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Abstract

We examine a pedagogy for ethical decision-making that bridges the academic and theoretical with a dynamic and practical approach. We consider how two perspectives of mindfulness contribute to a sustainable practice. First, students explore their inner selves to build and strengthen their self-awareness. Building self-awareness and examining values and beliefs aligns with mindfulness meditation as presented by Lampe and Engleman-Lampe (2012). Second, a cognitive approach is used to examine ethics in depth using theory. This perspective aligns with the construct proposed by Langer and Moldoveanu (2000). We build on these approaches by engaging the individual's belief and values system with theoretical foundations. We encourage the students to employ academic rigor and self-awareness as a practical approach to business ethics. The method is an ongoing and dynamic process. Sustainability depends on maintaining an informed state through the pursuit of a mindful and vigilant approach to the cognitive and self-awareness perspectives.

Key words: Ethics, Decision-Making, Self-Awareness, and Mindfulness.

Introduction

Ethics is defined in the broadest terms, as a branch of philosophy concerned with human conduct and the perception of whether that conduct is right or wrong based on the reasoning or results (ethics, n. d., 2013). One of the most parsimonious definitions of business ethics that captures the essence of most texts is presented by Joseph R. DesJardins, "Business Ethics is the study of the standards, values, and principles and the articulation and defense of those that ought or should operate in business." (2009). In both the broad definition and the business definition ethics is presented as a noun and a subject to be studied. While this might be true for the academic and social scientist, we find this focus to be wanting when we consider Business Ethics as a subject to be included in business education.

Treating business ethics simply as a subject to be studied allows individuals to debate the intricacies from a remote (and comfortable) position. It is something that happens to the other guy. There is no need to be concerned with anything beyond the philosophical discussion.

We opine that it is crucial that ethics be presented not as a subject to be studied in the traditional way. Instead ethics needs to be considered holistically – composed not just of the artifacts that contribute to its foundation, but also as a process or skill that must be consciously explored, mastered, and practiced. We facilitate the process that leads the student to the discovery that ethics is dynamic and intimately related to one's actions – not on occasion, but in everyday experiences in and out of the workplace.

Essential to this approach is raising the student's awareness that ethics is not an object to be studied, but rather a responsibility that requires continuous commitment. With any skill, success depends on the depth of practice. Performance will reflect the individual's vigilance and conscientiousness in developing these skills. We have developed a systematic process that will enhance the initial understanding of business ethics as a skill and promote an ongoing respect for its complexity.

Mindfulness as an Exploration into Self-Awareness

Ethics, as a practice, is dependent on three critical elements. The first is the individual's ethical foundation. What basis or filters does the individual bring to the situation to evaluate the ethical issues? The second considers the application of this foundation in evaluating the situation. Finally, how successful is the individual in bringing the appropriate actions into play?

Before we can present the challenges of building an individual's skill, we must be sure that the fundamental tools are well established. It is imperative that the students explore the basis of their ethical foundation. While this is not an approach that is essential in most academic domains, it is incumbent upon us to recognize that most students enter an ethics class with a conviction that they are well schooled in ethical values and boundaries.

In the beginning, there are several recurring sources cited as a basis for each individual's ethical code: family values and culture; regional society and culture; spiritual/religious values; affiliated values; and career values. The one constant presented throughout these discussions is that ethical behavior is defined by these sources. These sources frequently present behaviors that are acceptable and those that are proscribed. While there may be a great deal of comfort in codes that present issues as black or white, it may stifle critical thinking and creative initiative.

Over time these values and beliefs evolve into schemas that an individual employs when faced with an ethical situation. While offering quick resolution to the question at hand, schemas exist at an unconscious level and limit the depth of analysis and consequently the range of ethical responses available to the individual (Lampe & Engleman-Lampe, 2012). In certain situations where time is a critical factor, schemas may be a godsend for the individual. Our concerns emerge because schemas are habitual and largely unexamined. Schemas not only limit the options in a particular situation, they limit the individual's exploration of other perspectives that might be relevant to the issues under consideration.

Our goal throughout these discussions is to develop a sense within each party that ethics is a dynamic and live process. The sources cited above are substantial contributors to one's ethical development, but we need to raise the bar.

As they are core to the individual's ethical code, we encourage each party to explore these sources. Mindfulness, in this case, involves the examination of these core values and beliefs. Rather than blind acceptance, each party needs to develop an understanding about how and why these elements have come into being. This understanding will allow the student to own the material, determine which values and beliefs have the greater priority, and appreciate how specific elements might contribute differently to resolving ethical conflicts.

This mindfulness requires increased self-awareness. Developing this awareness can be facilitated by the instructor, but ultimately depends on the students' willingness to explore their inner most being. We use several different approaches and tools that will assist the student in becoming more mindful of who they are as a whole person. Some items are described in the following paragraphs.

