company (with mostly British directors) whose ultimate owners (were) Russian”<sup>3</sup> sank, causing a huge oil slick that destroyed an entire stretch of Spanish coastline, which in turn negatively affected thousands of people and an entire way of life for many of them, as well as costing millions of dollars to clean up. Corporations, and those hiding behind the corporate veil, make decisions that go far beyond the “walls” of their businesses.

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<sup>2</sup> I will place aside the question of whether, indeed, environmental responsibility is a problem pertaining to the realm of corporate ethics, as space in this paper does not allow a full discussion of the subject. However, I am very much inclined to think that taking actions which harm the environment is, at a minimum, morally irresponsible and, in the most flagrant of cases, morally wrong, because of the harm perpetuated onto others.

<sup>3</sup> Friends of Earth Australia, “Prestige oil tanker sinking: making oil companies liable for damage, says friends of the Earth,” (November 20, 2002), [http://www.foe.org.au/media-releases/2002-media-releases/mr\\_20\\_11\\_02.htm](http://www.foe.org.au/media-releases/2002-media-releases/mr_20_11_02.htm) (last accessed December 17, 2007).

Edward Freeman is among the many who have written on this topic. He quotes a 1932 article by Berle and Means: “Corporations have ceased to be merely legal devices through which the private business transactions of individuals may be carried on. Though still much used for this purpose, the corporate form has acquired a larger significance. The corporation has, in fact, become a method for property tenure and a means of organizing economic life. Grown to tremendous proportions, there may be said to have evolved a ‘corporate system’ – which has attracted to itself a combination of attributes and powers, and has attained a degree of prominence entitling it to be dealt with as a major social institution.”<sup>4</sup>

Corporations have been empowered by governments to conduct business in a manner similar to that of individuals yet they remain (or, some could argue, have enabled themselves by virtue of trade agreements, laws, rules and regulations, to maintain themselves) outside of society in terms of morality. Individuals within corporations, and acting on behalf of corporations, are judged differently from individuals outside of those corporations in that the code of moral conduct for both the individual and the business are commonly seen as somehow “different.”

Herein lies one problem. How do we ensure that corporations, and the people who manage and direct corporations, act in an ethically responsible manner to ensure that all stakeholders,

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<sup>4</sup> Adolph Berle and Gardiner Means, *The Modern Corporation and Private Property*, N.Y. Commerce Clearing House, 1932. Quoted in the article, “Shareholder Theory in the Modern Corporation”, by R. Edward Freeman, as published in *Ethical Issues in Business: A Philosophical Approach*, ed. Thomas Donaldson and Patricia Werhane (Upper Saddle River, N.J.: Prentice Hall 1999), 247.



both within and outside of the corporation, are held responsible for their actions? How do we ensure that corporations, and those who manage, direct and own them, act at all times in a moral manner?

### **A Common Vision and Common Values**

For the most part, many corporations, particularly those whose interests are international in scope, see themselves as separate entities from the communities, local and otherwise, in which they operate. When corporations are successful, they benefit the workers, the shareholders, and the communities in which they exist, at least at the local level. When corporations are run with all three of these stakeholders in mind, there appear to be fewer problems. Workers rely on business to provide them with jobs, benefits, and a share of the benefits of the business via wages, benefits and taxes. When working together for mutual benefit, everyone is relatively happy. A critical examination of corporate ethics would have to ask the question: “Is there any value in a common vision, and are there common values between the corporation, the individuals within the corporation, and the communities in which they reside?” A lack of agreement between people, or between people and groups of peoples, such as those within a corporation and those on the “outside”, on what constitutes ethical conduct, acceptable to both sides, could be problematic.

A major problem occurs when the corporation's primary focus is profit above all else, especially when profit is made without consideration for the negative consequences of making that profit, such as profits made through immoral or illegal enterprise, or the detriment of the environment, the shareholders, the workers, or the community. Shareholders can be hoodwinked in various ways by corporate fraud, theft, control of insider information, inefficient management, and overpayments to senior management of wages, bonuses, stock options and "golden parachutes" (huge buyout packages to leave the company). Workers are affected by a focus on profits over wages (and I include benefits with wages), shutdown of operations, lack of re-investment in the local corporate infrastructure (eventually causing shutdowns due to "rising costs" of doing business in an old[er] and less efficient building, for example). Communities are affected if the environment is treated as simply something to use and to discard, when employees are unfairly treated or paid, when taxes are not paid, when business operations are transferred to other locations, etc.

### **The Corporation as an Artificial Construct**

Corporations are artificial constructs. As artificial "beings", in a sense, they are provided with attributes that are also artificial, some of which are based on those that are human in nature: they can own, sell and use property, and use currency. The notion of corporation traces its history from early canon law, when the church was perceived as an entity that was more than its individuals and one that could survive in perpetuity. The notion of corporation has grown

from a group of individuals chartered by royalty, or the papacy (to build bridges or churches), to organizations that employ anywhere from one to many thousands of people and that have income anywhere from showing a loss to dollar gains in the billions. As an artificial construct, the notion of corporation is similar in many ways to the notion of “game,” also an artificial construct, at least in what Wittgenstein might term a “family resemblance.” Both games and corporations are governed by rules, have goals, have structure, include decision-makers, manage resources, have activities aimed at outcomes yet have uncertain outcomes, are fictitious, are separate from the activities of individuals, are interactive, offer a challenge, have active opponents and have competition. There are noticeable differences, in that games are played for “fun” in most instances, although at certain levels of competition, such as professional sporting events, high stakes poker, duplicate bridge and chess tournaments, winning is the most important goal as winning provides more than simple satisfaction. It can also provide monetary gain and status.

The point of bringing up the comparison is this. Rules concerning artificial constructs, such as games and corporations, can be amended for many reasons: to increase or limit competition, to better manage resources, to increase or decrease the numbers who can play, and so on. I do not wish to take the analogy between games and corporations further in this paper. The point is that the rules concerning artificial constructs can be changed to suit. Indeed, rules affecting corporations, their capabilities and their methods of operation have been amended many times over since the notion of incorporation was established. If the rules can be changed, they can be changed in a positive direction; that of adding to the ethics, profit (monetary and, perhaps,

knowledge) and, ultimately, to the happiness of the group as a whole as well as to the individuals within the corporation.

### **The Current Role of Ethics in the Notion of Incorporation**

In Canada, at present, there is no requirement to consider the ethics, or environmental consequences, of corporate actions and decisions during the initial set-up of a corporation. To start an incorporated business in Canada (rules differ according to jurisdiction), one is required to complete forms that, in general, state the following: name of the business; directors' names; type of corporation; number of shares issued; type of business; location of the head office; location of the company's books; business year-end date (for accounting purposes); contact person and contact information. These forms are available to anyone, and anyone can start a business.<sup>5</sup> Completed forms are sent in to the provincial government, along with a cheque to cover the required government processing fee, and a NUANS®<sup>6</sup> report – a report that states that the name chosen for the company<sup>7</sup> is not being used by any other company in that jurisdiction. Although the rules and regulations concerning corporations are

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<sup>5</sup> In some jurisdictions, one cannot be a “director” of a corporation if one has a criminal record, or if one is not at the age of majority, but, other than that, there are few other rules.

<sup>6</sup> Government of Canada, “NUANS® Name Search System,” <http://www.nuans.com/> (last accessed December 18, 2007).

<sup>7</sup> In this paper, I will use the terms “corporation” and “company” interchangeably.

vast<sup>8</sup>, the process for actually starting a corporation is relatively simple and can be done by most interested parties with or without the use of a lawyer. Nowhere in the provincial or federal acts on incorporation are there specific requirements that owners, executives, managers or directors of (for-profit) corporations be required to act in an ethical or an environmentally responsible manner, nor is there an affidavit or an oath to swear to, or to attest, that obliges owners, directors, executives or managers to uphold (any) ethical values or to be environmentally responsible when incorporating a company.

Individuals, outside of a corporation, are socially required to act ethically, and illegal behaviour has a large set of consequences dictated by law, together with its attendant rules and regulations that have been set up by the federal, provincial and municipal governments and through the court system. Individuals are also not required, these days, to sign affidavits or to declare oaths to be ethical or environmentally responsible citizens, except for parts of the former when immigrants take formal citizenship. However, the scope of the effect of actions, or non-actions, of corporations, particularly large or multinational ones, and hence the methods in which they perform their business, can have far greater and wide-reaching effects compared to those of most individuals. Therein lies a major difference between individuals and corporations, their actions, and their approaches to ethics. Because there is a difference in scope, should we expect corporations to act in a more responsible manner than an individual?

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<sup>8</sup> As an example, see the Government of Alberta *Business Corporations Act*, Queen's Printer, [http://www.qp.gov.ab.ca/documents/Acts/B09.cfm?frm\\_isbn=9780779720958](http://www.qp.gov.ab.ca/documents/Acts/B09.cfm?frm_isbn=9780779720958) (last accessed December 17, 2007).

To help answer this question, we will turn to one of the more studied and quoted commentators on the subject: Milton Friedman.

### **A Critique of Milton Friedman**

“There is one and only one social responsibility of business – to use its resources and engage in activities designed to increase its profits as long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud.”<sup>9</sup> Friedman, in this oft-quoted passage, actively argues against any “social responsibility” within business. A business is an artificial construct and therefore “cannot be said to have responsibilities. Only people can have responsibilities.”<sup>10</sup> A corporate executive’s primary responsibility is to the “individuals who own the business.” On the personal side, the executive might have social responsibilities, such as to the church, clubs, family, and charities, but these are divorced from the duties to the business and that is acceptable to Friedman. However, when it comes to business, when one is spending someone else’s money, the executive is serving as an agent of the corporation and not as an individual. The justification for the executive’s actions rests in the principle of the agent acting in the best interests of the corporation.

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<sup>9</sup> Milton Friedman, “The Social Responsibility of Business Is To Increase Its Profits,” (originally published in *The New York Times*, September 13, 1970). In *Ethical Issues in Business: A Philosophical Approach*, ed. Thomas Donaldson and Patricia Werhane, (Upper Saddle River, N.J.: Prentice Hall, 1999), 154-159.

<sup>10</sup> *Ibid.*, p. 154.

Friedman raises two questions concerning the actions of business, and of government: 1) What are the principles of actions, and 2) what are the consequences of actions? Governments have the powers to impose taxes, establish “constitutions, parliamentary and judicial provisions and to control these functions . . . in accordance with the preferences and desires of the public.”<sup>11</sup> The system contains “checks and balances” to ensure the separation in government of executive functions, legislative functions, and administrative functions from the judicial functions of mediation and interpretation of the law.

Friedman believes that it is the function of government to assess taxes to pay for social expenditures: “political mechanisms, not market mechanisms, are the appropriate way to determine allocation of scarce resources to alternative uses.”<sup>12</sup> Furthermore, Friedman is quite clear that social responsibility is, for business interests, not a good idea. Arguments for the “social responsibilities of business”, he says are “notable for their analytical looseness and lack of rigor,”<sup>13</sup> and those that argue for it are “preaching a pure and unadulterated socialism.”<sup>14</sup> Furthermore, on the grounds of consequences, it would be difficult for the executive to “discharge his social responsibility,” even if he could spend the shareholders’ money, because he has little or no idea of ultimate social effects of his actions, how much, how or on what to spend the money, and since he is not an expert on issues outside of his business, he therefore cannot be expected to know anything about the social issues involved.

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<sup>11</sup> Ibid., p. 155.

<sup>12</sup> Ibid., p. 156.

<sup>13</sup> Ibid., p. 154.

<sup>14</sup> Ibid., p. 154.

