BENTLEY UNIVERSITY
Hoffman Center
for Business Ethics

Verizon Visiting Professorship in Business Ethics

The Core of Business Ethics

John Hasnas
Professor
McDonough School of Business, Georgetown University

Executive Director
Georgetown Institute for the Study of Markets and Ethics

October 27, 2020

BENTLEY UNIVERSITY is a leader in business education. Centered on education and research in business and related professions, Bentley blends the breadth and technological strength of a university with the values and student focus of a small college. Our undergraduate curriculum combines business study with a strong foundation in the arts and sciences. A broad array of offerings at the Graduate School of Business emphasize the impact of technology on business practice. They include MBA and Master of Science programs, PhD programs in accountancy and business and selected executive programs. The university is located in Waltham, Mass., minutes west of Boston. It enrolls approximately 4,200 full-time undergraduate students and 1,000 graduate and 24 doctoral students.

THE HOFFMAN CENTER FOR BUSINESS ETHICS at Bentley University is a nonprofit educational and consulting organization whose vision is a world in which all businesses contribute positively to society through their ethically sound and responsible operations. The center's mission is to provide leadership in the creation of organizational cultures that align effective business performance with ethical business conduct. It endeavors to do so by applying expertise, research, and education and taking a collaborative approach to disseminating best practices. With a vast network of practitioners and scholars and an extensive multimedia library, the center offers an international forum for benchmarking and research in business ethics.

Through educational programs such as the Verizon Visiting Professorship in Business Ethics, the center is helping to educate a new generation of business leaders who understand from the start of their careers the importance of ethics in developing strong business and organizational cultures.

If you are a student in a business ethics class, or a class on the legal and ethical environment of business, you may have been presented with a set of ethical theories: utilitarianism, deontology, virtue ethics, and perhaps some others. Maybe stakeholder theory or shareholder theory? Now you are asked to figure out what the ethically right thing is to do in business. But which theory do you select? Do you select the one that you like best? The one that you think is easiest to apply, or seems to "fit" the situation best? Those are bad ideas. You should select the theory that is true. But which theory is true? That is a deep philosophical debate and we aren't close to resolving it – just ask your philosophy professor. So what are we supposed to do? Throw up our hands in despair?

Professor Hasnas has a solution to this problem. He says that we need to think carefully about the activity of business itself. Business is conducted in a market – through the voluntary exchanges of buyers and sellers – and this fact alone has implications for how business ought to be conducted. In other words, Professor Hasnas proposes to extract an ethics for business activity from the nature of business itself. If Professor Hasnas is right, lots of people are doing business ethics wrong. They are starting with theories, and trying to apply them to business. Professor Hasnas thinks that we need to begin with business, and extract our theory from that. This theory isn't going to answer every pressing question in business ethics, but it is a good starting point.

John Hasnas
Professor
McDonough School of Business
Georgetown University

Executive Director
Georgetown Institute for the
Study of Markets and Ethics

John Hasnas is a professor of business at Georgetown's McDonough School of Business, a professor of law (by courtesy) at Georgetown University Law Center, and the executive director of the Georgetown Institute for the Study of Markets and Ethics. Professor Hasnas has held previous appointments as associate professor of law at George Mason University School of Law, visiting associate professor of law at Duke University School of Law and the Washington College of Law at American University, and Law and Humanities Fellow at Temple University School of Law. He received his B.A. in Philosophy from Lafayette College, his J.D. and Ph.D. in Legal Philosophy from Duke University, and his LL.M. in Legal Education from Temple Law School. His scholarship concerns ethics and white collar crime, jurisprudence, and legal history. Professor Hasnas has written important and widely cited articles on stakeholder theory, corporate criminal liability, and the minimal state. His work is sophisticated yet accessible, and challenges many people's pre-conceived ideas of what is just and right.

The Verizon Visiting Professorship in Business Ethics at Bentley University is made possible through the generous support of Verizon Communications, Inc.

Verizon Communications Inc. was formed on June 30, 2000 and is celebrating its 20th year as one of the world's leading providers of technology, communications, information and entertainment products and services. Headquartered in New York City and with a presence around the world, Verizon has 133,000 employees and generated revenues of $131.9 billion in 2019.

Verizon Visiting Professorship in Business Ethics

The Core of Business Ethics

John Hasnas[1]
Professor
McDonough School of Business, Georgetown University

Executive Director
Georgetown Institute for the Study of Markets and Ethics

October 27, 2020

I. A Teleological Approach to Business Ethics

Whether corporations have an obligation to devote some of their resources to socially beneficial activities is an interesting ethical question. But it is not the essence of business ethics. The fact that so many business school ethics courses are structured as though it is–are listed as courses in corporate social responsibility (CSR)[2] –makes business ethics a strange outlier among the fields of professional ethics. For example, how many hours law firms should devote to pro bono legal representation is an interesting ethical question, but legal ethics courses are not courses in law firm social responsibility. Similarly, how many resources hospitals should devote to providing health care to the poor or uninsured is an interesting ethical question, but medical ethics courses are not courses in hospital social responsibility.

The field of legal ethics explores the ethical responsibilities one takes on when functioning in his or her professional role as an attorney. The field of medical ethics explores the ethical responsibilities one takes on when functioning in his or her role as a physician. If business ethics is indeed a field of professional ethics, it would seem that it should explore the ethical responsibilities that one takes on when functioning in his or her role as a business person.

I contend that such is the case–that although business ethics encompasses a wide range of interesting ethical questions about doing business in a market environment (including whether corporations have any social responsibilities), the essential core of the discipline resides in the exploration of the ethical obligations that inhere one's role as a business person.