First, we present several assessments that allow the students to develop their own profile. These assessments examine: locus of control, tolerance of ambiguity, self-awareness, self-monitoring, personal styles, goal orientation, and value importance. Further, they are provided with an opportunity to engage in a 360 exercise. During the course of the program, we discuss these assessments, but the student is not under any obligation to reveal any of the results to others. Rather they are encouraged to consider each of these elements and how they contribute to their overall person.

The second tool that we use employs texts, articles, and other pedagogical artifacts that focus the attention of the student on the social, spiritual, and emotional core of their being. They are

designed to elicit an exploration into self, taking the students through progressive exercises that lead them to codify their values and beliefs. This proactively enhances their self-awareness and through this awareness they may become mindful of some of the schemas that they might employ.

Building on the tools, we introduce the students to a series of discussions in small groups. These discussions allow the students to question and express doubts and concerns in relative safety. They begin to recognize that they are not alone; others also have questions, doubts, and concerns. These exercises can further contribute to an individual's mindfulness in three significant ways. (1) The individuals may be introduced to additional perspectives that relate to their own values and beliefs. This insight, that others provide, may present an opportunity for expanding their bounded rationality through the new information provided by their peers. (2) The individuals may become more aware of their sensitive line, the line that separates their public persona with that which is held in reserve. (3) The activities may trigger an awareness of some areas in which the individual has been engaged in self-deception, an unconscious belief concerning oneself that does not align with reality. Bringing these elements to the forefront of the student's consciousness reinforces and adds to one's mindfulness through greater self-awareness.

As a final approach, at the culmination of the program, the students engage in a writing exercise designed to promote extensive self-reflection. As with the other exercises, we find that this self-examination and the act of committing it to paper contributes further to their self-awareness.

Throughout this section of the paper, we have discussed ways that the student is encouraged to become more self-aware, developing their level of mindfulness in the social, spiritual, and emotional realms. We will now turn to the cognitive level and examine how we encourage mindfulness in that domain.

Mindfulness as a Cognitive Process

Expanding on the foundation of self-awareness, we introduce additional perspectives that add depth and complement the values already held by the students. We initiate the exploration of the fundamental ethical theories as frameworks that can enhance the individual's ethical perspective. May, Hodges, Chan, and Avolio (2003), discussed how an expanded perspective contributes to an individual's moral capacity. Moral capacity is a critical component of the ethical foundation that is brought into play at times of crisis. As one's moral capacity grows, the individual is better equipped to recognize ethical dilemmas. Beyond recognition, a well-developed moral capacity will provide further support for the individual in more difficult situations.

We introduce several ethical theories to expand the individual's bounded rationality and ethical awareness. The theories and the student's beliefs and values provide essential tools to evaluate ethical dilemmas. After a brief discussion about each of these theoretical perspectives we will demonstrate how they can contribute to an individual's mindfulness. We will conclude the discussion with an example of how the mindfulness based on self-awareness, the core of one's

social, spiritual, and emotional being, can be combined with the mindfulness emerging from the cognitive exercises to contribute to better ethical decision making.

As mentioned previously, many students enter an ethics class with a conviction that they are well schooled in ethical values and boundaries. Further, this ethical foundation is frequently embedded in a series of habitual and unexamined schemas. By exploring ethical theories, we engage the student in a conscious, mindful examination of their potential contribution to ethical analysis.

We spoke earlier of bounded rationality in the sense of the limits imposed by what we know. Herbert Simon (1982) presented two additional limitations associated with bounded rationality. There is a limit of an individual's capacity to process what is known and a limit imposed by time constraints that exist in specific situations. To expand these bounds of the students' rationality, they are engaged in mindful exploration of knowledge and process that contribute to their ethical awareness even given the time constraints.

In the discussion that follows, we first present the basis for expanded knowledge through examination of several theoretical frameworks. We follow that with the introduction of a process that compels the students to employ these theoretical perspectives in ethical case analysis. Finally, we will present a case to demonstrate the value even when constrained by time.

Ethical Theories

As a foundation for the introduction of Business Ethics we present several fundamental ethical theories to provide additional perspectives for the student's consideration. An understanding of these theories, together with individual core values, and beliefs, provides an expanded framework for analysis. This framework will encourage the student to view business ethics as a dynamic and deliberate process.

The ethical theories we examine may be classified as teleological, deontological, and social contracts.

Teleological

Teleological or consequential ethics is concerned with the end product of an act. If the results of a given action are positive, it is considered ethical. Actions resulting in negative consequences are considered unethical. There are two ethical theories we consider from the consequential perspective – egoism and utilitarianism.

Egoism is predicated on long-term self-interest and serves as an ethical foundation, as the actor needs to consider the external environment. Egoism would dictate that an act would be considered right if the long-term consequences, based on self-interest, are positive, and wrong if the consequences are negative for the individual actor or the party they represent. Consideration should also be given to the types of egoism: personal and impersonal. Personal egoists always

follow their own best interest, but are not concerned with how others act. Impersonal egoists, on the other hand, believe that everyone's actions should be dictated by self-interest (Shaw & Barry, 2012)

Egoism should not be confused with hedonism, which champions the pursuit of pleasure and happiness above all else. While some egoists are hedonists, others look to knowledge, power, or "self-actualization" (Shaw & Barry, 2012). Egoists can further the interests of others when they expect that in doing so they will incur pleasure or some benefit to their own self-interest in return.