In addition, since the executive is an agent for the corporation, he does not have a mandate to spend the shareholders' money. On the personal level, he might be fired for taking any action outside of his mandate. Friedman is not so impressed with businessmen who "are capable of being extremely far-sighted and clearheaded in matters that are internal to their business... (but who) are incredibly short-sighted and muddle-headed in matters that are outside of their businesses but affect the survival of business in general."<sup>15</sup>

I will examine Friedman's arguments one by one; first, the concept of artificial construct. He thinks that only people can have ethics and corporations cannot, because of the latter's artificial genesis. This is a plausible argument unless one considers that people too "make up" rules, regulations and laws better to enable them to live appropriately and effectively, without having to concern themselves constantly with issues of safety. In effect, many of our moral rules are not "natural", in any sense of the word; they are instead artificial. Individuals learn a sense of morals, which can be passed on to others or ignored. Unless we believe that our moral rules were passed down to various and sundry men, over the centuries, by Supreme Beings, the only alternative is to think that people, or groups of people, make up the rules, moral and otherwise, that govern their lives. The rules that govern the lives and actions of individuals are as "artificial" as the concept of corporation. Therefore, can we justify corporations not having to "be" moral entities simply based on the artificiality of moral rules? I think not.

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<sup>15</sup> Ibid., p. 158.



What about the corporate role of the employee, manager or executive as agent? On the one hand, Friedman wants us to believe that the same individual can be responsible (as an individual) yet owe nothing to the moral operations of the corporation because of his status as agent, except, perhaps, as an individual within the same society within which the corporation operates. This does not seem to be plausible. How can an individual, as agent, be expected to act in what can be, although not necessarily, two different manners with respect to ethics? This is clearly a cause for concern. An executive, manager or employee cannot reasonably operate in a corporate moral vacuum without the threat of dire consequences for misdeeds. Without corporate morals, the individual as an employee ends up having to adhere to a type of moral dualism: with rules and regulations about private life being clear and structured, but with moral rules and regulations about corporate life being, at best, paid low credence, if not ignored completely under Friedman's stance.

As an "agent" of a corporation, the employee is obliged to place the interests of the company and its shareholders above his own interests. The extension is that the employee then places his "individualness," and hence his personal morality, below the level of the agency requirement, creating a hierarchy of morality. The corporation does not need to concern itself with ethics, as this is best left to the individual and to the government. This duality, and its entailed lack of corporate moral focus, is problematic for the individual and for society as a whole. Having a moral society wherein one class of social entity is perceived as being outside of the scope of ethics because of its very nature, provides ample opportunity for misunderstanding at best and for unethical behaviour at worst. Placing the corporation outside

of, or in a special place within, society's moral fabric is fraught with possibilities for questionable ethical behaviour and for ethical impropriety. Corporate agents are required to place corporate and shareholder interests before the interests of the individual and, by extension, society as a whole.

Can we equate being "socially responsible" to being "ethical"? Friedman does not make this point. He lays social responsibility under the realm of politics. Social responsibility includes ethics and its resulting rules and regulations, if one believes that society determines meaning, as espoused by Robert Brandom.<sup>16</sup> Robert Frank makes a similar point to Friedman's: that the use of the term "social responsibility" was potentially misleading about the role of the corporation, and would result in "excessive regulation."<sup>17</sup> However, according to Frank, Friedman recognized that there are instances in which a company, as a local employer, might want to add to the community – the addition in this sense might be considered a form of social responsibility. In his arguments concerning Friedman, Frank points out that improving wages might have the benefits of reducing internal corporate pilfering or serve as a method to entice more performance from employees.<sup>18</sup>

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<sup>16</sup> Robert Brandom, "Asserting," *Noûs*, Volume 17, No. 4, (November 1983): 637-650.

<sup>17</sup> Robert H. Frank, "Can Socially Responsible Firms Survive in a Competitive Environment?" In *Codes of Conduct: Behavioral Research into Business Ethics*, (New York: Russell Sage Corporation, 1996), as published in *Ethical Issues in Business: A Philosophical Approach, 6<sup>th</sup> Edition*, ed. Thomas Donaldson and Patricia Werhane, (Upper Saddle River, N.J.: PrenticeHall, 1999), 159.

<sup>18</sup> *Ibid.*, p. 159

Friedman uses a rather poor argument (a form of name-calling), for a corporate non-moral stance, by saying that managers and executives are “short-sighted” and “muddleheaded” in matters that are outside of their particular business. The inference is that business people are incapable, inexperienced, or otherwise unable to be involved in corporate ethical matters. Leave ethics to those who know about these things. That line of reasoning would lead us to believe that only those who have studied ethics (i.e., philosophers who specialize in this study?) should involve themselves in this subject. I would partially agree with Friedman, that many people are not sufficiently trained or have not sufficiently studied ethical theory adequately to comment on the subject. However, this is not necessarily solely a problem for business. Ethical commentary is often left in the hands of those whose training is in another subject area, but that does not excuse a business person from abdicating responsibility for moral conduct (this is analogous to “ignorance of the law is no excuse”).

Friedman’s dismissal of a requirement for businesses to be concerned about ethics, because executives would not be fulfilling their primary responsibilities to shareholders if they spent the shareholders’ money on anything that did not directly result in increasing shareholder profits, is also poorly reasoned. Individuals and groups of individuals, including corporations, live and function within society. To operate in an efficient manner, adherence to a consistent, and consistently promoted, set of moral precepts by all entities within that society is preferred and, in many cases, required by laws and social customs. Enabling one individual, or faction within a society, to operate without participating in or adhering to its ethical principles fails to promote the overall ethical standards of which society sets up a form of elitism that calls

into question the very basis of ethical egalitarianism – all aspects of a society must endorse and conform to the same basic ethical standards, rules and regulations or risk the problems associated with inequality, such as the possibilities of increased economic injustice, reduced living standards, increased mortality and morbidity risks, a reduction in the motivation to “get ahead,” and a decrease in the credibility applied to government economic policy by those negatively affected.

### **Other Arguments Concerning the Inclusion of Ethics in Business**

Bird and Waters, as well as Edward Freeman, have written about other arguments used by the corporate community to advocate the separation of morals and ethics from the realm of the business. I will classify these objections as falling into three main categories: objections to concept; objections to ability; and objections to process.

#### **Objections to Concept**

One of the objections to the addition of ethics to business is that the very act of doing so would “institutionalize” ethics. The word “institution” is derived from the Latin words “*institutum*, meaning *facility* or *habit*; (and from) *instiuere* meaning *build*, *create* or *educate*.”<sup>19</sup> This very definition appears to coincide with the nature of a corporation, so that, at

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<sup>19</sup> There are several alternate definitions for the word “institution,” including ones which refer to institutions of a specific type (i.e., a financial or educational institution). See The Free Dictionary, “Institution,” <http://encyclopedia.thefreedictionary.com/institutes> (last accessed December 17, 2007).

face value, the objection does not appear to conflict with the nature of a corporation at all. Institutions are governed by rules and regulations<sup>20</sup> that can be conservatively interpreted “to the letter,” or more liberally viewed as providing guidelines that are subject to interpretation and depend on circumstances. By “institutionalization”, is the objection rather that ethical (and environmental) rules are seen as being too rigid or too intrusive on business affairs? The objection is then what I might term “restrictionality”, with restrictions on doing business the point of contention. It is not clear that the perceived threat of “institutionalizing ethics” is actually an objection at all. The objection is instead one of restriction, with fear of the consequences of restriction being the motivating force.

Another objection to adding ethics to business is the perception among some that, as Bird and Waters discussed, of moral talk being perceived as personal, or private.<sup>21</sup> This argument does little to clarify the question of whether or not ethics has a place in business. If individuals are the only holders of ethical title, then groups of individuals which are categorized by their group name would hold title to at least some shared ethical values, and these shared values could be attributable to the group as the nature of the group progressed through change.

(Individuals who do not share ethical values are unlikely to exist together in a well-functioning group, at least over the long term, as value conflicts would eventually surface that

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<sup>20</sup> Government of the United Kingdom, “Company Names,” Companies House, (August, 2007). The United Kingdom restricts the use of the word “institution” to “those organisations which are carrying out research at the highest level or to professional bodies of the highest standing.” See <http://www.companieshouse.gov.uk/about/gbhtml/gbf2.shtml#three> (last accessed December 17, 2007).

<sup>21</sup> Frederick B. Bird and James A. Waters, “The Moral Muteness of Managers,” *Ethical Issues in Business: A Philosophical Approach*, ed. Thomas Donaldson and Patricia H. Werhane (Upper Saddle River, N.J.: 1999), 175-188.

would undermine the group as a whole.) Eventually, the shared values would be “owned” and passed on to other, future members by the group (or institution). “Group” ethics are shared between individuals within the group. Underpinning the ethical code is a set of common beliefs of what is considered to be right and wrong. That code now “belongs” to the group, regardless of its origin(s). The objection centres around whether or not a “group” can hold ethical concepts, and it is certain that groups can do so, as witnessed by religious organizations, court systems, and various levels of governments, all of which hold ethical codes and methods of persuasion.

There is a corporate objection, concerning a lack of compelling authority for corporations to be “ethical.” Certainly, there isn’t an eleventh commandment saying, “Corporations shall operate ethically,” nor is there one specific law, rule or regulation that asks corporations to do so.<sup>22</sup> However, governments can require corporations to act ethically by passing laws and by setting consequences for non-compliance. Corporations exist only as a result of legally imposed rules and regulations, all of which can be changed by the lawmakers if and when circumstances dictate. The argument of lack of compelling authority holds no weight.

Another objection, pointed out by Bird and Waters, is that of a blurred line between the responsibilities of public and private institutions; private institutions in this case meaning corporations. In other words, the question is: who is responsible for moral action and ethical

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<sup>22</sup> There are various industry association rules and regulations, such as The International Organization for Standardization’s ISO: 9000, which set certain standards. The adoption of these standards, by corporations, is not required by law. See <http://www.iso.org/iso/home.htm> (last accessed December 17, 2007).

decision-making, the government or the private corporation? The objection, as discussed earlier in this paper, is the one offered by Friedman: ethical discussion and social responsibility lie outside of the business realm. This attempt to separate business from other organizations and individuals is not compelling either, as business “lives” within the same world, uses the same resources, and affects the lives of people in the same manner (albeit with a different scope, and perhaps not crucially, in many circumstances) as other types of institutions and individuals. Asking that business be separated from other organizations in the world and therefore that business should not be held accountable because it is “separate” is an argument which has been attempted by many groups over the years, including various religious and political entities. In the end, those in power have the say as to who holds what levels of ethical responsibility. It is not for one “private” group, such as the business lobby, to say who can or should hold ethical responsibility. That ability rests with those in power; theoretically with the electors in a democracy.

Similarly, the argument that further rules and requirements to ensure that businesses act ethically are somehow a “threat” to the “privacy” of business interests also does not hold water. Privacy in business is required on some levels, especially to maintain confidentiality of client records, to keep trade secrets (bottled beverage recipes, for example), manufacturing processes, future marketing plans and competing product/product line advances. The corporate use of “privacy” can extend beyond merely holding “trade secrets” to deliberate corporate withholding of information affecting financial, ethical, environmental or public safety issues. In business, there are layers to the issue of privacy, in terms of disclosure requirements. Some corporate information, such as beverage recipes, must be kept private to

ensure that a corporation survives and prospers. The issue is not “privacy.” It is the non-disclosure of corporate ethical, environmental and public safety issues.

Governments in the past have stepped in to stop corporate interests when the corporate interests dramatically and negatively affected the lives of the very populations that elected them and allowed the corporations to exist and operate. Witness various attempts to “privatize” the water rights to an entire area’s water supply.<sup>23</sup> Governments in some cases have privatized the water supply; in other cases they have set up public utilities. Both types of institution have been criticized for charging too much, not investing enough in infrastructure, and not providing improved and/or expanded services. Governments have stepped in to reverse previous decisions to privatize the supply. In other types of businesses, governments have wrested power and ownership from corporations where it was deemed to be in the best financial interests of the country (i.e., the 1956 nationalization of Sun Life Assurance Company assets by India, or the 2006 Bolivian government’s seizure of oil and gas assets on its soil).