Legal and medical ethics are both fairly well-developed fields. Each has codified the essential ethical responsibilities of their respective professions. Attorneys are bound by the Canon of Ethics and physicians by the Code of Medical Ethics. These codes do not resolve all ethical questions related to the practice of law and medicine, but they are useful starting points for the analysis of any such issue.

Business ethics has no similar code, which is entirely unsurprising. Law and medicine are regulated professions requiring licenses that are governed by the American Bar Association and the American Medical Association. Agreement to abide by these codes is the price of admission to the profession. Business is not similarly restricted. No license is required to go into business and there is no American Business Association that can create or demand adherence to a code of conduct.

But the absence of a *consciously created* code of ethics for business does not imply that no such code exists.[3] This is because there can be ethical principles embedded within the practice of business itself; principles that we can identify by employing what philosophers call a teleological approach to ethics.

In general, a teleological approach is one that derives its conclusions from the nature or purpose of the activity under consideration. We can apply such an approach to ethics by recognizing that voluntarily engaging in certain activities can create implicit ethical obligations. For example, if I agree to play chess with another, I implicitly agree to move my bishops exclusively along diagonal paths, to refrain from surreptitiously removing my opponent's pieces from the board when he or she is not looking, and otherwise abiding by the rules of the game. As a professor, when I give my students an exam, I implicitly agree to assign grades on the basis of the student's actual performance, rather on how attractive they are or how much I like them personally. In each case, my initial commitment to engage in the activity carries with it additional implicit commitments that arise out of the nature of the activity itself.

In the present context, the relevant activity is doing business in a market. Notice that to do business in a market one must be willing and able to enter into a principal-agent relationship. This is because, unless we are sole proprietors or otherwise self-employed, a business necessarily involves a contractual arrangement between parties with resources–owners–and parties with skills–agents or employees. The owners are willing to place their resources in the hands of the agents in return for a promise that the agents will apply their skills to the resources to attain ends specified by the owners. The agents are willing to act in this way in return for a promise from the owners to provide them with specified compensation. Thus, a minimum requirement for a business to exist is an agency relationship among its members.

Notice also that, at the most fundamental level, the market is the realm of voluntary exchange. Paraphrasing Adam Smith, we can say that a market is a place where one goes "to truck, barter, and exchange one thing for another" (Smith, 1776, Book 1, Ch. 2, para. 1) as long as we understand the word 'place' metaphorically. For, in the contemporary world, markets are not limited to a physical location, but are often virtual and global in scope. But whether it is the local farmer's market or the New York Futures Exchange, whether virtual or real, a market is where people go to trade value for value.

This means that when people voluntarily elect to do business in a market, they commit themselves to entering agency relationships with others for the purpose of engaging in voluntary exchange. When they do, they are implicitly committing themselves to abide by a set of ethical principles–the principles that must hold in order for markets to function and for parties to be willing to hire and trust others to act as agents for them. Just as an obligation to play by the rules is inherent in the agreement to play chess, the obligation to adhere to these principles is inherent in the agreement to play the "market game."[4]

I contend that the set of ethical principles that is inherent in the commitment to doing business in a market can serve as an analog for the role the Canon of Ethics plays for attorneys and the Code of Medical Ethics plays for physicians. Attorneys agree to abide by the principles contained in the Canon when they decide to practice law. Physicians agree to abide by the principles contained in the Code when they decide to practice medicine. Similarly, business people agree, even if implicitly, to abide by the principles required for businesses to function when they decide to do business in a market.

What, then, are these principles?

II. The Principles

A. Principle 1: Personal Ethical Responsibility Is Inalienable

The first principle instructs business people to act with the awareness that they always bear ethical responsibility for their actions. This principle is a warning that one can never rely entirely on the ethical judgment of another–that the fact that one was following another's orders can never be an adequate ethical justification for one's conduct.

This principle follows from the fact that there is nothing about entering a market that relieves individuals of ethical responsibility for their actions. The voluntary decision to engage in voluntary trade with others does not free one of any of his or her pre-existing ethical obligations. On the contrary, it adds the additional obligations detailed below. In essence, this principle asserts merely that business people are people, and as such, are clothed with all the ethical obligations they had before entering the market.

Further, there is nothing about forming a business that can relieve either the owner/principal or the employee/agent of such personal responsibility. The act of forming a principal-agent relationship creates a new obligation for the employee/agent–the obligation to use the principal's resources in accordance with the instructions of the principal. But it does not relieve either the principal or agent of any of his or her personal ethical obligations. Principals do not alienate their ethical obligations by hiring others to act for them. One does not escape a duty to refrain from murder by hiring a hit man to kill one's victim. Similarly, agents cannot alienate their duty to exercise ethical judgment by agreeing to act for another. There is nothing about the act of accepting employment as an agent that releases agents from their ordinary ethical obligations as human beings. Further, principals can delegate to their agents only those tasks that they are morally authorized to perform. One who does not have the ethical authority to commit murder cannot authorize his or her agent to commit murder. Hence, agents must always question whether the actions they take in pursuit of their principals' interests are consistent with their ordinary ethical obligations and are those they have been morally authorized to take.

B. Principle 2: Refrain from Physical Coercion

The second principle instructs business people to refrain from using physical coercion and the threat of physical harm to attain their business objectives. This principle follows directly from the nature of the market, which is the realm of voluntary exchange. As noted above, it is where people go to voluntarily trade value for value. As such, coercion–the use or threat to use physical force to attain one's ends–is definitionally outside the bounds of market activity. Employing coercion to obtain what one cannot get through bargaining is a method of overriding another's will–the exemplar of involuntary exchange. Hence, it is the antithesis of market action.