Utilitarianism questions what the results of an action will have on everyone affected in a specific situation. Will the consequences of an act result in more good than harm, when evaluated against all other options? When choosing the act to be pursued, consideration is given to what will give the greatest amount of pleasure and the least amount of unhappiness to all of those affected by the action in the present and in the future (Shaw & Barry, 2012). The action that will result in the greatest overall benefit to all those affected should be pursued. The overall benefit is not a question of numbers, but the cumulative consequences, or the balance of good versus bad effects.

Deontological

Deontological theories are nonconsequential theories that speak to the obligations and duties of the actor. They hold that the means, and not just the results, need to be considered when assessing the rightness or wrongness of an action (Shaw & Barry, 2012), in contrast to utilitarianism and egoism, which are concerned with consequences. Immanuel Kant's work is a prime example of a deontological view of ethics. Moral reasoning, in Kant's view is not based on knowledge. According to Kant we do not need to depend on observed knowledge of consequences, but should through reason find our moral duty. The moral law would be rigidly held regardless of the consequences of the actions. Kant stresses that we do not need to know the outcome of a situation to know whether the situation is moral or immoral. Kant maintains that, if we can will the principle behind an action into universal law, then the action is morally right. Kant's "categorical imperative" states that we should consistently will the "maxim of our action to become universal law" (Pasternack, 2002). The universal law is binding on all rational beings, and our duties come from this one categorical imperative.

Another deontological theory of ethics proposed by John Rawls is A Theory of Justice. He put forth this theory as "a modern alternative to utilitarianism" (Shaw & Barry, 2012). The question at the heart of Rawls' theory is the Veil of Ignorance (Rawls, 1999). This question seeks to determine what guiding principles people would choose for society if we were to meet in what Rawls calls "the original position" (Rawls, 1999).

The original position counteracts the bias individuals would have in choosing principles that would benefit their specific position. Rawls presented this as a "thought experiment" where individuals in the original position lack information about themselves that would lead to bias. Utilizing the veil

of ignorance, principles chosen for society will be both equitable and just because there would be no self-interest. The assumption would be that since individuals would not know their position in society principles would be chosen that would benefit all.

In the original position, Rawls avers that agreement would be achieved on two principles that would govern society. The first principle would guarantee certain liberties to each individual, and the second principle discusses social and economic inequalities. In Rawls' theory the first priority takes precedence over the second. Social and economic inequities, according to Rawls need to be of the most benefit to the least fortunate members of society and that each opportunity is open to all in a fair and equitable manner (Rawls, 1999).

The third deontological theory we present is prima facie. W. D. Ross introduces prima facie duties to approach ethical or moral decisions; showing a way to determine what actions should be taken. While multiple duties or obligations exist, Ross presents a course of action when there are conflicting obligations. The assumption is that if there is a prima facie duty, there is a moral obligation to perform that duty unless it is outweighed by another duty or duties. If one has a prime facie duty to keep a promise that promise should be kept, unless there is an overwhelming moral consideration which takes precedence.

Prima facie duties Ross considered include, but are not limited to: fidelity, reparation, gratitude, non-injury, harm-prevention, beneficence, self-improvement and justice (Ross, 1930).

Under Ross' theory understanding the prima facie duties are not enough. To determine the correct course of action to take one needs to understand the consequences of the action. Harm-prevention, in a serious situation may be more important than fidelity.

Social Contracts

Moral rights and virtue ethics are based on social contract. Moral rights are fundamental rights, such as the right to life or free speech. Moral rights, when they are not granted by specific roles or conditions are human rights. These rights are both universal and equal, and cannot be transferred or waived. Human rights are natural rights and are not dependent on any institution. Human rights can be classified as negative or positive rights. Negative rights mandate that we not hinder others in their pursuit of their human rights, such as the right to life and freedom from injury. Positive rights are rights we are guaranteed to specific benefits. We have positive rights to benefits such as education, job opportunities, and medical care, and resources that allow us to benefit from these positive rights should be provided (Breakey, 2015; Shaw & Barry, 2012).

When addressing a moral issue virtue ethics asks the question of what would a mature person deem right (Andre & Velasquez, 1988). The *Six Sample Rules of Thumb* (Donaldson & Dunfee, 1999) are used for choosing when there are competing norms in an argument. The community can be

defined in terms of a small community which is severely constrained to a global community with will most likely approach the hypernorm (universal) status.

The six rules of thumb give guidelines to how ethical norms of the community should be interpreted both by the members of the community, and how outsiders are affected. Transactions, which occur completely within a community, should be controlled by the norms of that community, as long it does not adversely affect outsiders.