The threat of nationalization can be used as a case in point for another argument – the blurring of the roles of corporations and those of government; this is something that corporations wish

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<sup>23</sup> World Health Organization, “Global Water Supply and Sanitation Assessment Report 2000,” in [http://www.who.int/docstore/water\\_sanitation\\_health/Globassessment/GlobalTOC.htm](http://www.who.int/docstore/water_sanitation_health/Globassessment/GlobalTOC.htm), and Public Broadcasting System, “The New Economy of Water,” on [http://www.pbs.org/pov/pov2004/thirst/special\\_neweconomy.html](http://www.pbs.org/pov/pov2004/thirst/special_neweconomy.html). Adapted from Peter H. Gleick, et al, “The New Economy: The Risks and Benefits of Globalization and Privatization of Fresh Water,” (February, 2002), The Pacific Institute, [http://www.pacinst.org/reports/new\\_economy\\_of\\_water/new\\_economy\\_of\\_water\\_ES.pdf](http://www.pacinst.org/reports/new_economy_of_water/new_economy_of_water_ES.pdf) (last accessed December 17, 2007).



to avoid. Again, harkening back to Friedman, the argument is that corporations want to see clear-cut distinctions between the roles of government and the roles of business. The argument progresses to say that adding additional responsibilities to corporations will take their time, efforts and energies away from their “real” businesses, which will make them less competitive. “Corporations are not in the business of providing social responsibility,” is the argument on which this is grounded. If businesses are required to get into the “ethics game,” their profits will suffer (because of the time and effort required for a redirected focus). However, this is more an argument about the perceived negative of having to change than about the lost profits. Change can result in profits.<sup>24</sup>

An ethical company can expect ethical people to be drawn to its products and services, whereas unethical companies can definitely expect to lose customers. Mitsubishi Motors suffered severe financial problems, and a drop in share prices, in 2000, after a massive decrease in sales was spurred on by the revelation that it had deliberately not issued recall notices for safety-related problems with its automobiles after the problems had become known to the factory.<sup>25</sup> The company is still recovering today, seven years later, from these charges. The “line-blurring” of responsibility is not a reality of today’s business environment, merely an attempt to stave off the threat of any perceived additional onerous obligations. *The*

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<sup>24</sup> Profits, for example, may result from not having to pay fines for non-compliance to laws, such as the United States’ *Sarbanes-Oxley Act* of 2002.

<sup>25</sup>Corporate Watch in Japanese, “Mitsubishi Motors facing criminal charges over cover-up,” (August 23, 2000), corpwatch.org, Jca-net, <http://www.jca.apc.org/web-news/corpwatch-jp/83.html> (last accessed December 17, 2007).

*corporate desire to avoid ethical responsibility can be viewed as a form of cost-cutting and tax minimization.*

Is there a differentiation that can be drawn between corporate self-interest, government self-interest, and personal self-interest? Clearly, neither governments, nor corporations, would need to exist without people. Government interests rest with the people whom they govern; corporate interests also rest with the people, or perhaps a limited set within the same group of people. Individuals require ethics when in social groups. (I would be hard pressed to say that a person alone on a desert island would require a codified set of ethics or moral standards, although one might argue that this individual could devise rules of behaviour with which to live in his or her environment.) An individual's ethics are often defined by social groups such as family, church, school, courts and governments. As employees of corporations, individuals are expected to "obey" written and unwritten rules, such as to show up for work, not to steal corporate assets, and to treat clients well. It only follows that individual moral codes are inevitably drawn into the corporate fold (i.e., it is wrong to steal). If corporations are made up of individuals who live by moral codes, then where is the objection that corporations themselves cannot or should not be required to be "moral?" The objection, that it is not in the best interests of business to include ethics in its methods of operation, fails to provide a compelling argument. Evidence shows that good ethics is good business.<sup>26</sup>

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<sup>26</sup> Edward S. Petry, "Solid Corporate Ethics Can Be Good Business Too," Hellenic Communication Service, L.L.C., <http://www.helleniccomserve.com/solidethics.html> (last accessed December 18, 2007).

But what, corporate moral objectors say, do we do with moral dilemmas that are not clearly defined? Obviously, many situations are not ambiguous, as they are covered under various legal precedents, government rules and regulations. Ambiguous situations can arise as a result of unanticipated change. Who could comment, prior to the 1980s, on the privacy requirements brought about by the computer age? Personal privacy was not the issue it is today. As technology changes, so do rules and regulations, albeit not as quickly. Unfortunately, the pace of change in certain sectors, such as technology and information services, means that the changes are often made in a reactionary manner, leaving a gap between innovation and the means to properly deal with infractions within the system brought on by those changes. Ambiguity can only be argued as an objection over the short term, and lasts only until such time as the governments and court systems and other oversight bodies can catch up with the ramifications of the changes. Ambiguity,<sup>27</sup> be it structural, lexical, or semantic, is resolved following thorough analysis, something that successful, modern business corporations are well suited to perform. Ambiguity is not a sufficient reason for corporations to reject the inclusion of ethics in their business practices.

### **Objections to Ability**

Corporations object that their abilities to “manage” ethical values within their businesses are not strong, that the time and effort to do so are seen as threats to their own effectiveness in managing their businesses and that attempting to do so is outside of the scope of their businesses. They also put forward the objections that observing ethical values undermines

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<sup>27</sup> Steve Hoenisch, “Identifying and Resolving Ambiguity,” (August 20, 2004), criticism.com, <http://www.criticism.com/linguistics/types-of-ambiguity.php> (last accessed December 18, 2007).

their authority (to conduct business as they choose). Another objection raised by corporations is that of “authority,” both their own authority to make ethical judgments over internal corporate matters (without reference to an “outside” ethical guide) and to the perceived decrease in the acceptance of societal “authorities” overall. For example, a drop in church membership, with churches historically supplying moral leadership, could be interpreted as a decrease in the acceptance of moral authority. A decrease in membership might come about because of situations where there is a conflict of values between the church teachings on a subject, such as abortion, and the will of some parishioners.

What exactly is the “ability” to manage ethical values within a corporation? To have “ability,” the corporation’s employees, managers, executives and directors (current and new hires) require knowledge of rules, regulations and processes to conduct business ethically. Ethical value interpretation requires “permission” to be able to act ethically without fear of reprisal from those who demand that the ethical lines be reinterpreted, or blurred, or ignored to accomplish a profit motive. Permission is “allowed” where there is firm “whistleblower” legislation, or when a corporate culture encourages internal criticism without fear of reprisal. Fear and silence<sup>28</sup> are indicators of states of “no permission.”

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<sup>28</sup> Marianne M. Jennings, *Seven Signs of Ethical Collapse* (New York: St. Martin’s Press, 2006), 59-97.

Passage of the *U.S. Sarbanes-Oxley Act*,<sup>29</sup> in 2002, and the Ontario Government's *Bill 198, Keeping the Promise for a Strong Economy Act (Budget Measures), 2002*<sup>30</sup>, radically affected how corporations in those jurisdictions, and others, are able to operate. Both the *Act* and the *Bill* made changes to the rules on how corporations are governed, and how their finances are to be disclosed, and tightened rules affecting the practice of public accounting. The passage of legislation provides "permission" by "authority" (of the government) to ensure that corporations, their employees and directors, perform certain financial duties in a publically acceptable manner. As well, it requires the provision of the "ability" as a measure of ethical performance, at least in terms of its coverage (i.e., financial reporting). However, the *Act* and the *Bill* are limited in scope to financial behaviour and controls, and do not cover other areas of corporate ethical behaviour, such as environmental responsibilities and duties.

The objections to "ability" are forced off the table when legislation is passed requiring corporations to act in a certain manner. Suggesting that ethical responsibility is outside of their scope of responsibility is at best short-sighted and, at worst, an indication that the corporation espousing this line cares little for ethics in general. Living with ethical responsibilities in mind promotes prosperity and harmony for all people.

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<sup>29</sup> Government of the United States, *Sarbanes-Oxley Act of 2002*, U.S. Government Printing Office, in [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107\\_cong\\_bills&docid=f:h3763enr.tst.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_bills&docid=f:h3763enr.tst.pdf) (last accessed December 17, 2007).

<sup>30</sup> Government of Ontario, *Bill 198, Keeping the Promise for a Strong Economy Act (Budget Measures), 2002*, in [http://www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&BillID=1067&isCurrent=false&ParlSessionID=37%3A3](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=1067&isCurrent=false&ParlSessionID=37%3A3) (last accessed December 17, 2007).

Edward Freeman discusses ability in terms of individual employee lack of awareness, given that many jobs are specific and not given to seeing an overview. A case in point might be the engineering design of automobile components, wherein individual engineers only work on specific components and do not see the entire car. Is the engineer who designs the dashboard responsible for a problem occurring with the fuel tank design or, in the case of the Ford Pinto,<sup>31</sup> the location of the gas tank with respect to the frame of the car? The engineer who is responsible only for the design of the automobile dashboard could plausibly deny responsibility for problems (such as exploding gas tanks as the result of collisions) caused by areas outside of his or her control. This is an example of the “decreased ability” of an employee.

Employees could also argue that their abilities to affect change, or to act ethically, would be decreased in situations where they are trapped into their jobs by their very specialized knowledge set, working conditions, contracts or desire for the next contract, lack of other outside opportunities, personal debt, or requirement for money to feed themselves and their families. These arguments do not stand up to any rigorous testing, as the courts take a dim view of doing wrong, especially when there is knowledge that the performance of one’s duties contravenes laws, rules and regulations. A “distance-from-situation” objection could also be

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<sup>31</sup> For a legal commentary on the case, see “The Ford Pinto Case,” by Christopher Leggett, as published on <http://www.wfu.edu/~palmitar/Law&Valuation/Papers/1999/Leggett-pinto.html>. Also see, “Disasters of the Ford Pinto,” no author named, <http://www.fordpinto.com/blowup3.htm>, which gives a history of Ford’s ethical lapse. For an engineering point of view, see Engineering.com., <http://www.engineering.com/Library/ArticlesPage/tabid/85/articleType/ArticleView/articleId/166/Ford-Pinto.aspx> (these web sites last accessed December 17, 2007).

argued. Similar to a worker being “trapped” by the above-mentioned employment-related issues, one could argue that distance from an ethical issue, its context, requirements, specialized knowledge requirements, or working conditions, is a factor in how and if an employee, executive or manager is able to recognize, and deal with, the issue adequately and appropriately. In terms of corporate responsibility, laws, rules and regulations continue to be tightened to ensure that corporate executives and managers – those at the top of the corporate “ladder” - are held responsible for what happens within their organizations. In the United States and in Canada, some of this “tightening” has been relatively recent, caused by government and public reaction to the accountability of Enron executives and their outside accounting firm, Arthur Andersen, in the massive failure of that energy company and the resulting ill effects on employees, pension funds and investors.

### **Objections to Process**

Some corporate objections fall into the category of objections to process, with process referring to the practical implementation of ethical understanding. Freeman notes process objections, which he characterizes as perceived threats to business harmony, efficiency and flexibility. Some corporate managers, executives and directors could critique the imposition of corporate ethics as being intrusive, disruptive or confrontational as well as being a threat to efficiency and to managerial flexibility.

We will now look at two examples that combine a number of these criticisms. In the first example, corporation “A” has human resource rules that specify the process for firing an

employee. An employee has been hired on a full-time basis and is found during his probationary employment period not to get along with co-workers. Harmony of the office is at risk, as is efficiency, because the newly hired worker is bothering people and taking their attentions from their assigned tasks. The corporate Human Resources (H.R.) policy provides specific rules for the termination of employees, including a requirement to meet privately with the employee to discuss the situation and resulting problems, followed by another meeting and the provision of a formal letter stating the problem and suggesting the remedial action as well as the results of failure to comply. All employees are to be given three chances to comply with the job's requirements and to correct the problem. The purpose of the H.R. rule is to ensure that no employee can be singled out for termination on the "whim" of the company or a manager, and to assist the employee with any necessary assistance if it comes to light that the employee has health issues of which the management was formerly unaware. However, these rules affect the company's flexibility to manage as it sees fit. Rather than simply letting the new employee go after the first day, in this case, the company is forced to go through a process that ensures fair treatment.

With this example, we have a case that clearly falls into an ethical decision. If the manager is not trained in, or aware of, the H.R. policy, then the employee might simply be asked to leave and not return after the first day. This situation provides a good example for critics of the use of ethics within corporations. However, the rule was established by the corporation to uphold the company's good name and to dispel potential negative publicity if an employee in a similar situation had medical issues, or discovered a wrong-doing within the company. In this instance, although the critics have a valid point, the over-riding consideration is the outside



perceived view that the company does the “right thing.” Certainly, the imposition of any law, rule or regulation from inside or outside of the corporation, affects corporate harmony, efficiency and flexibility. It is up to the corporation to take a positive approach to the restrictions and to work with them to their advantage. The alternative is to lose efficiency and flexibility, as well as potential long-term profits.