The non-coercion principle is binding on those doing business in a market because the act of voluntarily entering a market entails an agreement to refrain from using physical coercion in one's dealings with other market actors. If one understands what market activity is and voluntarily undertakes to engage in it, then one has implicitly agreed to eschew coercion in one's business dealings. The normative force of the non-coercion principle is generated by one's own actions.[5]

C. Principle 3: Refrain from Fraud and Improper Deceptive Practices

The third principle may be seen as a corollary of the second. It instructs business people to refrain from using fraud or improper deceptive practices to attain one's business objectives. It is a corollary of the non-coercion principle in the sense that fraud and improper forms of deception serve as substitutes for coercion. Coercion employs force or the threat of force to cause people to act against their own wills. Fraud and improper deceptive practices accomplish the same end through trickery–they trick rather than force people into acting against their own wills. Like coercion, such fraudulent and deceptive practices are intentional acts designed to override the autonomy of a trading partner. Hence, like coercion, they undermine voluntary exchange, and are inconsistent with market activity. And hence, one who understands what market activity is and voluntarily undertakes to engage in it has implicitly agreed to refrain from employing such practices.

D. Principle 4: Honor All the Terms of One's Contracts

The fourth principle instructs business people to honor all the terms of their contracts. This principle can be derived from not only the nature of market activity, but also the principal-agent structure of most business enterprises.

The market is the realm of voluntary exchange. But in the modern world, it is not the realm of simultaneous voluntary exchange. When contracts are formed, one party usually performs his or her part of the bargain before the other. Payment may precede delivery or vice versa. Parties enter into such executory contracts only because they expect the other party to perform if they do. Since the act of entering into an executory contract manifests one's belief that one's trading partner is bound to honor it, he or she implicitly accepts the principle that parties are bound to honor their contracts.

Further, adherence to this principle is necessary for markets to function efficiently. If market actors did not recognize a moral commitment to honor one's contracts, parties could secure performance only by arranging simultaneous performance or incurring large enforcement costs. In either case, markets would collapse because the cost of enforcing executory contracts would exceed any gains that could be realized from their execution. To see that this is the case, imagine a world in which all contracts that did not require simultaneous performance had to be enforced with lawsuits.

Finally, a commitment to honor the terms of one's contracts is inherent in the principal-agent structure of most businesses. Remember that in forming a business, the owners of resources are entering into an agency contract in which they advance their resources to others in return for a commitment to use the resources only for the purposes and in the ways they designate. No principal would enter such a relationship unless he or she believed that the agents were bound to act in accordance with its provisions. There would be no point in hiring agents if one had to spend all of one's time monitoring their conduct. By the same token, no agent would be willing to expend the time and effort to carry out a principal's instructions unless he or she believed that the principal was bound to provide the agreed upon compensation. Thus, both the principal's act of forming a business by hiring agents and the agent's act of accepting employment entail a commitment to the principle that individuals have an obligation to abide by the terms of their contracts.

E. Principle 5: Treat All Parties with Equal Respect for Their Autonomy

The fifth principle instructs business people to recognize that all those with whom they have business dealings are entitled to equal respect as autonomous agents, i.e., as people who have goals, desires, and life plans of their own and the ability to pursue them. The principle is essentially an anti-discrimination principle instructing that there can be no "second class citizens" in the business world–there are no parties whose interests do not matter or may be discounted due to social prejudices.

Like the principle requiring business people to honor all the terms of their contracts, this principle is inherent in both the nature of markets and the principal-agent structure of business. The market is where people go to realize their goals, satisfy their desires, or advance their life plans through voluntary exchange with others. Trades occur only when both parties believe their goals, desires, and plans will be advanced by the transaction. By engaging in trade, each person expects his or her trading partners to recognize that he or she is an autonomous agent acting to achieve personally important objectives, and to treat him or her accordingly. Hence, by engaging in trade, each person also implicitly agrees to treat his or her trading partners in a similarly respectful manner. Thus, entering the market carries with it a commitment to treat all trading partners as full human beings whose personal goals, desires, and plans are as important to them as one's own goals, desires, and plans are to oneself.

The obligation to treat business partners with equal respect for their autonomy is also implicitly assumed by those who enter into the agency relationship characteristic of the business enterprise. Principals advance their resources to agents in order to better realize their personal goals, desires, and plans. The agents contractually agree to use these resources exclusively to advance these goals, desires, and plans in preference to their own or anyone else's. Regardless of one's own beliefs or desires, entering into the agency relationship requires one to recognize the goals, desires, and plans of the principal as equally worthy of respect. Hence, the obligation to treat the goals, desires, and plans of others as on a par with one's own is inherent in the agreement that creates the agency relationship itself.

F. Summary

This analysis shows that there are at least five ethical principles that can be derived from the nature and purpose of markets and the principal-agent relationship inherent in most business organizations. These, of course, do not capture all of a business person's ethical obligations. Rather, they represent a minimal set of obligations that can be derived from the implicit commitments a business person makes by voluntarily electing to do business in a market. Although far from a complete account of one's professional obligations, these principles supply a useful starting point for the ethical analysis of business conduct; a secure core of business ethics.

III. The Significance of the Principles

To the uncritical eye, these principles may seem facile. Aren't these the type of uncontroversial bromides that most of us learn as children? How much useful practical guidance can they provide in the real world of business? Perhaps contrary to appearances, the answer is quite a lot.

Consider Principle 1 that instructs us that one can never justify unethical behavior on the basis of an appeal to authority. Although this may not be a particularly novel observation, it is one that is often forgotten. This is especially true in the business environment in which subordinates are often required to rely on and acquiesce in the judgment of their superiors with regard to matters of strategy. In these circumstances, there is always the temptation to allow this attitude to spill over into matters requiring ethical as opposed to strategic judgment. This is why it is all too easy for business people to find that they have inadvertently engaged in unethical conduct, and why the most commonly articulated excuse for unethical behavior in business is "But I was just following my boss's orders." A conscious awareness of Principle 1 is a necessary prophylactic against stumbling into an ethically compromised position. Thus, far from a facile bromide, Principle 1 serves a crucially important purpose for those engaged in business.