Existing community norms can be used to resolve conflicting norms. Resolution of conflict based on consistent elements within a community often has strength over conflicting norms. A company, which realizes that different work standards can be found in different regions, such as the minimum working age or work conditions, may make strict rules on how their firm deals with these issues. Often the firms will insist that contractors they have a relationship with employ the same norms surrounding these issues (Donaldson & Dunfee, 1999).

Another rule of thumb acknowledges that as communities are connected and are more global or widespread, norms of the extended community should be given priority. Norms accepted by more and more members of the global community grow in importance. In global communities the norm can trend to hypernorm status.

Norms often come about to provide safeguards in an economic environment. Therefore, norms, which provide safety in a transaction community, take precedence over conflicting norms, which might have a negative impact on the transaction community.

What happens when many conflicting norms are present? When many communities are involved priority should be given to the norm that is most widely held.

Some norms develop which are well defined and others are more general. The last rule of thumb concludes that well-defined norms should take priority over more general norms. A norm, which specifies precisely how a firm will ensure customer well-being, should take priority over a norm which generally states that employees will "act with integrity" (Donaldson & Dunfee, 1999).

Moral Intensity

This deeper understanding of ethical perspectives developed through an exploration of individual values combined with theoretical approaches can be enriched further through greater self-awareness. Our discussion to this point focused on the depth of moral values. As the student is introduced to this expanded framework of analysis, we must ensure that the breadth of their individual perspective is also examined.

To evaluate the severity of a given situation, we encourage the student to consider the moral intensity. Thomas Jones (Donaldson & Dunfee, 1999) identified six components that contribute to moral intensity. These components include:

1. Magnitude of consequences – breadth and depth of consequences.
2. Social consensus – degree of social agreement about the issue
3. Probability of effect – probability of occurring and causing effect predicted
4. Temporal immediacy – length of time between present and onset of consequences
5. Proximity – Social, cultural, psychological, or physical nearness of agent and victims
6. Concentration of effect – collective effect distributed broadly or narrowly

As the students engage in analyzing situations through moral intensity, they once again are pushed out of their shell and charged with consciously considering new perspectives.

By testing the initial constraints of bounded rationality through a mindful exploration of self and an examination of prevailing ethical frameworks, we hope to develop an increased personal awareness and openness to other perspectives that are central to the introduction of the expanded foundations of analysis (Jones, 1991).

Analytical Process

“... You know how Fair Witnesses behave.”

“Well ... no, I don't.”

... "So? Anne!"

... "That house on the hilltop-can you see what color they've painted it?"

Anne looked, she answered, "It's white on this side."

Jubal went on to Jill, "You see? It doesn't occur to Anne to infer that the other side is white, too. All the King's horses couldn't force her to commit herself . . . unless she went there and looked - and even then she wouldn't assume that it stayed white after she left." (Heinlein, 1987)

Building on the expanded knowledge presented in the ethical theories and self-awareness through the assessments and exercises, we introduce the students to a systematic approach to ethical analysis. This approach is deliberately structured to assist the individual in an analysis that reduces the constraints imposed by their capacity to process the knowledge that they had previously and have recently gained. Although it starts from a simple premise, that an ethical conclusion should only emerge as a consequence of a thorough analysis, experience has shown repeatedly that individuals fall back to their schemas and frequently draw a conclusion prematurely.

The approach employed builds on the case pedagogy that has been used for decades in the study of law. While there are several iterations used, the most common is represented by the acronym

IRAC (Issue, Rule, Analysis, Conclusion). This approach was expanded in our framework to include both antecedents to the analysis and subsequent actions following the analysis.

In the quote presented above, we see the epitome of the objective party. Fair Witnesses do not inject personal knowledge or draw conclusions about what they observe. They simply report what is. The initial steps of the approach attempts to put the student in this same mindset; report on the elements of the case presented only, do not make judgments. These steps are represented by the facts of the case (1), and the parties (2) that are involved or may be affected by the case. While appearing to be straightforward, both of these steps require the student to suspend any attempt to judge the situation, as that may inhibit a comprehensive listing of the facts and parties. The completeness of both listings is essential to a thorough analysis in later steps.

Once the facts and parties are known we are ready to begin the analysis. The third step then is the ethical issue (3). Again, the assumption is that this is always immediately evident. In reality moral dilemmas exist because there is a conflict that arises between opposing forces. This conflict provides the foundation for the ethical issue. Presenting the conflict in the issue statement brings the ethical dilemma to the forefront. The issue is always presented as a question in the form. "Is it morally right (or wrong) to pursue 'Action 1' when considering 'Action 2'?" If only a single side of the issue is identified, the underlying conflict is not recognized and premature conclusions based on schemas become likely.

Following the identification of the issue, the next three steps involve the use of moral reasoning. The facts are going to be examined using the standard implicit of the ethical theories that have been introduced to the students. The application of moral reasoning will yield a series of results some of which support the issue and some that undermine the issue. In order to insure consistent analysis, the students identify the action that supports the issue and the action that undermines it. The three steps that are involved in this stage are analysis using: a consequential theory (4) (Egoism or Utilitarianism); a deontological theory (5) (Kant, Rawls, or Prima Facie); and a social contract (6) (Moral Rights or Virtue Ethics). In step six the students must specify the community that provides the basis for the social contract, i.e., the organization, industry, local, regional, national, or global community.