The second example concerns Ford Motor Company and its Pinto model car. Ford engineers knew that they had designed the Pinto with its gas tank located in a relatively unprotected section at the rear of the car, and that this was a potential safety issue. The cost to fix the gas tank problem was reported to be only eleven dollars per vehicle, but the engineers wanted to keep the cost under the target. Accidents with the Pinto resulted in many deaths and grievous injuries caused by the gas tanks erupting into flames when the car was involved in a rear-end collision. The question is, as the President of Ford at the time, was Lee Iacocca to blame? Can he be held responsible? The answer has to be yes, as “the buck has to stop somewhere.” Responsibility has to rest with those who are in charge of the direction of the company. Executives have to set not only the financial direction for the company, but also the ethical direction as well. Corporate executives and directors hold the keys to what is going on within their companies, what is causing harm (or might potentially cause harm), what problems are reported (and the reporting process), whether or not the situations are acted upon and how they are acted upon. A cost-benefit analysis that is used to improve the corporate bottom line is not sufficient, in itself, to make a corporate decision, especially in situations where the

effects of the decision could result in injuries and death, such as in the Pinto case.<sup>32</sup>

Corporations have the ability to act mindful of, and in response to, good ethical practices, because for the most part they are comprised of people who have ethical abilities. There are increased profits and social benefits to be generated by the public confidence brought about by having higher standards. Practical issues for business cannot entirely rest on financial ramifications of corporate decisions.

Freeman also mentions three other “process” objections: internal dissent, neglect of abuses, and commitment. The question of internal dissent is not necessarily that belonging solely to corporate ethics. Internal dissent can have a variety of causes, including psychological, social, and political. Finding fault for internal dissent is not easy, because of the varying potential causes.

Can it be said that companies who neglect ethical abuses might tend to propagate more ethical issues? This is an extension of the “slippery slope” argument. Let one abuse go and it becomes “easier” to let the next situation slide. However, the argument does not necessarily apply to all ethical issues. If an employee speeds at, say, five kilometres over the speed limit in a company vehicle, does this necessarily mean that the same employee will overlook or perform a more serious transgression? There is no real way of knowing because, in each case, there could be a large number of variables.

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<sup>32</sup> R. Edward Freeman, “Shareholder Theory in the Modern Corporation,” in *Ethical Issues in Business: A Philosophical Approach* by Thomas Donaldson and Patricia Werhane (Upper Saddle River, N.J.: Prentice Hall, 1999), 247-257.

Corporate commitment to being ethical is a necessary ingredient of modern corporate planning and, without that ingredient, ethical “action” is largely talk. According to Bird and Waters, an unwillingness, by managers, to adopt ethical attitudes and actions, which they perceive to be impediments to harmony, efficiency, or self-sufficiency (because of their intrusiveness), or because of their “confrontationality” breeds a sense of moral muteness, and creates a sense of moral amnesia.<sup>33</sup> The inefficiencies and distraction of moral language, because of its perceived inefficiency, inexactitude and “softness,” lack of rigour or force do nothing to help the question at hand. Freeman says that ethical language “is too esoteric and idealistic.”<sup>34</sup> Besides moral amnesia as a consequence, Freeman sums up that “inappropriate narrowness in conceptions of morality, moral stress for individual managers, neglect of moral abuses and decreased authority of moral standards” are all a result.

The argument that people in business are not trained in ethics and therefore should not be obliged to spend their time and efforts working in that area implies that, because of a lack of formal (or otherwise) education or training in the study of ethics, business people may not be competent to perform ethically. Certainly, moral language and concepts comprise an area of study that can be complicated. The answer to the very question of what constitutes “good” has been attempted by philosophers, religious leaders, politicians and others for hundreds of years.

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<sup>33</sup>Frederick B. Bird, “The Moral Muteness of Managers,” in *Ethical Issues in Business: A Philosophical Approach*, ed. Thomas Donaldson and Patricia Werhane (Upper Saddle River, N.J.: Prentice Hall 1999), 175-188.

<sup>34</sup> *Ibid.*, 180.

In the next section, I will examine different theories of the sources of ethical value that can be used by business. McDonald and Pak<sup>35</sup> list several types of ethical theories that have seen study over the years: self-interest; neutralism; justice and categorical imperative; hedonism: extreme selfishness; utilitarianism: greatest good for the greatest number; pragmatism: whatever minimizes conflict; salvation: (a) good works earn redemption, and (b) isolation, meditation, devotion; Golden Rule (“treat others as you want to be treated” in a similar situation<sup>36</sup>): based on faith, charity and reciprocity; divine right: maintenance of the pecking order; egalitarianism: push down the rich and bring up the poor; paternalism: protection and security; and physiocracy: nature is sacred.

Each of these areas of study has its proponents, its critics, its plusses and its minuses.

Corporate spokespeople can use any of these arguments in support of their specific agenda, particularly those of self-interest and perhaps even some of those behind hedonism.

Opponents of business self-interest are relegated by the corporate establishment to the backwaters of egalitarianism or, from a political perspective, a left-wing agenda. Several of these sources of ethical value can be safely ruled out, I believe, as forming a solid basis for corporate ethical value: justice and the categorical imperative; neutralism; salvation; Golden Rule; divine right; paternalism; egalitarianism; and physiocracy. These eight sources do not fully underpin the primary reason that corporations exist: to maximize profits to shareholders.

In other words, these particular sources are better suited to support an individual’s ethics than

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<sup>35</sup> Gael McDonald and Patricia C. Pak, “Philosophies in Ethical Decision-making,” *Journal of Business Ethics*, Vol. 15, No. 9 (September, 1996): 977.

<sup>36</sup> Harry J. Gensler, “The Golden Rule,” John Carroll University, <http://www.jcu.edu/philosophy/gensler/goldrule.htm> (last accessed on December 18, 2007).

a corporate ethic. That is not to say that these sources are wrong in themselves. The idea of a sense of morals developed on the basis of the Golden Rule appeals to me personally. A group ethic, in order to continue to exist, must reflect the ethics of people within that particular group. If no one in a particular culture, or group, respects a law that prohibits something - driving over the speed limit for example - then the likelihood of people within that group respecting and obeying the law is minimized. As a corporation is set up primarily to maximize profits to shareholders, its ethical standing must reflect a corporate view. Many of the above sources do not fit the bill. This is not to say that people within a corporation cannot adopt one of these aforementioned eight theories. It simply means that the likelihood of a corporation adopting the theory as its primary ethical theory for business is very unlikely. That leaves us with utilitarianism, self-interest, hedonism and pragmatism as the only potentially viable bases for corporations to consider adopting.

Utilitarian moral theory, in very simple terms, is the theory of providing the greatest good to the greatest number of people.<sup>37</sup> As a corporate ethical basis, it seems this can to be ruled out almost immediately, as the purpose of a corporation is to provide the greatest (financial) benefit only to its shareholders, not to society in general. I would agree that a limited form of utilitarian argument could also be made in support of corporations: act for the greatest good for the greatest number “of our shareholders”; however, this argument would easily be turned

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<sup>37</sup> Kenneth McLeish, ed., *Key Ideas in Human Thought* (New York: Facts On File, Inc., 1993), 768.

over as not being utilitarian at all in that there is only a small percentage of the total population that actually gains by corporate profit.<sup>38</sup>

It could also be argued (I suspect more tongue-in-cheek than anything else) that, once established, corporations tend to act as if they have a “divine right,” in that their decisions to maximize profits to shareholders without acknowledging responsibility for the negative consequences of their operations, such as environmental degradation. Successful corporate pressure to establish free trade (meaning the withdrawal of financial and political barriers to the conduct of business across borders) zones in North America and elsewhere has enabled businesses to beg off of, and out of, local ethical actions by saying that these “international” agreements supersede national laws and that to “break” the international agreements would lead to economic disadvantage for the corporations. This is an extension of a form of “divine right” to act as they please. It must be pointed out that corporations only exist as legal entities and that laws can be changed, if necessary, to ensure that citizens are not harmed by individuals or groups, including business interests. However, courts can only act based on established laws and their interpretation, and politicians control what laws are introduced and passed. Therefore, if politicians introduce and pass laws that enable corporations to act with corporate self-interests in the forefront, without adding sufficiently encompassing rules and

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<sup>38</sup> This could be conceived as a controversial claim, as corporations pay taxes, at least a portion of which is used for social purposes. Corporations also provide jobs and contribute either financially or “in kind” by allowing employees to “volunteer” for such things as charitable events on “company time.” The question here is the understanding of the “greatest good for the greatest number.” Corporations, by law, are required to make profits for the benefit of a “limited” group of individuals, not for society as a whole. Hence, I refer to this claim as a “limited” form of the utilitarian moral basis.

regulations governing corporate conduct, without establishing and properly empowering oversight bodies and without establishing sufficient penalties for breaking the law, then there is an “open” invitation for corporations to act only in their own self-interest, to ignore and flaunt rules that limit their conduct and to ignore even the will of the general populace.

Of interest is a comparison between ethical egoism and the corporate form (corporate egoism). In ethical egoism, consequences that result in good for the individual agent outweigh all other goods, including the public good. Universal ethical egoism continues this train of thought by offering that, if the individual truly acts in his or her self-interest first, then that individual would do things that promoted that self-interest, including not hurting others, being just, prudent, honest, trustworthy and practise the other cardinal virtues of maintaining temperance, faith, hope and charity. The corporate form draws its comparisons more from the individual agent side than the universal side, i.e., the good of the corporation outweighs all other goods, including the public good. We have seen this argument before, in the examination of Friedman’s contention. The “universal” advancement could be taken to apply to the ethical and environmentally responsible corporation in that the corporate value system would include a commitment (by the organization, its employees, or both) to the cardinal virtues.

That leaves us with self-interest and pragmatics to consider as primary and sufficient sources of ethics for corporations. Self-interest has its share of problems, firstly because it can be argued that the definition of “self” in self-interest contains many selves: the corporate entity; the shareholders (as a group); the stakeholders (as a group); the management and employees (as a group); the corporation as a part of its community (versus another corporation within its

community); and the corporation as part of its industry group (versus other industry groups).

The entire question of self-interest then becomes an issue of: “whose self-interest?”

Arguments can be made that the scope of self-interest is not simply corporate because there are many other stakeholders who are able to benefit from the existence of the company, including the various levels of government that receive corporate taxes.

One of the questions, pertaining to self-interest, is to ask who the action, moral or corporate, affects. In the moral sphere, there are two types of motivations: agent-focused and agent-neutral. In the former, the agent acts for self-interest, with self-interest sometimes including the interests of close family and friends. In the latter, the agent acts for reasons other than selfish ones. A combination of the two motivations could be made, such as cases in which something was good for the community and good for the individual, something that is good for the individual as an individual but bad for the individual as a community member or something that is bad for both the individual and the community. In the business world, corporate self-interest is the obvious and usually stated (by the corporation) motivator. Self-interest here includes interests of the corporation as agent, the directors, executives, managers, shareholders and employees, all as part of the corporation, not as individuals. This does not rule out self-interest in the agent-neutral sense, and corporations can and do allocate some time, energy and money to support worthwhile causes (i.e., charities such as the United Way). One of the differences between corporate agent-centred and agent-neutral philosophies is contained in the primary focus of each, with corporations relegating the majority of their time, efforts and resources toward their primary goal of maximizing profits to shareholders, the



agent-focused side. The primary responsibility of the corporation as agent is to the shareholders.

### **The Flaunting of Self-interest - Some Corporate Examples**

The ability of corporations, such as Irving Oil in New Brunswick, to move their head offices to offshore “tax havens,” and to establish subsidiary offshore companies, thereby attempting to relieve themselves of their social responsibility (in the form of having to pay Canadian corporate taxes), is an example of this flaunting of self-interest and the abdication of social responsibility.