Similarly, Principle 2 banning the use of physical coercion in one's business dealings may seem rather uncontroversial. That, however, does not imply that

its recognition is not crucially important. There are many places in the world where the direct use of physical coercion and forced labor are still live issues. For example, the oil companies Total S.A. and Unocal were accused of acquiescing in the use of forced labor and involuntary relocation of families in their joint project to develop the Yadana natural gas field and pipeline in Myanmar in the 1990s (Doe v. Unocal Corp., 2002). Indeed, in many regions of the world, businesses still retain the passports of migrant workers to prevent them leaving work, and physical coercion is often an issue in cases involving "sweatshop" labor in developing economies (International Labour Organization [ILO], 2012).

Although Principle 3 may seem similarly uncontroversial, it has a remarkably wide range of application. Contemporary business dealings typically involve executory contracts and the concomitant representations and negotiations that go into the formation of these contracts. The essential task of Principle 3 is to is to make sure that such dealings are truly voluntary, and thus within the realm of market activity. Hence, to the extent that deception is used to override another party's free will it is an unethical business practice.

Fraud is the archetypical example of such a practice. Fraud, which consists in the intentional misrepresentation of a material fact on which another relies to his or her detriment,[6] is clearly designed to override another's free will. But other deceptive practices that do not possess all the elements of fraud can do so as well. Technically true but misleading statements, false promises that do not misrepresent facts, and the failure to disclose material information can all be designed to cause others to act in ways they otherwise would not.

Of course, not all instances of deception are unethical. It is often permissible to tell little white lies designed to spare others' feelings. And there is nothing wrong with bluffing in poker or outright lying in the board game Diplomacy. Similarly, one does not act unethically when one misrepresents one's willingness to pay when bargaining in a bazaar or negotiating the purchase price of a car or a home.

Principle 3 prohibits the use of improper deceptive practices–those that override another's free will, not all deceptive practices–not those to which the other party has consented. When we agree to play poker or Diplomacy, we know that the rules permit the use of deception and we consent to play under those rules. Trying to see through our opponent's deception is what makes the games fun. But we do not consent to our opponent having an ace up his sleeve, and it is that lack of consent that makes the surreptitious use of the ace unethical. When dickering over the price of an item in a bazaar or negotiating the purchase price of a car or home, all parties know that statements about one's willingness to pay or sell are not necessarily true. By engaging in negotiations with this knowledge, we consent to the other party's deceptive practice. But we do not consent to the seller's rolling back the odometer of a car or lying about the results of a radon test of a home, and it is that lack of consent that makes such practices unethical.

This distinction applies across the board in business settings. For example, experienced business people know that when engaging in complex business negotiations, all parties are required to exercise "due diligence." This means that they know that neither they nor the party they are negotiating with are ethically required to disclose publicly accessible damaging information–that all parties are required to do their own homework. By entering negotiations with this knowledge, they consent to the non-disclosure of such information. But they do not thereby consent to the non-disclosure of damaging material information that is not publicly accessible. Therefore, withholding such information is an improper deceptive practice.

Principle 4, which requires business people to honor the terms of their contracts, has a similarly wide range of application. The principle applies both within a firm–requiring employers and employees to abide by the terms of their contractual agreements–and outside of the firm–requiring business people to abide by the terms of their contracts with all of their stakeholders. Especially in the context of a business's contracts with its customers, this principle does a great deal of work.

In forming contracts with their customers, businesses make many representations about their product's performance or the nature of their service–what the law calls express warranties (White & Summers, 2010, §§ 3-313). They describe the product's reliability, the extent of its expected service life, the costs of maintenance and upkeep, and, especially important, the safety risks associated with its use (Velasquez, 2012, § 6.2). (Service providers make analogous representations.) In addition, the mere act of offering products or services for sale as a merchant carries with it certain implicit representations as to the product's nature, quality, and purposes for which they may be used–what the law calls implied warranties of merchantability, fitness for particular use, and those arising from "course of dealing or usage of trade" (White & Summers, 2010, §§ 3-314, 315). The principle requiring one to honor all terms of one's contracts obligates a business person to live up to all such express and implied warranties. This can be a powerful tool for analyzing a business person's duty to protect his or her customers from both physical harm and psychological disappointment.

Finally, Principle 5 plays a powerful role in regulating how business people and businesses interact with their stakeholders. By enjoining business people to treat all parties with equal respect for their autonomy, it is instructing them to make no business decisions based on unfounded social prejudice. As such, Principle 5 acts as the market's inherent anti-discrimination principle.

This principle can play an especially powerful role in analyzing business people's obligations to their employees by prohibiting invidious discrimination in all employment decisions. Thus, decisions about whom to hire and whom to promote should never be based on animus toward an individual because of his or her racial, sexual, or ethnic group membership. But the same restriction applies to a business person's dealings with customers, suppliers, and other stakeholders. This principle plays a significant role in international business dealings in which some of the contracting parties come from nations or cultures that do not afford equal rights to women or suppress certain religious or ethnic minorities. Principle 5 requires that one treat all market actors as having personal interests that are as worthy of respect as one's own, regardless of social biases, cultural stereotypes, or personal prejudices.

IV. The Value of the Core

These five principles clearly do not embody all of a business person's ethical obligations and are not sufficient to address all ethical issues that can arise in the business environment. In fact, when I teach business ethics, I immediately supplement them with a sixth principle that instructs business people to avoid exploitation.[7] This anti-exploitation principle is just as important as the first five, but cannot be derived merely from the fact that one has voluntarily decided to do business in a market. I have to provide an alternative grounding for the principle during class.