Following the analysis section, a conclusion for each section or theoretical perspective is drawn based on the cumulative arguments used in the moral reasoning process. Accordingly, the conclusions (7) presented for each of the theoretical approaches - consequential, deontological, and social contracts - do not always yield the same results. It is important to note that each of these steps may have several arguments presented and the conclusion drawn will be based on the arguments, not from a numeric standpoint, but rather a collected weight of the arguments and their respective valences.

The final two steps give the student the opportunity to introduce his own subjective insight. Following the conclusions, the individual is encouraged to introduce what he feels (8). This step

allows his own value framework to emerge indicating either concurrence or disagreement with the results of the analysis. Steps seven and eight provide the foundation for developing alternatives (9); approaches or solutions that can alter the situation in such a way as to improve the possibility for more favorable ethical results.

The nine steps used for the ethical case analysis are summarized below:

The Ethical Decision-Making Process

- Step 1. Gather the Facts
- Step 2. Identify the Affected Parties (Stakeholders)
- Step 3. Define the Ethical Issues
- Step 4. Identify the Consequences (Consequential Ethics)
- Step 5. Identify the Obligations (Deontological Ethics)
- Step 6. Identify the Social Contract (Virtue Ethics)
- Step 7. Conclusions
 - a. Consequential conclusion (Consequential Ethics)
 - b. Obligations conclusion (Deontological Ethics)
 - c. Social Contract conclusion (Virtue Ethics)
- Step 8. What feels right
- Step 9. Think creatively about potential Alternatives

Conclusion: Mindfulness as a positive analytical factor

As we presented the nine steps involved in the analysis above, it is painfully obvious that there are significant points where the results can be skewed. This is where cognitive and spiritual mindfulness emerge as critical components to building the competency of the students when using this approach.

With both the facts (1) and the parties (2), the students are encouraged to use their cognitive skills (reading and comprehension) to draw out the critical elements. They are instructed to make a conscious effort to set aside their bias in an attempt to be totally objective. This can only be accomplished if they have explored their innermost thoughts and values. Although, the facts and parties may not have any direct ethical weight, they may dictate a specific behavior that does. By

maintaining complete objectivity (or as near as possible) all the facts and parties will be subject to examination using the ethical theories cited previously. We often point out to the students that during the moral reasoning steps a fact or party might be deemed irrelevant, as it does not come into play. This decision can be made consciously only if it exists in the appropriate list. If an element is not presented in the facts or parties section, it is unlikely that it will be given any consideration as the analysis progresses.

When the student defines the ethical issue (3), they must again be mindful of their inner selves. The ethical issue should be presented as a question with the corresponding conflict evident. It is important, however, that there is no judgment – real or implied - made at this stage. This requires a conscious effort, as frequently the language that is used to present the issue can in fact demonstrate a bias and carry an implied judgment. The problem that emerges in these cases is that the analysis unconsciously sustains the implied judgment and consequently limits the scope.

The actual analyses: consequential (4), deontological (5), and social contracts (6) are dependent on both cognitive mindfulness and spiritual mindfulness. From a cognitive perspective the students have had an opportunity to expand their bounded rationality by exploring the ethical theories. Using these theories, they are instructed to evaluate the facts of the case as they relate to the ethical issue using the standard implicit for the theory being employed. Students become more adept at this exercise with practice. As with the previous steps, individual bias can taint the analysis. Again, through the exploration of self, we encourage the student to be aware of their inner being and consciously dispel their innate bias and analyze the elements objectively.

The conclusions (7) that result from the analysis to this point require an evaluation of everything that has emerged. While objectivity is ideal, the interpretation of the information is going to be influenced by the individual's bounded rationality. It is hoped at this point that the student's new insight with the ethical theories (cognitive mindfulness) and greater self-awareness (spiritual mindfulness) will contribute significantly to the objective evaluation of the analysis.

The students finally have the opportunity to present the case based on their own self-awareness. First, they can present their personal judgment (8), and whether this diverges or aligns with the conclusions (7), drawn from the theoretical analyses. Using this judgment as a focal point they have an opportunity to create an alternative (9), that will reinforce and sustain a situation that is morally right, correct a situation that is morally wrong, or mitigate the harm that might occur. The potential for harm to exist is not limited to situations where a particular action was morally wrong. Parties may be harmed even in situations where the ethically right action was pursued. This last step of creating alternatives (9) is essentially the task that managers must exercise in the performance of their duties.