The Irving example<sup>39</sup> is just one of many that show how a multinational corporation uses existing laws, rules and regulations to circumvent local requirements to act in a socially responsible or an ethical manner. Irving, the company, did what it is mandated to do for its shareholders (mainly the owners, as it is a private, family-owned business); it moved its head office location to another country to avoid Canadian corporate taxes, thereby maximizing profits to its shareholders. Technically, the move was not illegal, as it followed what it was legally allowed to do. The question then is, although the move was “legal,” was it morally the right thing to do? Both the federal and the provincial governments (that includes you and me, and all other Canadian taxpayers) are out of pocket potentially to the tune of millions of

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<sup>39</sup> William H. Cooper, “Trouble in Paradise,” Canadian General Accountants Magazine Online, (February, 1997), [http://www.cga-canada.org/en-ca/AboutCGACanada/CGAMagazine/1997/February/Pages/ca\\_1997\\_02\\_ft2.aspx](http://www.cga-canada.org/en-ca/AboutCGACanada/CGAMagazine/1997/February/Pages/ca_1997_02_ft2.aspx) (last accessed December 18, 2007).

dollars in taxes that are no longer required to be paid.<sup>40</sup> The company can argue that it provides goods and services and jobs to thousands of people, particularly in the Province of New Brunswick and thereby does its share of “civic” duty anyway, more than many, if not all, other employers in that province and that it is, therefore, not right to criticize the company for only doing what it was allowed to do by law. However, the company has had its share of government handouts, government-backed financing, and incentives (some examples being the Canadian frigate program, with ships built at the Irving shipyard in St. John; the use of government lands by Irving for its lumber, pulp and paper operations, etc.). In one sense, it turned its back on New Brunswick and Canada by moving its head office to another country.

The intent of this is not to pick on Irving, but to use the example as a discussion point.

Certainly, Canada Steamship Lines<sup>41</sup> and many other companies have used this type of tactic to avoid taxation responsibilities. The case of a Canadian company’s mining operations in Papua New Guinea offers classic examples of some of the ethical pitfalls that surround corporate decisions.<sup>42</sup> Barrick Gold’s open pit mining operations in that country, particularly at the Porgera Valley Mine, in the Papua New Guinea province of Enga, is providing jobs and spurring the local economy far away from its agrarian roots. In the past, the indigenous

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<sup>40</sup> Ibid. Taxation rules have since been tightened up. Yet, companies continue to flaunt social responsibilities by moving jobs from Canada to overseas locations such as India, or the Philippines, leaving an economic toll on the people who once occupied the now displaced jobs. On the other side of the coin, corporations could be said to be doing their part in helping to relieve overseas poverty by providing opportunities, in the form of jobs, in these economically depressed countries.

<sup>41</sup> Glen McGregor, “The Transition,” in the *Ottawa Citizen*, as republished on the Canadian Coalition’s website, <http://canadiancoalition.com/China/MartinConflictsOfInterest.html> (last accessed December 17, 2007).

<sup>42</sup> David Martinez, “Barrick Gold Transforms Pacific Island,” CorpWatch, <http://www.corpwatch.org/article.php?id=14381> (last accessed December 17, 2007).

people, called the Ipili, negotiated the construction of schools, an airport, roads, a hospital and a town as part of the deal that allowed the mining operations to commence. As the ore seams gave out, open pit mining operations started, a process that consists of blasting away huge areas of the mountainous terrain and using cyanide and other chemical leaching methods to extract the gold and silver out of the rock. Unfortunately, dikes holding back these toxic effluents leaked, resulting in large contaminations of the island waterways. This caused a local uprising which, in turn, caused the mining company to hire heavily armed “mercenaries” to protect “their” interests. Locals turned their frustrations to the local infrastructure and responded partly by burning down one of the schools. Compensation for the pollution caused by the leaks has either been non-existent, slow in coming, or of insufficient quantity to compensate local citizens and governments for the results. To complicate matters, hundreds of workers from other regions have come to the area in search of work and to provide services to the mine and to the local citizens. Papua New Guineans also, according to Matinez,<sup>43</sup> also tend to share wealth among family and friends as a social custom, which leads to many more people asking for compensation than the number that might originally have been on the plaintiff end of the situation.

The Pogera Mine example shows some of the complexities of international operation. An operation or process that is considered to be good, ethical or lawful in one jurisdiction might not be considered so in another. There may be different expectations as to how corporations behave in each jurisdiction with respect to laws, rules, regulations and even ethical codes of

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<sup>43</sup> Ibid.

conduct. If we were to follow Kohlberg's theory of moral development, how does an international corporation operate when people in various locations are somehow at different stages of moral development?

### **The Basis for a Corporate Ethical Understanding**

We are then left with the consideration of a pragmatic basis for corporate ethics. The reading that I ascribe to the term "pragmatic," in this paper, is "knowledge derived from experience, experimental methods and practical methods."<sup>44</sup> Corporations are already familiar with generally accepted accounting principles, which are used to measure the financial aspects of the business. Accounting principles are already agreed-upon (by business interests, governments, investors, and, to a certain extent, the general public). There are principles for accounting inclusions and exclusions, reporting and disclosure formats, risk assessment protocols and tools, among other things too numerous to list here. It is the disclosure and reporting formats that are of special interest, as they lend an idea as to the scope required for an ethical basis for business. An example of the complexity of the issue can be seen in the number of factors to be taken into consideration for an assessment of a pragmatic reading of one aspect of business transactions that has a moral undertone: reporting "transparency".

Transparency, according to the Ethics, Compliance and Custodian Organization (ECCO), and its advocacy of the Triple Bottom Line form of accounting, is best looked at in terms of

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<sup>44</sup> Peter A. Angeles, ed., *HarperCollins Dictionary of Philosophy* (New York: HarperCollins, 1992). I acknowledge that this is a very limited use of the term "pragmatics."

“inclusiveness, auditability, completeness, relevance, sustainable context, accuracy, neutrality, comparability, clarity, timeliness, generating robust profitability, delivering value to customers, managing resources, respecting and safeguarding people, benefiting communities and working with stakeholders.”<sup>45</sup> What ECCO is attempting to accomplish is to change the way in which corporations measure and evaluate their businesses. The advantage, for advocates of the Triple Bottom Line accounting method, is that it is set up in a format readily understandable by corporate interests. ECCO is speaking to corporations in their own language, a necessary ingredient to the advocacy of change, especially a change in which the recommendation is for the expansion of the scope of accounting principles to include a farther-reaching analysis of the corporate position with respect to its activities, financial and ethical. ECCO uses a pragmatic approach to encourage ethical behaviour by corporations, and this approach is getting the ear of corporations, government policy-makers, academics and the public. This method stands a good chance of success - meaning it has a good chance of being accepted and implemented by the current corporate world - because it speaks the corporate language of economics and accounting.

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<sup>45</sup> Ethics and Compliance & Custodian Organization (ECCO), “Towards a Triple Bottom Line Reporting Framework” on <http://www.ethics.up.ac.za/publications.html>. December 18, 2007. The Triple Bottom Line concept recognizes that a “bottom line” should not solely reflect the economic return on investment of a business. Other assets, which deal with issues of environmental sustainability and social capital, ranging from product responsibility and labour practices to community upliftment, should also be included. The concept is underpinned by three societal objectives: economic prosperity; social responsibility; and environmental sustainability. Therefore the ability of a business to persist in a truly sustainable state will result from producing a positive and balanced return to all three forms of capital: economic, environmental, and social – hence the Triple Bottom Line.”

## **Kohlberg's Stages of Moral Development**

What can we say to the objection that corporations, since they are made up of people who already hold morals, are already, in a sense, ethical? First of all, it is not clear that a group of disparate individuals, who hold varying understandings of morality, can have their individual understandings expand so that the group takes on the same, overall sense of morality, or ethical stance, at the same time. As people grow through their child and teen years into adulthood, their understanding of what it means to be a moral person and what it means to act ethically grows with them. Each individual grows at his or her own rate. Corporations also grow through various stages of development. As corporations consist of groups of people, could they, too, grow through stages of ethical development in a manner similar to that of individuals? Corporations, through the years, have grown in terms of their scope, their abilities and their responsibilities. If there was some form of growth in the idea of corporation, as expanded to contain this new scope, could we not then expect a sort of ethical growth similar to that of the individual? It is a contentious issue as to whether or not growth in ethical reasoning exists within the individual, although I must admit to watching individuals' awareness of moral issues grow as they mature. McDonald and Pak<sup>46</sup> discuss Kohlberg and his theory of cognitive moral development in people. As a thought experiment, could we extend Kohlberg's theory about the different stages of moral development to corporate moral development?

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<sup>46</sup> Gael McDonald and Patricia C. Pak, "Philosophies in Ethical Decision-making," *Journal of Business Ethics*, Vol. 15, No. 9 (September, 1996): 975-976.

Kohlberg classified a set of stages of (individual) moral development that bears some examination. These stages are:

“I: Pre-conventional level – individuals guided by punishment, reward and obedience

II: Conventional level – individuals have internalized shared norms of society and recognize the need to accommodate the interests of others

III: Post-conventional level – individuals (are) guided by what pleases, helps and is approved by others

IV: Social System and Conscience Maintenance level – individuals take into consideration the rules and laws of social and religious systems

V: Prior Rights and Social Contract level - individuals are still guided by social contract and rules but they consider changing the law for social purposes or for maximizing utility

VI: Universal Ethics Principles level – individuals are guided by self-chosen ethical principles of justice and the rights of the human being.”<sup>47</sup>

It is clear that overlapping between stages is inevitable. What is not clear is whether this is the actual ethical progression of individuals. If there is progression, is it age-related or, perhaps, experience-related, or a combination thereof? Is Kohlberg’s classification intended to trace individual moral development from early growth years, through pre-teen to teen, to young adult and, finally, to a world-wise and mature adult? Next is to ask whether or not

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<sup>47</sup> Ibid.

corporations fit into these classifications. Does it make any sense to substitute the word “corporation” with the word “individual” in the six categories? If so, can we expect these artificial legal entities called corporations to “progress” through these stages as if they are, in some manner or other, progressing towards a form of corporate ethics Nirvana?

At first glance, and in terms of corporations, the blurring effect between the stages is problematic. If Kohlberg’s stages are indeed categories that are age-related, can we really apply the same stages to corporate development when corporations are founded, staffed, managed and directed by *mature* individuals? I’d like to address the distinction between classifications first. There is a case to be made that corporations are guided by reward (profit), punishment (for not selling a good product or service, or for not following laws, rules and regulations) and obedience (to the same laws, rules and regulations – and, it can be argued, to obeying conventions in acceptable ways to do business), so we can fit most businesses into Kohlberg’s pre-conventional level. His second level - that of the convention - is also accommodated, in that business must fit into “acceptable” methods of operation. A business cannot operate (for long anyway) by breaking the trust between itself and its clients. It, including its employees, operates by following established conventions. Recognition and accommodation of the needs of others - its employees and customers, for example - are parts of the process and are required for corporations to be successful, especially over the long term. Similarly, these companies can be said to conduct business by what pleases, helps and is approved by others – the very essence of providing acceptable customer service.



At the next level, the Social System and Conscience Maintenance level, can we ask whether or not corporations take into consideration social and religious rules and laws before and during decision-making? I think that the answer is, in the majority of cases, yes. For example, most Canadian corporations do not require employees to work on Sunday, or on other Christian holidays, although the latter is mandated by law. Most corporations file their income tax returns (or have their accountants do it for them), an example of observance and adherence to laws. It is levels five and six that would cause many corporations to balk. In five, corporations are guided by the social contract but now increasingly consider changing laws to promote social utility. It is at this point that there is difficulty fitting corporations into the classification system, as corporations are not (now and necessarily) intended to promote overall social good or utility. It can certainly be argued that corporations can and do promote individual or limited group good by reinvesting in a community, providing jobs, providing profits to shareholders, etc., but it is at the point of contributing to the well-being of society as a whole that the line becomes blurred. This leaves us to wonder if one could skip or combine Kohlberg's stages to better accommodate corporations. Even without doing so, the thought that corporations would be willing to attempt level six - corporations guided by self-chosen ethical principles of justice and the rights of the human being - seems a bit much. Granted, there are cases of philanthropy wherein individual shareholders of large corporations have chosen justice and the rights of human beings as ways of putting something back into the community or into society. Bill Gates and the Bill and Melinda Gates Foundation<sup>48</sup>, for example, are funding the study of AIDS and providing the funds to purchase and distribute AIDS medications, and work for

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<sup>48</sup> See the Bill and Melinda Gates' web site at <http://www.gatesfoundation.org/default.htm> (last accessed on December 18, 2007).

immunization programs in Africa. Dale Carnegie, through the Carnegie Foundation and other Carnegie organizations,<sup>49</sup> provided funds to erect libraries in the last century across the United States and Canada. These are a few of many examples.