Furthermore, the core principles say nothing about any positive ethical obligations business people may have. To the extent such obligations of beneficence exist, they are just as important as those embodied in the core principles. But again, they must be grounded on something other than simply an individual's decision to go into business.

Yet, despite not being a panacea, the core principles provide an invaluable entry point for the analysis of ethical issues in business. In the first place, they can command the assent of all parties engaged in the business endeavor regardless of their religious, cultural, or philosophical traditions. This is because the core principles are not derived from any such tradition, but from the one thing all business people share, the voluntary decision to do business in a market. By forming a business and entering a market, business people agree to engage in trade with others, *and to all that such an agreement implies*. The core principles are merely the implications of the individuals' own commitments. Therefore, they can be recognized as binding by all who engage in business regardless of their backgrounds or parochial beliefs.

There is nothing novel about this observation. As long ago as 1733, Voltaire noted,

> Take a view of the Royal Exchange in London, a place more venerable than many courts of justice, where the representatives of all nations meet for the benefit of mankind. There the Jew, the Mahometan, and the Christian transact together, as though they all professed the same religion, and give the name of infidel to none but bankrupts. There the Presbyterian confides in the Anabaptist, and the Churchman depends on the Quaker's word. (Voltaire, 1733, Letter VI, para. 5).

But more importantly, the core principles provide a particularly solid foundation on which the ethical analysis of more complex issues can be built. Business people face a host of daunting ethical challenges doing business in the contemporary global marketplace. Deciding what

one's obligations are to help maintain a sustainable environment, to provide benefits to non-shareholder stakeholders or society in general, to act properly when dealing with corrupt or oppressive regimes, to support displaced employees when moving production overseas or foreign employees laboring under harsh working conditions in the developing world are all exceedingly difficult ethical questions. Addressing such issues requires not only sophisticated ethical reasoning, but also understanding of the principles of economics, political science, and social psychology. Because the core principles have a secure grounding, they provide a set of fixed points that can undergird the more sophisticated analysis required to address these issues.

A useful analogy would be to think of the core principles as the touch lines on a soccer pitch. Between the lines, players may be as creative as they like and employ an unlimited number of strategies for advancing the ball downfield. But should they send the ball across the touch lines, all forward progress stops and they lose possession of the ball. Resolving complex ethical problems in the contemporary business environment may require much ingenuity and various strategies for integrating sophisticated ethical principles with the knowledge of economics, politics, and psychology. But if the proposed resolution requires violating any of the core principles, then it is ethically unacceptable and must be rejected.

For example, it can be difficult to know how to do business ethically in a country in which there is widespread institutional discrimination against women or indigenous peoples or religious minorities. How much concession to make to local customary practices and employee or customer preferences can be a difficult decision to make. However, any concession that involves treating the interests of the members of a socially disfavored group as less important than those of the members of the socially dominant group violates Principle 5 and is unacceptable. If a business person cannot figure out how to do business in a location without violating Principle 5, he or she should not do business there.

Similarly, doing business in the developing world where many workers are employed for long hours and under harsh working conditions presents many difficult ethical questions. How much can a business ethically benefit from the low cost of labor? Is it acceptable to pay the market wage or is there a duty to pay a living wage? Is there an obligation to monitor the behavior of one's contracting partners? These are not easy questions to answer. But any proposal that suggests that there is no obligation to obtain workers' consent to working conditions or that recommends using employment contracts that uneducated or illiterate workers cannot fully understand violates either Principle 2 or Principle 3 and must be rejected.

The special value of the core is what makes the tendency of many in the business ethics academic community to regard business ethics as coextensive with CSR so unfortunate. CSR is a highly complex undertaking. Its goal is to identify what obligations businesses and business people owe to a business's stakeholders–which itself requires an account of what makes one a stakeholder–and/or to society in general. This requires not only sophisticated ethical reasoning, but empirical knowledge of both economics and corporate law. Treating this as the fundamental question of business ethics strikes me as analogous to starting a maze in the middle, trying to derive calculus before learning algebra, or, if you will permit me a literary allusion, being one of the title characters in the play *Rosencrantz and Guildenstern are Dead* who must figure out what *Hamlet* is about from the inside.

Consider how much easier it would be to address such a complex issue if we began with the ethical fixed points provided by the core principles. Starting with the core, we would know that whatever ethical obligations a business or business person has to benefit non-shareholder stakeholders or society as a whole, those obligations cannot be inconsistent with their obligations to refrain from the use or threat of physical coercion, to refrain from fraud and improper deception, to honor the terms of their contracts, and to treat all parties with equal respect as autonomous agents.

For example, businesses enter into contracts with their suppliers, employees, customers, and shareholders, and often with the local, state, or federal governments. This means that any account of a business's social responsibilities must be consistent with the business honoring the terms of these contracts. (Principle 4.) Thus, a business cannot have an ethical obligation to serve any larger societal interest if doing so requires paying employees less than their agreed upon wage, or producing products that violate any of the express or implied warranties made to customers, or reneging on a purchasing agreement with a supplier, or allocating profits in a way that is inconsistent with its contract with shareholders as residual claimants. This may, in turn, mean that to ethically pursue social responsibilities, businesses must build the ability to do so into its contractual agreements *ex ante*.