It is our responsibility to help the students realize that they can in fact develop the skills necessary to meet this management challenge. Through a conscious effort to apply what they learn and a dedication to learn more within their domain of influence, they can expand their bounded

rationality (cognitive mindfulness). Concurrently, they must continue to develop their self-awareness and understanding of their own often unconscious bias (spiritual mindfulness), they can expand the bounds of rationality imposed by process. Finally, with diligence and consistent practice the students will reinforce these skills and they can break some of the bounds of rationality that are imposed by time.

An example of a case analysis using this pedagogy is presented in the Appendix. The example includes notes from an instructor's perspective that highlight some of the factors that are frequently the most challenging for the students. As the students become more aware of these potential pitfalls, there is a marked improvement in their subsequent case analyses.

Acknowledgment

The EDM process is an extension of case study analysis and has been influenced by the work of Trevino & Nelson, Ron Mitchell, and others.

The case, *Business Cycles and Employment Practices in a Domestic Garment Company*, presented in the example analysis is used by permission from the Business Roundtable Institute for Corporate Ethics.

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Appendixes

Example of Analysis

The following case analysis demonstrates how mindfulness contributes to a more robust analysis. We will use the *Business Cycles and Employment Practices in a Domestic Garment Company* case for illustration purposes. This case is being used by permission from the Business Roundtable Institute for Corporate Ethics.

Business Cycles Case

You are on the management team of a rapidly growing, privately held apparel company that had \$80 million in sales last year and is projecting \$150 million for next year. The company's operations are entirely U.S.-based, an anomaly in an industry that has moved almost all manufacturing to foreign countries in search of cheap labor. Your company has succeeded by targeting a niche market that will pay more for fashionable styles, making the speed and flexibility of operations more important than the price. Your company is also unique in its employee policies. Poor working conditions are common at many apparel factories in the U.S. and abroad, and the industry is besieged by public criticism of labor practices. Yet a fundamental tenet of your company is the belief that apparel manufacturing should be profitable without exploiting workers. Management has worked hard since the company's inception to treat employees as well as possible, and it has developed a reputation for these efforts.

This summer your team found the company could not keep pace with orders. You added a second shift and hired 1,000 new sewers to staff it, bringing the total number of sewers to 3,000. During the summer months, all employees worked fulltime (eight-hour shifts, five per week) and often overtime to meet sales needs and replenish dwindling inventories.

It is now September, and it has become clear that the company's inventory is growing too large. Sales across the industry are usually slow during winter months, and you know the company must slow its production. Each of the 3,000 sewers assembles an average of 20 dozen pieces per day. Based on projected orders and the maximum inventory you can afford to carry, production cannot exceed 4,000,000 dozen pieces between October and March. Therefore, you must determine how to reduce your actual production over the next 20 weeks to only two-thirds of full capacity. Wages for sewers are not based on the number of hours they work, but on the number of pieces they sew. The efficiency of production at your company is partly responsible for the high wages workers earn.

Typical industry practice in the U.S. and abroad is to lay off excess labor for the winter season, with no severance pay or other assistance and no promise of rehire. Many of your sewers have lost their jobs elsewhere during the slow season for several years. However, if your company made

such a move it would contradict the company's philosophy regarding the treatment of employees as valued partners. Laying workers off seems like it would be a significant defeat in this respect, with possible repercussions in employee motivation and public relations. Also, your team has invested several thousand dollars in training each employee, and you are concerned that new sewers may not be skilled enough to meet the steep climb in orders anticipated in the spring. If workers are laid off, there is no guarantee that you will be able to rehire the same people in the spring. However, the company cannot afford to pay workers to do nothing for 20 weeks, and many workers will likely return to the company if they fail to match your wages or working conditions elsewhere.

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The Analysis: Business Cycles

Step I. Gather the Facts:

- \$80 MM last year projected \$150 MM next year.
- Privately held.
- The company is rapidly growing.
- Operations are entirely in the US.
- Almost all competitors manufacture abroad.
- Target a niche market that pays more for fashionable styles.
- Speed and flexibility of operations is more important than the price.
- Unique set of employee policies
- Apparel manufacturing should be profitable without exploiting workers.
- Treat employees as well as possible.
- Good reputation for treatment of employees.
- Had 2,000 sewers previously
- Added 1000 new sewers to meet high demands in summer.
- All 3,000 worked fulltime and often overtime.
- Sales have slowed so the company must slow production.
- Each sewer assembles an average of 20 dozen pieces per day.
- Production cannot exceed 4,000,000 dozen pieces between October and March.
- Current full capacity would exceed needs by 50%.
- Production must be cut to two-thirds of full capacity

- Wages of sewers are based on the number of pieces they sew.
- High wages are a result of efficient production.
- Typical industry practice is to lay off excess labor for the winter.
- **Industry does not provide severance, assistance, or promise of rehire.**
- Many sewers have experienced the lay offs before.
- Lay offs would contradict company's philosophy.
- Lay offs could affect motivation of workers and public reputation.
- Company has invested several thousand dollars in training each employee.
- No guarantee sewers would return when demand peaks again.
- **The company cannot afford to pay workers to do nothing for 20 weeks.**
- Workers will likely return if they fail to match wages and conditions.