Corporations are required by law to maximize profits for shareholders – limited groups of people or institutions who own its shares. A corporation would go against its primary goal, the maximization of profits, if it were to act in such a manner as to limit profits to shareholders. Spending company funds on social projects, particularly overspending (at whatever level that means) would not be “allowed” or be considered to be in the best interests of the shareholders. If we are to believe in Kohlberg’s ethical hierarchy, we could not expect corporations to ever fully attain level six for that reason. We could, however, expect modern, for-profit corporations to respect human rights.

Corporations, during their “existence”, move through the “business cycle” - a well-documented progression of stages: start-up; growth, maturity; and decline. Each stage is characterized by different business activities and concerns. For example, the “decline” stage is often the time of mergers and buy-outs in an attempt to keep shrinking profits from causing the corporation to consider closing its doors. Mergers and buy-outs of the competition are rarely considered at the start-up stage, as cash and credit are low and lenders have no history of the business on which to make their business loan decisions. It is unlikely, therefore, that

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<sup>49</sup> See Carnegie Corporation of New York’s web site at <http://www.carnegie.org/>, and the Carnegie Foundation at <http://www.carnegiefoundation.org/> (last accessed on December 18, 2007).

corporations in the early stages of the business cycle would have the same ethical concerns of later stages (i.e., the ethical consequences of mergers). However, corporations at all stages of the business cycle might be concerned with Kohlberg's fourth level of moral development. This point detracts from the attempt we might make to advocate a form of Kohlberg's ethical growth theory for corporations. It does provide a suggested format to consider in making an attempt to ascribe ethical growth to corporations. Ethical considerations can be portrayed in terms of the growth of a corporation. Similar to an individual becoming a mature adult, a corporation can be shown to grow through various stages of moral development; something that would be, I believe, palatable and understandable to business.

### **Why Corporations Act the Way They Do**

What are the reasons behind corporate ethical behaviour? One of the main reasons for corporations to act in an ethically "correct" manner is to follow laws, rules and regulations. They hire lawyers and accountants to look for ways to interpret these "guidelines" to the advantage of the corporation, but this is considered to be all part of the "game," meaning, for the most part, these methods are mandated by law, and hence it can be argued "ethical." Most corporations work within socially accepted principles and practices, observing religious requirements when necessary, and under contracts, social and otherwise. However, there are and have been situations where Canadian corporations have used their own interpretation of these guidelines (sometimes called "creative accounting"), flaunted or outright ignored the guidelines to gain advantage over the competition and to amass further profit, both within and

outside of Canadian jurisdiction (as we have seen in the previous examples of Irving and Barrick Gold). The prime motive for these latter situations is profit.

What is a profit? According to the *Oxford English Reference Dictionary* (Oxford University Press, N.Y., 1996), a profit can be “an advantage or benefit” or “financial gain; excess of returns over outlay.” Profit is measured by forms of accounting and economic analysis, such as the cost-benefit analysis, which are primary tools used by corporations to assess financial decisions and to ascertain profit. A cost-benefit analysis will assist in answering a question such as, “If a corporation makes decision “X”, what will be the financial ramifications?” A cost-benefit analysis normally only takes into consideration the monetary ramifications of a possible decision and in that is a limited, but potentially powerful, source of information. Harkening back to the Ford Pinto case (Ford knew of a problem with its gas tanks exploding, and decided not to fix it), in retrospect we see a frightening use of this type of analysis.

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### **“The Case of the Exploding Automobile**

One of the tools that Ford used to argue for the delay (in fixing the problem) was a cost-benefit analysis of altering the fuel tanks. According to Ford estimates, the unsafe tanks would cause 180 burn deaths, 180 serious burn injuries and 2,100 burned vehicles per year. It calculated that it would have to pay \$200,000 per death, \$67,000 per injury, and \$700 per vehicle, for a total of \$49.5 million. However, the cost of saving lives ran even higher: alterations would cost \$11 per car or truck, which added up to \$137 million per year.

Essentially, Ford argued before the government that it would be cheaper just to let their customers burn!”<sup>50</sup>

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The Ford Pinto example shows that a decision analysis based strictly on a cost-benefit analysis, in other words, using a cost-benefit analysis as the primary performance indicator without consideration of other potential impacts, such as the rights of customers not to be severely injured, can be fraught with moral and, as it turns out, financial peril. In this case, Ford made the decision not to fix the problem gas tanks because its cost-benefit analysis showed that it was less expensive, according to its cost-benefit analysis, to do so! When the government had finished its review of the Pinto case, Ford was fined far in excess of its benefit for ignoring the problem in the first place. The negative publicity surrounding the Pinto case caused untold harm to Ford’s bottom line, and to its reputation, in the form of loss of trust in the company by its customers and its investors. This case illustrates, overwhelmingly, that bad ethics makes for bad business.

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<sup>50</sup> Engineering.com, “Ford Pinto,” in <http://www.engineering.com/Library/ArticlesPage/tabid/85/articleType/ArticleView/articleId/166/Ford-Pinto.aspx> (last accessed December 17, 2007).

## Who Decides?

Who is responsible for guiding a corporation towards keeping its primary focus and, at the same time, keeping and enforcing the moral compass of the company? Is it members of the corporation (shareholders, directors, executives, managers, employees), members of an association group of employers which includes the specific corporation, a government body or government agency (if so, on which level: municipal, provincial/state, or federal), or the courts (again, at which level: local, provincial/state or federal)? Who is tasked with the job of producing moral judgments and on what basis are those judgments determined?

In Canada and in the United States, both the governments and the court system have been tasked with making, adjusting and interpreting laws from which many moral judgments are made. One of the problems that arises from using the governments and the courts to determine what is good and what makes up good (moral) conduct is that both are slow to respond to the pace of innovation and new methods of conducting business. Corporations are constantly looking for methods to use the system of existing laws, rules and regulations to their own benefit in order to increase profits. They do so by reinterpreting these same laws, rules and regulations, often under the guise of “creative accounting” methods. In some situations, a laxity in the oversight of the regulatory process, run through governments and government agencies, caused by a lack of funding to hire regulators, a lack of properly trained regulators, insufficient powers afforded to regulators to control the process, and insufficient punishments afforded to fit corporate criminal activities all serve as contributors to a weakened oversight

system. Like toddlers left in a room with a reachable, easily opened jar of cookies, corporations can take advantage of these situations, or loopholes in the law, to line their own coffers. The Enron disaster was partially blamed on the creative “accounting methods,” and fraudulent bookkeeping used by the Enron executives and aided by the criminal acts of the accountants in not properly doing their jobs.<sup>51</sup>

In the Enron case, the U.S. government’s National Energy Bill (NEB) of 1992 allowed for energy companies to compete in selling electricity to utilities. Enron leaped into this business and made huge profits selling into the futures market, a financial method of betting on what the price of a commodity will be at some future date. Because there was little to no effective government oversight in the dealings of energy companies from the passage of the NEB up until the Enron collapse, the government agencies can be allocated at least some of the blame, along with corrupt Enron officials and the Arthur Andersen accounting firm.

It is apparent from scandals such as this, that some, if not all, corporations cannot be left to their own devices in the oversight of their businesses. Governments, too, have some work to do when making changes to how business should operate. The changes in the law that allowed Enron to make such huge profits in the beginning were made without proper and sufficient study of the possible effects of the changes. The price of electricity soared to unheard-of heights, to the delight of those who had invested in the energy-producing companies, but to

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<sup>51</sup> James R. Audet, “An Octopus of Greed: the Enron Financial Web of Corruption,” <http://www.quarterly-report.com/energy/enron.html> (last accessed December 18, 2007).

the absolute detriment of the consumer. Even though the government itself made changes to allow prices to float on the market, it was hit with huge increases in costs to run their own agencies. By catering to the “needs”<sup>52</sup> of big business and by not taking sufficient, adequate and thoughtful time to review the possible consequences, the government set the stage for the entire Enron debacle to come about.

Thinking that corporations, left to their own devices in terms of moral determination and moral judgments, have the time, energy, ability and willingness to devote to the task, is unrealistic. Self-regulation is one of the worst, if not the worst, methods of ensuring that corporations strive for the good, or the best for all concerned, as there is no disinterested oversight. A slightly expanded form of self-regulation, such as that “offered” by peer corporations within an association, is also a poor form of oversight. Corporations themselves have used the argument, as put forward by Friedman, that they do not have the expertise, willingness, time, energy, etc. to perform as ethical judges. It is certainly debatable as to whether or not human beings could ever come up with an “ideal observer” to make moral decisions over corporate matters, as those very matters are fraught with a myriad of laws, rules, regulations and interpretations of these, the sheer amount of which means that very few people have the knowledge to see all possible ramifications across the spectrum of the legal morass. Indeed, a significant challenge to government is the complexity and volume of law across various jurisdictions. There are only a handful of people who have studied and are

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<sup>52</sup> There is a perceived lack in the number of stock-issuing companies in which to invest. The majority of all investments in corporations is made by other corporations, especially banks, investment companies, pension plans, and mutual funds. It is these large players, mainly, who demand the latitude to invest in more companies.



experienced enough to effectively analyze proposed changes to any legislation and know how it affects legislation in other jurisdictions and even in other areas of the government. The legal system, with its various levels of courts, has to deal with the same problem – a large amount of law across a wide spectrum of jurisdictions. In Canada, the judges in the highest courts are often appointed by elected government officials, which means, in a sense, that the courts are acquiescent to the government of the day and being able to change legislation means that the government can ultimately overrule the courts and the judicial system (witness *Canada's War Measures Act*, used by Prime Minister Trudeau to quell public insurrection in Quebec, October 16, 1970<sup>53</sup>). So, even the government itself cannot be seen as the “ideal observer” for moral adjudication purposes, because of the sheer amount of data and law that must be understood and consulted. This leaves us with the lack of a viable (human) agent to be an “ideal” observer which, in turn, leaves us with one option: accept a less-than-ideal agent and accept that all decisions may not have the best consequences. However, it does lead us to promote the continual gain of additional knowledge by the agent in order to be better able to make the best decisions possible. If one wants to say that (altruistic) consequentialism relies on the authority of an ideal observer to make moral decisions, and to have those decisions binding on the affected parties, then the idea of the acceptance of a “less-than-ideal” observer/adjudicator will have to be entertained.

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<sup>53</sup> Canadian Broadcasting Corporation, *CBC Archives, "The October Crisis: Civil Liberties Suspended,"* [http://archives.cbc.ca/IDCC-1-71-101-618/conflict\\_war/october\\_crisis/](http://archives.cbc.ca/IDCC-1-71-101-618/conflict_war/october_crisis/) (last accessed December 18, 2007).

## Virtue Ethics and Consequentialism

A Virtue Ethicist<sup>54</sup> might argue that consequentialism lacks substance because it ignores the notion of moral character. The same could not be said of a corporation. The corporation does not lack substance because it has no character or virtue, as the purpose of the corporation is not to make moral judgments at all, which we can deduce from Friedman. One could argue that the “best” corporations do, indeed, have character and do operate within a strict code of ethics, adhering to various virtues. Many large corporations have codes of conduct, ethical codes, moral codes, whatever one wishes to call them, all purporting to act as guides or to control the modes of conduct of the corporation’s employees, managers and executives. Enron Corporation had an award-winning 62-page code of ethics,<sup>55</sup> yet this did not stop certain company officials and outside accounting consultants advising that company from making ethical errors that had huge consequences. It is one thing to design a code, but another entirely to have people believe in it enough to adopt it as their own, and act in accordance with it. Rules and laws, made in order to guide and to protect people, are frequently ignored or flagrantly disobeyed if there is an absence of oversight and an absence of negative consequences with sufficient deterrence. (Those who disagree with this statement might take a

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<sup>54</sup> Stanford Encyclopedia of Philosophy, “Virtue Ethics,” <http://plato.stanford.edu/entries/ethics-virtue/> (last accessed on December 18, 2007).