Similarly, businesses often entice other parties to deal with them by making representations on which those parties rely. A company might solicit tax concessions from a local government by promising to hire a certain percentage of its workforce locally. Or a non-profit might solicit donations by promising to use its funding exclusively to treat a specific condition or social problem. Or a corporation might attempt to raise additional capital by promising to streamline its workforce and devote itself to obtaining a 20% improvement in its return on investment. But Principle 3 implies that any account of a business's social responsibilities must be consistent with the business living up all such representations. A business cannot ethically act to promote social welfare if it means violating the representations that the local government, donors, or investors relied on when deciding to deal with the business. And this, once again, suggests that to ethically pursue social responsibilities, businesses may be required to limit the type of representations they can make in advance.[8]

Consider also that Principle 5 requires business people and businesses to treat all market participants with equal respect for their autonomy–to recognize them as agents with their own inherently valuable goals, desires, and life plans. That means that the personal goals of all stakeholders are of equal moral status. It means that businesses cannot treat its employees, customers, and suppliers merely as tools for the advancement of the interests of its owners or shareholders. It also means that businesses cannot treat its owners or shareholders merely as tools for the advancement of the interests of its employees, customers, and suppliers. Perhaps more importantly, it means that businesses must give equal consideration to the interests of both "seen" and "unseen" stakeholders.[9] For example, if a business must decide whether to outsource its labor force, it must give the interests of its current domestic workforce and its future foreign workforce equal weight. For as autonomous agents, the goals, desires, and life plans of the potential employees are just as worthy of respect as those of the current employees. Thus, Principle 5 implies that businesses cannot arbitrarily select any stakeholder group or market participant to bear a disproportionate share of the burden of meeting whatever constitutes the business's social responsibilities.

If you will permit me the metaphors, the value of the core is that it tells us where to enter the maze of corporate social responsibility, provides an algebra on which to base our social welfare calculus, and supplies the context we need to appreciate the larger drama.

V. Conclusion

I believe that it is fair to treat business as a profession on a par with law and medicine. If so, then business ethics is best understood as an exploration of the ethical obligations one assumes when one enters the profession of business. Such obligations may be many and diverse. But there are a small number of ethical obligations that can be derived directly from what it means to do business in a market. These obligations, captured by the five principles identified in this article, are the core of business ethics. They provide well-grounded, fixed points from which to launch the analysis of many of the highly complex ethical issues that business people face in the contemporary global business environment. More specifically, and perhaps more importantly, they provide a set of fundamental ethical requirements that any account of corporate social responsibility must satisfy–the touch lines that efforts to advance social welfare must stay within–to be ethically acceptable.

The core is a small part of the field of business ethics, but it is a crucially important part. So too, the foundation of a house is a small part of the structure, but it is the part on which soundness of the structure rests. I submit that the principles that make up the core constitute the analytical foundation of the field of business ethics.

Bibliography

1. J.D., Ph.D., LL.M., Professor of Business at Georgetown's McDonough School of Business and Professor of Law (by courtesy) at Georgetown University Law Center. Professor Hasnas wishes to thank Ann C. Tunstall of Remedy Pharmaceuticals, Inc. and Annette Hasnas of Georgetown University for valuable comments on a draft of this article and along with Ava Hasnas of the New School of Northern Virginia for helping him find his ethical core.

2. Until we changed its name in 2018, the required undergraduate ethics course at Georgetown's McDonough School of Business was entitled "Social Responsibilities of Business." At one point, the required MBA ethics course was going to named, "Managing the Triple Bottom Line."

3. Just as the presence of a consciously created code does not imply that it correctly embodies the ethical obligations of the relevant profession.

4. This approach to identifying the core principles of business ethics was inspired by Dennis P. Quinn & Thomas M. Jones's article, *An Agent Morality View of Business Policy* (Quinn & Jones, 1995). In that article, the authors claimed that by grounding their "arguments in an analysis of the moral foundations of economics and business," they could "show that the moral logic of market competition and the principal-agent model of the firm require managers to recognize [certain] principles as a higher priority than firm profits" (p. 23). Quinn and Jones argued that a general commitment to certain ethical principles "is a precondition either for the efficient working of markets or for the principal-agent model itself to hold. The acceptance of these . . . principles as norms of business is what enables an agency relationship to exist in the first place" (p. 34). Their point is that the very act of doing business in a market carries with it a commitment to abide by certain ethical principles.

5. It is important to note that this principle, which bans the intentional use and threat of physical coercion to override another's will, has no application to questions of "psychological coercion" in which a party feels forced to act in a certain way by circumstances or must choose among a severely constrained set of options. This is a distinct matter that will addressed subsequently.

6. For example, criminal fraud (which is called false pretenses) requires that the "defendant obtained title or possession of money or personal property of another by means of an intentional false statement concerning a material fact upon which the victim relied in parting with the property" (People v. Drake, 1984).

7. This is where I address the question of psychological coercion or constrained choice referred to in note 5 above.

8. Whether non-profits or for-profit businesses business will be able to effectively solicit donations or raise capital if they can ethically promise only to use their funding to achieve specific ends *unless the money can be better used to promote social welfare* is an interesting empirical question.

9. This is a reference to Frédéric Bastiat's essay, *What Is Seen and What Is Not Seen* (Bastiat, 1995).

Q&A

Below are highlights from the question-and-answer session with Professor Hasnas and Bentley University students, faculty, staff, and guests. It has been lightly edited for clarity.