Note: The two highlighted facts are frequently missed when the case is prepared early in the semester. Expanded awareness promoted through mindful self-examination reduces the affect of bias and subsequent premature judgment is less evident.

Step 2. Identify the Affected Parties:

- **The company**
- Owners
- Management team
- Sewers (original)
- Sewers (new hires)
- Other employees
- Families
- **Retail outlets/distributors**
- Consumers
- **Fashion industry**
- **Vendors/suppliers**
- Local community
- **Media**

Note: Again, the highlighted parties are often not listed in the beginning of the semester. The mindfulness cited above together with the cognitive process defined by the EDM model contributed to a reduction in these oversights.

Step 3. Defining the Ethical Issue in moral terms:

Is it morally right to lay off sewers when it contradicts our core company values?

Note: The overriding ethical issue is the conflict between the financial constraints and the core values. If the core values of the company are not included in the statement, the issue becomes one of financial and business needs rather than an ethical issue; even if we inject the question with a moral overtone.

Is it morally right to lay off workers that the company cannot afford?

Note: This question fails to present a basis for ethical analysis and would be examined within the financial and business constraints only. Recognition of an ethical component arises through the awareness that results from the student's study of self and ethical frameworks presented throughout the course.

Step 4. Identify the Consequences

Cite the consequential principle and standard implicit.

For our example, we are using Utilitarianism with the underlying standard implicit: "the greatest balance between good and bad consequences."

Students indicate whether consequences support (S) or undermine (U) the ethical issue, i.e., (S) supports lay offs and (U) undermines lay offs.

- The current workforce will overproduce demand (S)
- **The company cannot afford full payroll with decreased production (S)**
- The company's reputation will suffer with a lay off (U)
- The company may lose some of their investments in training for the sewers (U)
- Additional sewers will be needed when demand returns (U)
- Sewers will likely return due to better than average wages (S)
- **Maintaining the full roll of employees at full wages jeopardizes the company viability (S)**
- 1,000 Sewers (one-third) who are laid off will suffer (U)
- 2,000 Sewers (two-thirds) who remain continue to receive full compensation (S)

Note: Failure to capture the fact in step one concerning the company's inability to afford the full employment role would contribute to a serious flaw in the analysis. This failure can occur for several reasons, including an unconscious oversight stemming from a bias that favors the worker versus the company. Additionally bias may be evident when limited and only one-sided arguments

are presented. Again, through a process of mindful self-examination, the student is challenged to confront their initial bias and strive to analyze the case from an objective stance.

In addition to an unbiased examination, the student in this and the next two steps employs a cognitive process based on the theoretical frameworks presented throughout the course.

Step 5. Consider the Obligations

Cite the deontological principle and standard implicit.

For our example, we are using Prima Facie with the underlying standard implicit: “the greatest obligation must be maintained.”

Students indicate whether consequences support (S) or undermine (U) the ethical issue, i.e., (S) supports lay offs and (U) undermines lay offs.

- Fidelity to sewers: The company treats their employees as valued partners (U)
- Fidelity to sewers: The company hired us and we expect a long-term commitment (U)
- Do no harm to sewers: The sewers laid off will suffer (U)
- Do no harm to sewers: The sewers remaining continue to receive full compensation (S)
- **Fidelity to the organization: Management must protect the institution from loss (S)**
- **Do no harm to the organization: Management needs to ensure organization viability (S)**
- Fidelity to the customers (retail): Costs must be controlled to ensure that product can be offered at a reasonable price (S)
- Fidelity to the customers (consumer): Costs must be controlled to ensure that product can be offered at a reasonable price (S)
- Fidelity to the community/public: Employment must be maintained at highest possible levels (U) (S)
- Fidelity to the community/public: Employees must receive adequate compensation and benefits (U) (S)
- Fidelity to the community/public: Company must remain viable to sustain maximum employment (S)
- Fidelity to the vendors: Company must ensure adequate cash flow to meet its obligations (S)
- Fidelity to the community/public: Company must ensure its viability to sustain long-term relationship (S)

Note: The note cited in step 4 applies here as well.

The reader should also take note that some arguments may simultaneously support and undermine the ethical issue. As an example, the highest possible level of employment (3000 sewers) might suggest no lay offs (undermine), but if the company cannot survive this would net to 0 sewers. Consequently, lay offs may preserve the highest sustained level of employment (2000 in off season, significantly more during season demand).

Step 6. Consider the Social Contracts.

Cite Moral Rights or Virtue Ethics and the standards of the relevant social community.

The student must identify the relevant community standards used to assess the actions of the decision maker. For our example, we are using Virtue Ethics based on the community standards of the company and/or the local geographic/economic community.

Students indicate whether consequences support (S) or undermine (U) the ethical issue, i.e., (S) supports lay offs and (U) undermines lay offs.