<sup>55</sup> The Smoking Gun, “Enron Code of Ethics,” in <http://www.thesmokinggun.com/graphics/packageart/enron/enron.pdf> (last accessed December 18, 2007).

look at driving habits with respect to obeying speed limits.) Virtuous corporate activities<sup>56</sup> might ultimately produce the best consequences, but for whom, the shareholders, the public generally, the environment or a combination of these?

When G.E. Anscombe created the term “consequentialism,”<sup>57</sup> she was commenting on a distinction between consequences that can be predicted (foreseen) and those that are intended. Corporations can argue that, because they cannot predict bad consequences of their actions, or had not intended for those actions to take place, they should not be held morally responsible for those actions, an argument that has been used by the lumber industry in situations where clear-cutting of forests has caused soil erosion and other negative consequences, for example. The previously mentioned mining company, which polluted an entire stretch of river when one of its tailing ponds broke, spilling toxic chemicals into the river, is another example. The role of “intention” has large implications for the determination of blame in the adjudication of

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<sup>56</sup> What can we consider to be virtues of a corporation, or should the question be: to what virtues should the corporation adhere? Prudence, justice, temperance and fortitude are four cardinal virtues. These are often supplemented with the “virtues” of faith, hope and charity. Then there are the capital virtues – the ones that, according to Catholicism, oppose the capital sins. I will not go further in this paper about virtues with respect to corporations. However, it may be argued that these virtues, some of which might be included in corporate ethics documents, were originally aimed more at individuals and not at groups of people per se. Suffice it to say that corporations have not adopted ethical codes of conduct with the maximization of adherence to virtues as the (sole) driving factor. Corporations can argue, along with Friedman, that the relevancy of the entire notion of corporate ethics (or indeed, virtue ethics – my addition) is questionable. I leave open the questions as to whether or not corporations could ever be considered to be “virtuous,” although the question as an objection to the inclusion of ethics within the notion of incorporation is an important one. Of equal importance are the questions of what we consider to be of “value,” from a corporate, a sociological and a personal perspective, and what we consider to be valid “consideration” for performance of action, which again, unfortunately, time and space do not allow for more than a passing mention.

<sup>57</sup> G. Elizabeth Anscombe, “Modern Moral Philosophy,” in *Human Life, Action and Ethics: Essays by G.E.M. Anscombe*, ed. Mary Geach and Luke Gormally, (Exeter: Imprint Academic, 2005). Originally published in *Philosophy* 33, No. 124 (January, 1958): 66. Also in <http://scholarsportal.info.proxy.lib.uwaterloo.ca/pdflinks/07111920431925956.pdf> (last accessed on December 18, 2007).

moral and criminal court proceedings. If an individual did not intend to kill another with his or her actions, but did so anyway, the charge is typically for “manslaughter” instead of “murder.” Corporations can argue that their intention is only to maximize profits to shareholders. Therefore, they should not be held to account for environmental “mishaps” that occur by their actions or non-actions. Consequentialism, in my view, is not sufficient in itself to determine if something is morally or environmentally right or wrong. A framework, an underlying context, and a predetermined set of rules to make that inference, are also required. In addition, a predetermined process set in place to ascertain the moral correctness or incorrectness of any particular action would be helpful.

What if corporate actions are promoted as being for the overall better good or produce a better overall life? Allowing the clear-cutting of forests has been promoted by the pulp and paper industry as being good for the economy because it directly provides jobs, promotes spin-off jobs, puts money back into the economy, and provides tax revenue to governments. The negatives, such as environmental issues, are relegated to a minor position because the proposed benefits somehow “outweigh” the negatives. This is despite the fact that there are two different issues at stake - the economic and the environmental - yet both issues are attached to the same argument. The time frame of the corporate statements referred to in these arguments is often short-term because corporations tend to look more for the short-term profits demanded by their shareholders. Environmental issues resulting from corporate short-term decisions (e.g., the storage of lethal chemicals in barrels underground in out-of-

production mines) may not appear for decades. The long-term view is often ignored in pro-corporate arguments.

People who make the decisions, who are often government employees and, in the above example, forest industry proponents, are portrayed and portray themselves as being somehow divorced from the question at hand (see the quote by John Ralston Saul at the beginning of the paper) and therefore able to make an impartial judgment, thus able to be considered as being remote and impersonal adjudicators. Consequentialism is argued, by Bernard Williams,<sup>58</sup> as being in trouble. It is alienating because the act of oversight requires a distance from the parties in question, and places too much demand on the adjudicators in having to give up of their own lives to maintain a strict, non-personal viewpoint.

Corporations are legally required to put the interests of their shareholders first. Notice that the legal liability is to the shareholder, not to the stakeholder. The documentary *The Corporation*<sup>59</sup> pointed out the problems with that premise. Corporate interests: 1) legally come before any other factors, including competing factors and the public good; 2) are only designed to accomplish certain ends; 3) act as agreements between two parties (the corporation and the shareholders) that exclude other parties who might be affected by the agreement; 4)

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<sup>58</sup> Stanford Encyclopedia of Philosophy, "Bernard Williams ... 3. *The day cannot be too far off...*: Williams against utilitarianism," <http://plato.stanford.edu/entries/williams-bernard/> (last accessed December 18, 2007).

<sup>59</sup> Mark Achbar and Jennifer Abbott, directors. *The Corporation*, (Canada, 2004). A documentary film. See <http://www.thecorporation.com/> (last accessed December 18, 2007).

externalize problems to achieve their objectives (We are doing what we are allowed by law to do. If someone has a problem with that, it is their problem, not ours); 5) do not have a capacity to form enduring relationships (the corporate sales adage is that you are only as good as your last sale)<sup>60</sup>; 6) trivialize risks, particularly those associated with the production and distribution of their products (such as environmental degradation); 7) have no ability to experience guilt (Monsanto`s Agent Orange program); 8) do not think (e.g., Monsanto`s terminator seed technology, wherein seeds only produce one plant and that plant does not produce any seeds, fails to take into consideration - to think about - possible negative consequences of the use of these seeds); 9) have no regard for the feelings of others; and 10) often operate by deceit, by lying (falsifying news is not against the law in the U.S.A.), and with little to no regard to the poisoning of the environment (called a tax on future generations).

The film asks questions as to whether or not corporations are in the game of wealth creation, as they profess, or actually in the game of wealth usurpation, which is an interesting notion. As social creations, corporations are still subject to the public trust. Public trust comes in many forms with safety being a prime motivator. The fire department is a prime example. Fire departments started as private businesses before becoming public institutions. Being a public institution contains some interesting perks, including the ability to run at a loss, and to be financed through deficit financing. Companies in the massive petro-chemical industrial

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<sup>60</sup> I believe that what the film means is that corporations, as entities, cannot not have enduring relationships, although the people who work within them have this ability.

complex, spanning 25 miles along the North Saskatchewan River from Edmonton, Alberta and north, at one time not many years ago, had their own corporate fire departments on site. They successfully petitioned the County of Strathcona to build a fire hall out in the country, near their businesses (and far away from the majority of the population of the area), so that they could close their own fire departments. This is a prime example of how corporations (and rich ones at that) can manipulate a public trust to save themselves from potential social responsibilities, using the argument that they pay enough taxes to warrant the provision of a fire department by the government. This has allowed these corporations to save money, thereby creating more profits for shareholders, while diverting attention from themselves and placing the burden of public safety for their operations onto another party, in this case the local government. These corporations used a form of perception management which, according to the film, is a systematic, thoughtful process with the goals of maximum profit to shareholders and maximization of market share.

According to the film, the only punishment to which corporations are subject is that of the marketplace; if they do something wrong, their stock price is likely to be adversely affected. One can argue that, since the Enron debacle, laws have been strengthened to punish the culpable individuals within the corporation, but the fact of the matter is that corporations are not required to swear an oath, or to even declare in any other manner that they will act in moral and environmentally responsible ways at the very start of the incorporation process. At least partly because of this lack of foundation for corporate ethical responsibility, they deem themselves as not being accountable. Corporations are not even accountable through any part

of the democratic process, according to the film. People of voting age can participate in electing governments, but these same people have virtually no say in the running of corporations, which comprise an even larger section of society. Unless one is a majority shareholder, in other words owns 10% or more of the voting stock,<sup>61</sup> there is little likelihood that a corporation will meet an individual's request for explanation or change. Unless one is one of the majority shareholders, one does not have a say in how a corporation is run.

### **The Confusion of “Values”**

In his book *Wealth by Stealth*,<sup>62</sup> Glasbeek discusses the “distortion of the corporate model” through an association of “market values” and practices. This paper will not examine in depth this relationship. I will, however, point out a few salient details. The term “values” is used in disparate theories: economic, moral, social, mathematical, marketing, computer science, and legal. Value in economic theory, in general terms, is the worth of a product or service in relation to some other product or service (the exchange value). It can be expressed as an assessment of what a price could be or should be, on the one hand, or the term is used to provide an explanation of the actual price. A price may be explained in many ways. It's

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<sup>61</sup> Stocks are sold in a variety of forms including voting and non-voting. Only those who hold “voting stock” can vote at a corporation's annual meeting. Votes are usually held to “approve” – usually a rubber stamp approval of motions brought forward by management – the appointment of corporate directors, for example.

<sup>62</sup> Harry Glasbeek, *Wealth by Stealth: Corporate Crime, Corporate law and the Perversion of Democracy* (Toronto: Between The Lines, 2003), 5.



valuation depend on the aims of the person who does the valuation, what the price includes, how the value was obtained, how the calculation was performed, and when and where the value and calculations were performed. Economic value theory has two main classifications: 1) intrinsic – where worth is not calculated by subjective means; and 2) subjective – where worth is calculated as a relation between its (human) utility and product/service availability. All economic value theories try to take into account what is referred to as the diamond-water paradox, where the former is necessary for life to exist but is inexpensive and where the latter is desired for its beauty only and is much pricier.

From a sociological viewpoint, value theories are based on how and why views concerning value are established and investigate the scope of their application. From a moral perspective, value is a function of the principles that are behind the acts and the interpretation of the rightness and wrongness of the action. It is obvious that the term “value” has many varied connotations and, unfortunately, the term is thrown around with great abandon, confusing listeners and those using the term alike. The varying interpretations of ‘value,’ particularly economic and moral value, are at least partially to blame for the views of corporations and those of the public often being in juxtaposition. Value to business is often associated with financial worth, although corporations do use the term “values” in their codes of business ethics and business conduct. Value as financial worth is not currently a major consideration in the study of ethics and moral values. Indeed finance and money are viewed with a somewhat negative connotation in discussions of moral worth and are sometimes referred to as “filthy

lucre,” with the pursuit of money ascribed as the cause of much ill in the world. Value is tied, in contract law, to the notion of “consideration.”

Leaving the topic of consideration aside, what other proposals have been postulated towards changing the corporate outlook on the addition of ethics to the notion of incorporation?

Edward Freeman proposed five suggestions: shift corporate fiscal responsibility to include “stakeholders;” constrain market forces to act ethically by means of removing corporate product liability requirements for corporate agreements to act ethically (similar to Workers’ Compensation plans, where employees give up the right to sue employers in exchange for compensation for workplace-related injuries, sickness and disabilities); inclusion of “indirect stakeholders” (i.e., community members not employed by the corporation) in the classification of “corporate stakeholder;” and increase corporate knowledge and strategic approaches to include ethics and environmental impact. Freeman also suggests increasing the “value of the value system” by expanding corporate principal awareness of the consequences of not acting in an ethical manner.<sup>63</sup>

Freeman’s ideas may be laudable in some quarters, but they do bring a number of issues to the forefront. The first questions that come to mind on my reading of Freeman is what constitutes a “stakeholder,” and where does one draw the line between someone who is a stakeholder and

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<sup>63</sup> R. Edward Freeman, “Shareholder Theory in the Modern Corporation,” in *Ethical Issues in Business: A Philosophical Approach*, ed. Thomas Donaldson and Patricia Werhane, (Upper Saddle River, N.J.: Prentice Hall 1999), 247.

someone who is not? Without digressing into a discussion of the type where a butterfly flaps its wings and there is a storm in the Pacific, or falling into some form of Gaya Hypothesis<sup>64</sup> about the interconnectivity of systems, stakeholders can include the general public and even ecological systems far away from a corporation's primary physical or business environment. This poses a problem for Freeman, which he fails to answer adequately.