QUESTION: *What is an example of using stakeholders as a tool for shareholders?*

JOHN HASNAS: Let's say I'm going to make an argument that the only obligation of business is to maximize profit. Now suppose that the business wants to make a deal with its trade union. The business says something like this, "give us a good deal for the next three years and then we'll increase the amount of the compensation by 30% after the third year". At the same time, the business knows that in three years it's planning to move its plant somewhere else. That would be using the employees merely as a tool to benefit the shareholders. You can increase profits by treating the employees unfairly, but you shouldn't be doing that. Similarly, you shouldn't be putting out products that have defects that can injure your consumers if you could make them more safely. You have similar obligations to all of the other stakeholders. The fact that you have an obligation to your shareholders to try to increase their return on investment, doesn't allow you to use others merely as tools. And it goes the other way, too. If you want to benefit the employees, or the customers, or the local community, that doesn't mean that you're allowed to disregard the shareholders' interests or treat them as merely as tools. You have to honor your agreements and commitments to the shareholders as well. So with regard to all parties, you can't use any of them merely as a tool for the benefit of any other. We are all equal as autonomous project pursuers.

QUESTION: *Are the five core principles ranked or are they unordered? Is one the most important?*

JOHN HASNAS: They're not ranked, they are ordered. What does that mean? They're ordered because when I introduce them to a class, introducing them in this order makes the most sense and makes it easier for people to buy in. Principle five is at the bottom because I haven't figured out how to express it without using the word "autonomy." Autonomy is a term that needs a lot of explanation. What I'm after is a set of principles expressed in language that ordinary business people can easily understand. I am looking for principles that identify what's required in the market, which can be understood as the realm of voluntary exchange. It's easiest for people to see this when the principles are introduced in this order. But no, there's no ranking. They're all equally binding and significant.

If you were to ask me which one is most important, it might be Principle one. The reason why Principle one is so important is because most ethical scandals, especially the poignant ones, the ones that make you feel sorry because the people involved didn't set out to do something wrong; arise because those people just weren't paying attention. I can't tell you how many times we have speakers who come in and explain that "I didn't know what I was getting myself into because I wasn't paying enough attention and then when I looked up, I had already engaged in insider trading or some other wrongdoing." So it is incredibly important to constantly remind yourself to ask, "Is this is the right thing to do?" If that one principle was more rigorously adhered to, we could greatly reduce the amount of ethical problems that happen in businesses. There are bad people intentionally doing bad things, but that's not the majority of the cases that give rise to problems.

Otherwise, the principles are all equally binding.

QUESTION: *You say that you should honor the terms of your contracts. But what if the contract itself is unethical or fraudulent?*

JOHN HASNAS: Okay, good question. These are the five starter principles. The principles are binding. Now, what do they mean in practical terms? How do you put them into effect? The principles are just the starting points. So I'll advertise what Professor Moriarty and I do a little bit. After all, we need an entire course of ethics, not just one lesson. If the reason why a contract was made is because somebody put a gun to the other person's head and said, "sign this or else" or something like that, then the terms of the contract are not binding. But what distinguishes binding contracts from others has to be worked out. What's interesting for someone like me who does business ethics and is also an attorney is that the entire field of contract law exists to answer difficult questions about when contracts are binding. There are a lot of issues to address. But once that has been done and a legitimate contract has been made, then you've got to honor its terms or you're behaving improperly. That's when a contract imposes a constraint on your activities.

QUESTION: *I wonder whether principle four (viz., honor all terms of one's contracts) implies that some widely used business practices are unethical. Consider, for example, the practice of overbooking airline flights and overselling hotel rooms on the face of it. These seem to be examples of businesses intentionally taking in more contacts than they could possibly honor. Does your account, in particular, principle four imply that practices like overbooking in overselling are unethical?*

JOHN HASNAS: No, it doesn't. I take this question to be similar to the last question. Principle 4 states "Honor all the terms of one's contracts." Maybe I should have a little carrot there which adds, "Honor all the terms of ones legitimate contracts" or "Honor all the terms of the contracts that are ethically formed." So more explication is needed. But if it's a legitimate contract, you're bound by its terms. Principles three and four (*"refrain from fraud and improper deception" and "honor all the terms of one's contracts"*) are related. If you agree to do something with somebody else and that person relies on you, and it's a legitimate agreement, then you are ethically bound. There are many questions about contract law, and I find them interesting, but pursuing them would take us way off track. I'd love to get into a big conversation about what makes a contract unconscionable, because there's a doctrine in contract law that says unconscionable contracts are not binding. It's one of the most interesting areas of contract law and it would go directly to this question. But it would mean that I'm indulging myself in my legal interest and probably not doing what you brought me here to do today so I'll just put that to the side for now.

QUESTION: *Aren't some of these ethical rules and principles that you identify built into certain laws, regulations, and so forth?*

JOHN HASNAS: The answer to that is yes, and ideally, a body of law is consistent with the underlying ethical principles. This is an issue that we deal with all of the time in business school discussions of legal issues. Ethics and law are different. You cannot derive anything about what is ethically appropriate from what the law requires. The law may embody ethically correct prescriptions, in which case, of course, we should obey the law. But the law may also embody completely unethical prescriptions. In the United States, in the southern states, there was a time in which segregation was the law of the land requiring the separation of the races. The fact that it was part of the law didn't mean that that was the right thing to do. It was the law, but it was still wrong. What we want is a body of law that correctly captures or correctly includes the underlying ethical principles, but that's not always the case. My book, *Trapped: When Acting Ethically is Against the Law*, is about the discrepancy between law and ethics. Unfortunately, in a variety of legal contexts, if you try to do the right thing, you will get into legal trouble. That is an indictment of the law, not a prescription for doing the wrong thing. So to the extent that our federal criminal law puts pressure on businesses to sacrifice the interests of individuals to the interests of the corporation in order to avoid indictment, this is a problem. There are legal pressures that are antithetical to doing the right thing. When I have my business ethicist's hat on, I'm saying that you're obligated to do what's right. And it's possible that doing the right thing means either not obeying a law, or more likely, not doing business at all in certain situations. If to do business in a country you have to obey a law that says something like treat different castes differently or engage in discrimination, then the answer is not that you have a duty to obey the law, but that you shouldn't be doing business in that country. There are some circumstances in which if you're doing business and the law is wrong, you may have an obligation to disobey the law. That's a difficult prescription for a business person to follow, because if you disobey the law, you can damage the business. However, it is more likely that the solution will be that you simply can't do business in a place where the law itself requires wrongful conduct. Law and ethics are two different things. The basic commitment is to ethics. Your obligation to obey the law is derivative of that. You have an obligation to obey the law when doing so is ethically correct. You don't have an obligation to obey the law when it's prescribing unethical behavior.