- Based on company policy of protecting workers, layoffs are inconsistent with the virtues of trustworthiness and promise keeping (U)
- Virtue of responsibility suggests laying off workers to maintain the viability of the business is necessary (S)
- Virtue of fairness suggests that distributive justice (layoffs) would be perceived as unfair (U)
- Procedural justice for layoffs would be consistent with the virtue of respect (S)
- Layoffs are inconsistent with the virtue of compassion for those let go (U)
- Layoffs that preserve the firm's viability and the jobs of remaining workers would be perceived as compassionate (S)
- Open communication of the reasons why layoffs are necessary is consistent with the virtues of honesty and transparency (S).
- Application of the disclosure rule: If layoffs are handled in a procedurally just fashion out of necessity, disclosure rule would be satisfied (S)

Note: The note cited in step 4 applies here as well.

Step 7. Analytical Conclusions.

This step presents the original Ethical Issue identified in step 3, in a declarative format determined by the student's interpretation of the analysis. The statements present a separate conclusion for each of the three frameworks used. It should be noted, that the conclusion is not necessarily a summation of the points presented, but rather a weighted analysis of those points. Some arguments contained in the analysis may have greater valence than others.

- Utilitarianism: It is morally right to lay off sewers contrary to our company values.
- Prima Facie: It is morally right to lay off sewers contrary to our company values.
- Virtue Ethics/Social Contracts: It is morally right to lay off sewers contrary to our company values.

Note: In some cases, the balance is so close you can arrive at either answer after analysis. The critical point arises when we use the conclusion together with our feelings (step 8) to help us create a viable alternative.

Step 8. What Feels Right.

An example of a student's statement is shown below:

While the decision to layoff workers is made with great difficulty because of the hardship for those workers and the inconsistency with our values to not exploit them, the compassion shown and the necessity for the layoffs are aligned with my sense of right and wrong.

Step 9. Think creatively about potential Alternatives.

Students are encouraged to demonstrate their leadership and management skills by using the information presented in the case to create viable alternatives to the solutions that appear to be evident in the case.

Examples of proposed alternatives are shown below.

The alternatives below can apply regardless of the principle used for analysis.

1. Offer:
 - a. A severance package
 - b. First right of rehire to any laid-off employees
 - c. A return bonus (offset with savings from training costs).

This goes well beyond the typical industry actions and demonstrates our corporate values of treating the employees well.

2. Meet with a representative group of employees and ask for their input to address the problem. Possibilities that might arise:
 - a. Place a cap/quota on individual production. If everyone stayed, this would amount to approximately a one-third cut in wages.
 - b. Offer benefits package (severance & rehire) to any volunteers willing to take a leave of absence. Might stem some of the loss of wages for the remaining sewers.
 - c. Lay-off workers with benefits as above and assist them in filing unemployment claims.

This goes well beyond the typical industry actions and demonstrates our corporate values of treating the employees well.

Note: Again, we see a possibility that exists only if the student captures the fact that the industry standards do not include severance, assistance, or possibility of rehire. Students that are mindful of their own bias may be more conscious of factors that offer additional avenues to resolve the issue.

Foundation

We use this case to demonstrate some of the real difficulties involved in resolving moral dilemmas. We reinforce the need for the students to engage in mindful discovery of their personal being and mindful efforts to increase their cognitive skills. We present an overview of the results arising from an Intuitive approach versus a Mindful analysis as shown below.

General comments made to students

1. It might make us feel better to be the nice guy, but what happens when the company closes their doors because we could not make a tough decision. How many people are hurt then?
2. Consider what the impact of losing one-third of their compensation might be for all the workers. This would be inevitable based on the necessity of reduced output. If restrictions are placed on the number of pieces produced and wages are based on piece count, it stands to reason that wages are going to be reduced overall by one-third. What about those that have been with you for a while and have taken on obligations (mortgages, car loans, etc.) and now will run into serious problems trying to sustain themselves and their families until March? Explore the obligations that exist and consider that sometimes the least efficient solution is to spread the “pain” out evenly.
3. Consider whether a layoff has to violate the company’s philosophy – to treat their workers fairly and with respect.

Yet a fundamental tenet of your company is the belief that apparel manufacturing should be profitable without exploiting workers. Management has worked hard since the company's inception to treat employees as well as possible, and it has developed a reputation for these efforts.

The company cannot afford to keep unproductive employees on for 20 weeks. This is far different than saying protect profits. If paid the equivalent of minimum wage, we are looking at 7.50/hr x 40 hrs/wk x 1000 workers x 20 weeks, or \$6,000,000.00. This does not include taxes, benefits, or any other costs associated with these employees.

If they offer first right to rehire and a modest severance, they in fact have treated their workers far better than the industry. They may even be able to offer a small sign-on bonus for rehires, as

they would not incur additional training costs. Just as importantly, they would remain viable and be able to rehire when demand rises. Granted, some workers will be hurt and may have to apply for unemployment, etc. But the company will live to fight another day and can learn from this experience. That is where some of the other alternatives can come into play.

Part of the responsibility of management is to make the tough calls. In this case, if we do not, far more people will suffer.