The idea of using some form of economic tradeoff to encourage corporations to act ethically is also problematic, particularly the example of trading liability for product issues, as the very production of products or services that are insufficiently researched, or produced, and thereby faulty in some form could be considered to be an ethical issue in itself. The allowance for faulty production is an ethical issue. Allowing a large ethical issue, such as product liability and responsibility, to be ignored or "traded" for corporate adherence to other ethical issues does not seem right. Too many issues are raised with that suggestion.

Increasing fiscal responsibility to include "other" stakeholders also calls into question who is a stakeholder, who is an "indirect" stakeholder and how far from corporate ethical decision-making is the responsibility taken. Is an engineer solely responsible for the design of one of a product's many systems to be held accountable for the flaws in systems outside of his or her control? Is a mutual fund investor, who might not even know in which companies the fund's investment managers invest, responsible for the actions of the corporate president, board of

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<sup>64</sup> James E. Lovelock, "What is Gaia?" EFN – Environmentalists for Nuclear Energy, [http://www.ecolo.org/lovelock/what\\_is\\_Gaia.html](http://www.ecolo.org/lovelock/what_is_Gaia.html) (last accessed December 17, 2007).

directors, managers or employees? Increasing fiscal responsibility to “indirect” stakeholders could seriously dampen enthusiasm for investment, and that might weaken investor confidence enough to have serious negative economic considerations. On the other hand, it might encourage investors to become more actively aware of their investments, rather than having to rely on third parties such as pension fund managers or mutual fund managers to investigate ethical transgressions. These types of organizations, with perhaps the exception of an on-staff “privacy manager” to deal with issues of privacy, do not currently have the ability, capacity or indeed even the guidelines to adjudicate such matters, let alone sufficient knowledgeable staff who could make effective judgments on transgressions, or have the “muscle” to back up decisions.

### **Summary**

Corporations are created as artificial constructs bound by certain laws, rules and regulations that allow them to grow and to function within our society. For the most part, they are owned, directed, managed and staffed by individual people, each of whom is bound by both personally and socially derived ethical constructs and acts within them. As socially derived, artificial constructs, corporations can be refocused to suit changing needs, and changes of this nature have occurred over the years.

A corporation is a legal entity, and one which operates under contract law specific to the class of corporations to which it belongs. Discussions around the inclusion of ethics within the notion of corporation might be discarded as being parochial in nature – narrow and local in scope with little to no application to non-corporate entities, particularly in areas where the laws concerning corporations are not applicable to the larger population. In the past, we might have been able to agree to this notion because corporations had a much more narrow scope. With the advent of today’s multinational corporation, whose scope and power goes far beyond the limited-focus groups of the past that were set up solely to build a small capital project such as a bridge, whose workings are cross-jurisdictional, whose acts supersede, as in the case of “free-trade”-type agreements, national laws, the argument that the notion of corporate operations and laws are parochial in nature and therefore not worth considering in the overall scheme of things, is out of date. Corporations have changed drastically over the last hundred years and the effects of their business plans and dealings can affect entire populations, as witnessed by the loss of thousands of jobs in local populations to out-of-country operations.

The arguments that have been presented by Friedman lack depth. Continuing support for these arguments, designed to keep the notion of ethics outside of the notion of the modern corporation in today’s global economy demonstrates a lack of insight, and perhaps a lack of foresight, into the world’s socio-economic realities. The ramifications of not subscribing to an ethical basis for modern corporate transactions and business affairs include untold hardships among peoples who are relatively powerless by themselves to fight against large business

interests. Individuals are confounded in their disagreements with corporate interests in a number of ways, including financial, legal and jurisdictional.

Seeing that corporations are artificial constructs that people have designed, we have the ability to change the ways in which they carry out their business. Corporations are designed by people to perform specific tasks and to accomplish those tasks within a framework of laws, rules and regulations. Although it might be tempting to think that corporations could go through some form of ethical growth, similar to that described by Kohlberg, the reality is that these institutions concern themselves more with the pursuit of profit, with ethical pursuits rarely called into question. Corporations react to changes in laws, rules and regulations. Changes to business in terms of ethical practice are often the result of amendments to these same laws, rules and regulations and can rarely, if ever, be attributed to a “growth” in ethical awareness as described by Kohlberg, although I admit that individuals within a business environment might well increase their awareness of ethical situations and possible transgressions. It is also unlikely that businesses and individuals can ever have a universal “common vision” or ever be in constant agreement on the subject of values, because the primary business focus on profit is often different from the interests of the individual.

Certainly the arguments put forth by Friedman are fraught with errors, as I have shown. Friedman’s arguments for the separation of business from social responsibility suffer from

“analytical looseness and lack of rigor”<sup>65</sup> – the very same disagreement he raised concerning the arguments for the inclusion. The dualism and moral hierarchy fostered by the employee-as-agent obligation place undue stress on ethical situations and open up opportunities for, at best, misinterpretation of obligation and at worst, the promotion of unethical conduct in situations where business and personal obligations are in conflict.

The argument, that excessive regulation is a concern for any type of social organization of the size and complexity of today’s modern business corporation and cannot easily be written off, is not convincing. For a person, or an organization, to say, “I cannot be held accountable to being good or to acting in an ethical manner because it would be too complex to do so,” is not an argument against a corporation acting ethically. Conversely, methods promoting ethical behavior, as well as the laws, rules and regulations promoting and regulating the same behavior, cannot be so onerous as to take away significant amounts of time, energy and effort that could be used in other business endeavors. Ultimately, efficiency is a key to the success of both the regulations and how corporations deal with them.

The argument that business people are not trained in ethics and therefore would only act in some “muddleheaded” manner if asked to do so, has some merit that speaks to society as a

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<sup>65</sup> Milton Friedman, “The Social Responsibility of Business Is To Increase Its Profits,” (originally published in *The New York Times*, September 13, 1970). In *Ethical Issues in Business: A Philosophical Approach*, ed. Thomas Donaldson and Patricia Werhane, (Upper Saddle River, N.J.: Prentice Hall, 1999), 154.

whole, rather than to just the corporate world, but is not a good argument against the inclusion of ethical concern in business.

Conceptual arguments against the inclusion of ethics within the corporate mandate, such as the “institutionalization of ethics,” “lack of compelling authority,” the “blurring of public and private responsibilities,” the “threat to privacy,” and the “ambiguity of moral situations” have not been successful. Neither have objections to ability, such as those based on (lack of) authority, manageability, permission, and awareness. Process objections – those of practical implementation - also fall short of being definitive for the corporate ethical detractors. Internal dissent and neglect of abuse are cultural problems and are not simply those relegated to the corporate realm, and defining root causes is difficult.

Friedman also mentions the problem of commitment and here his objection is valid, although, again, not just for corporations. The question here is one not so much of commitment, for one could be committed, for example, to a bad cause because one’s underlying personal commitment to the leaders of the cause is stronger than commitment to the actual cause itself. It is more one of belief in the good and the necessity of the ethic itself and a belief in the reasoning behind the ethic in addition to a subscription to the ethic – the commitment to it – that determines ethical action. The speed limit for vehicles on city roads might be posted at 50 kilometres per hour, but if the majority of the drivers are travelling at 70 kilometres per hour on those roads, breaking the law by keeping up with the traffic flow might be considered to be



safer, and perhaps then more ethically valid. Drivers, in this example, are not committed to the legally defined limit. This is indeed a problem for the corporate ethical theorist. No matter how much time and effort is expended in developing a moral code of conduct, if the people to whom it applies do not subscribe, or believe in the validity of the ethic, then the issue becomes immediately problematic (Enron's top executives were a case in point).

### **Conclusion**

The paper begins with a discussion of some of the reasons of why the inclusion of ethics within the notion of incorporation has become so important. The huge power and influence of the corporation within societies continues to grow. Without checks and balances on the ethics of their practices, this power and influence could continue unabated, with dire consequences on those who are not in a position to take advantage of huge corporate earnings (i.e. those with the lowest incomes). In this paper, I have critically examined the arguments of Milton Friedman and found that these arguments are insufficient to support his contention that ethics have no place in the notion of corporation and its workings. I have argued that Friedman was wrong and that ethics does deserve a place within the notion of corporation. The question that follows is, "What form of ethics would best work for our current notion of corporation?" My examination has concluded that a pragmatic approach, although it does not provide all of the answers, would be the most acceptable to the business world. The last question that we set out to answer was, "If the answer is that ethics should have a place within the notion of

incorporation, then how do we ensure that business will undertake and subscribe to ethical behavior?” Ethics are only avowed when they reflect the values of the people who live under their domain. A corporation is more likely to buy in to the need for good ethical conduct when its ethical standards are compatible within the organization’s business structure, when there is consensus within the corporation as to what is required, and when the values being espoused are consistent with values in geographically and culturally defined areas in which the corporation operates. Ultimately, I would like to see all corporations, at home and abroad, establish and adhere to an agreed-upon moral fabric, but this will require much work. Acceptance by all parties of a further refinement of current reporting practices, such as the adherence to (something similar to) the “Triple Bottom Line Reporting” method<sup>66</sup> will help to pave the way. I suggest that part of the answer to encouraging corporations to think “ethically” right from inception, is as simple as adding an ethical statement – in the form of a written, contractual promise, at the onset of incorporation, that the company will do

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<sup>66</sup>Whereas traditional corporate accounting methods rely on the monetary aspects of business, Triple Bottom Line reporting attempts to measure economic, environmental and social aspects. According to the Global Reporting Initiative, social aspects include “direct economic impacts (on) customers, suppliers, employers, providers of capital (and) public sector”; environmental impacts of “materials, energy, water, bio-diversity, emissions, effluents, waste, suppliers, products and services, compliance, transport, (and) overall”; “labour practices and decent work (in) employment, labour/management relations, health and safety, training and education, diversity and opportunity”; human rights (in) strategy and management, non-discrimination, freedom of associations and collective bargaining, child labour, forced and compulsory labour, disciplinary practices, security practices (and) indigenous rights”; social obligations (in) “community, bribery and corruption, political contributions, competition and pricing”; and social obligations (for) “product responsibility (in) customer health and safety, products and services, advertising, (and) respect for privacy.”Source: Ethics and Compliance & Custodian Organization (ECCO), “Towards a Triple Bottom Line reporting Framework,” ECCO Publications, <http://www.ethics.up.ac.za/publications.html> (last accessed December 18, 2007). This web site quotes the originator of the term ‘Triple Bottom Line’ as being *Cannibals With Forks: The Triple Bottom Line of 21<sup>st</sup> Century Business* by John Elkington, (Gabriola Island, B.C.: New Society Publishers, 1998).

See also the Global Reporting Initiative™, <http://www.globalreporting.org> (last accessed December 18, 2007).

everything within its power to act at all times in an ethically, and I dare say, an environmentally responsible manner, and recognizing that failure to do so would have dire consequences, which would need to be set out in laws, rules and regulations. This upfront undertaking of obligation would not prove too onerous on the corporate founders and would add the bureaucracy likely to inflame the commitment objectionist. Its advantages can be positioned as providing the corporation with a positive outlook, while reducing strain on human resources, improving job satisfaction, and reducing turnover. Ireland and Hitt call ethics a core component of strategic leadership.<sup>67</sup> Implementing an acknowledgement of the importance of ethics at the initial stage of incorporation could form the basis of corporate ethical growth and leadership in Canada, and pave the way towards an improved commitment to ethical and environmental responsibility.

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<sup>67</sup> Duane R. Ireland and Michael A. Hitt, "Achieving and Maintaining Strategic Competitiveness in the 21<sup>st</sup> Century: The Role of Strategic Leadership," in *Organizational Behavior: Understanding and Managing Life at Work, Sixth Edition*, Gary Johns and Alan M. Saks (Toronto: Pearson Prentice Hall, 2005), 295.

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