QUESTION: *Are economic sanctions primarily through trade embargoes applied to certain countries considered unethical?*

JOHN HASNAS: That's a great question. I will start off by saying complex questions like that probably aren't answered by what I've talked about today. If economic sanctions are imposed by governments, then these principles don't actually apply at all because government action is not market action. If you're talking about something else, if you're talking about market action, then there is an ethical issue. But I don't think anything I've said today can be properly applied to the political realm in which the government is acting because government action is not voluntary exchange. It's not market action. Personally, I don't think that governments should be imposing economic sanctions as a matter of public policy. I think everyone in the market has the right to decide whether they want to trade with anyone else. If I think other people are engaging in behavior that I think is terrible, I may want to with-hold my business from them and I can. I might want to encourage other people to do the same thing because I would like to change the other party's behavior. And in a sense that's an economic sanction, but it's through market activity. If the question is about the kind of economic sanctions that the United States is imposing on Iran, I don't have an answer. I don't have an opinion because I don't consider that to be market activity, that's political activity.

QUESTION: *Do we have any reason to believe that following this set of ethical principles or any other set of ethical principles will help business to make money? What is your view on the empirical evidence between profitability and being ethical?*

JOHN HASNAS: Okay, so that's a great question. I have an opinion as to the answer, but my opinion is not an expert opinion. So why should you listen to me? Now I have a belief that doing business ethically in most cases also produces good returns on your investment. I think the world is generally a happy place. What does that mean? It means that if you do business ethically, you also tend to be successful. Practices that are unethical can result in a loss of money when found out. The problem is that the world is not always a happy place. There are some people who are great at being deceptive and can make a lot of money and get away with it for a long period of time. I think an example of that would be Bernie Madoff's fraud. He managed to keep his fraud going for an extremely long period of time. So he did make a lot of money and he did it by being unethical. There's no guarantee. Generally speaking, however, I think there's a lot of evidence from the economists that in a true market, the kind of benefits you get from a reputation for honesty and the kind of benefits that come about from being trustworthy are the kind of things you need in order to get and keep business. But that's the best I can do. If you're an effective enough villain, there's no guarantee that you won't succeed. It's the nature of the world. But the more markets are free to function and the less they're under control of people who can manipulate things, the more likely it is that ethical behavior produces good results. Do I have any expert knowledge of that? No. The reputation for ethical behavior does have some cash value. But do I have a guarantee that it always comes out that way? The answer is no.

QUESTION: *Does verbal communication or attention ever imply a contract? Or does there need to be a signed document for there to be a contract?*

JOHN HASNAS: An agreement is an agreement. A written contract is a memorialization of the agreement. If I make an agreement and the person relies on it, I'm ethically bound to keep my agreement even if I'm not legally bound to do so. Legally speaking, contracts are not binding unless they have certain features. There are all kinds of contract rules. But if I make an honest agreement with somebody else and he or she relies on it, I should keep my word.

QUESTION: *What would you say about lobbying? Does this starter principle speak to this, or is this not a market activity and this is a political activity?*

JOHN HASNAS: I don't think my core principles answer that question. I have an opinion on this. I wrote an article called "The Ethics of Lobbying," so you could look it up. But basically, lobbying is ethical only when it's lobbying in self-defense. Lobbying is an example of why it can't be true that business people's only obligation is to maximize profits. If we were in some kind of ideal market where the only way to maximize profits were to make the world better for everybody, that would be one thing. But in our actual market, one way to maximize profits is to use lobbying to get the government to give you an advantage over everybody else. So you're basically importing coercion into the marketplace in order to gain an advantage. That's not ethical. So the use of lobbying to override people's free will, is in a sense a way of violating one of these basic principles. That kind of lobbying is unethical. On the other hand, I've written that if you're lobbying in self-defense to repel that kind of thing, then that form of lobbying would be ethically acceptable.

QUESTION: *Is it unethical to invest in companies that had poor or low ESG scores? Do the starter principles have something to say about investment decisions?*

JOHN HASNAS: I think ratings like that are really useful. It will help people decide whether they want to invest. Is it unethical to invest in a company that has one of the low ratings? I'm going to say no. I'll probably make some investments in order to get enough money to pay for my kids' college education. There, I'm concerned with return on investment. If a company is engaged in either illegal or damaging activity, if a company is doing something bad, I probably shouldn't invest in it. If a company is just making their product or making money and it is not particularly environmentally wonderful, I don't see anything wrong with my investing in it. If I care about the environment, I wouldn't invest in that company and I'll invest somewhere else. But investors have all different kinds of reasons for making their investments. They're allowed to pursue their own projects. They're allowed to pursue their own goals. They shouldn't be facilitating people who are engaging in illegal or unethical activity. But otherwise, I don't think there's anything wrong with those kinds of investments.

BENTLEY UNIVERSITY

Hoffman Center
for Business Ethics

MAIL Hoffman Center for Business Ethics
Bentley University
175 Forest Street
Waltham, MA 02452 USA
EMAIL cbeinfo@bentley.edu
WEB bentley.edu/cbe
PHONE +1 781.891.2981
FAX +1 781.891.2988

01/21BCG.CBE.15182