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IS BUSINESS ETHICS POSSIBLE AND NECESSARY?

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ABSTRACT. In this paper I try to define business ethics, the need for it and discuss if it is possible and necessary. I understand business ethics as a subset of applied ethics relating to business activity of human beings. I also explain the differences between ethics and law, especially business ethics and business law, as well as differences between business etiquette, and business ethics. I also argue that the rising challenge from China and India, strong independence movements in Latin America and prolonged socio-economic crisis in Western Europe, as well as the recent events in the US, made it no longer possible to ignore the ethical dimension of business activities. Finally, I signal the fundamental questions of business ethics, such as.

1. What is ownership, and is it moral?
2. Are relationships between labour and capital based on sound moral principles?
3. Where is the border between ethical and unethical methods in fighting the competition?
4. What is the definition of “fair profit”?

The conclusion is that as the “invisible hand of the market” rarely solves the ethical problems in business, so business ethics is really a necessity.

JEL Classification: A14, L29 **Keywords:** business ethics, business law.

Introduction – What is Business Ethics?

With numerous corporate scandals and spectacular bankruptcies dominating headlines for many years, ethics has become an important matter both in corporate headquarters as well as in business-schools. American corporate icons such as Enron's former chairman Kenneth Lay (who was found guilty on 25 May 2006, of ten counts against him and thus would be sentenced to 20-30 years in prison, if he not died three and a half months before his scheduled sentencing) and American “domestic diva” Martha Stewart (who was sentenced to prison for insider trading) were once held up in classrooms and lecture halls across the various countries as examples of successful business leaders. Today they are in disgrace, and are again discussed in business schools, but as examples of highly unethical business leaders, not, as previously, role models for future MBAs or DBAs. Thus the importance of business ethics, which is now a standard item in any curriculum for both undergraduates and postgraduates in practically all schools of business.

In beginning of the 21st century it become virtually impossible to hide the fact that the high incidence of corporate fraud and scandals in the United States and Western Europe is indicative that ethical behaviour was simply not being promoted enough in corporate America and corporate European Union (EU). “Corporate ethics” has become both, in the US as well as in the EU, a catch phrase with enormous political and emotional, even economic influence. Corporate and management ethics encompasses thus an ever-widening array of issues, a number of which will be discussed in this paper.

So what is basically “business ethics”? It is basically a branch of **applied ethics** relating to business activity of human beings. By “applied ethics” I understood a more “practical” subset of ethics, in the same sense as applied physics is a subset of physics and applied psychology a subset of psychology.

What Business Ethics is Not?

Now, as we know what the business ethics is, we can briefly discuss what it is not. Thus we can say, that ethics in general, and thus business ethics is different to:

1. Law, and especially business law, i.e. set of rules regulating conduct of business in a given country (or group of countries, such as the EU), which rules must be strictly followed under the state sanctions, and those sanctions may include either financial penalty, or imprisonment, or even both. There are many formal definitions of the law, for example:

Law (a loanword from Old Norse lag), in politics and jurisprudence, is a set of rules or norms of conduct which mandate, proscribe or permit specified relationships among people and organizations, provide methods for ensuring the impartial treatment of such people, and provide punishments for those who do not follow the established rules of conduct. Law is the formal regime that orders human activities and relations through systematic application of the force of a governing body and the society it rules over. Laws may require or proscribe, or even restrict given actions, as well as empower citizens to engage in certain activities, such as entering into contracts and drafting wills.¹

According to the Marxists law is a kind of “formalized (codified) will of the ruling class”:

Giving a formally correct definition of law faces the difficulty that when a law or system of law is seriously called into question, the matter is resolved by social conflict and violence or threat of violence, but law invariably explicitly excludes such a possibility. Thus law can only codify rights embedded in the existing state and in particular the interests of the ruling class in society. By *codifying* rights reflecting the balance of brute force, the appearance is given of authority standing *above* society and social interests and violence.²

Obviously, if in a given state law is generally accepted to be just, any unethical behaviour is then considered also as unethical. But there are numerous cases when a given behaviour is considered perfectly legal, but is also considered unethical. A good example is **usury**, understood here as charging very high interest rates in countries where there is no legal limit on interest rates, which can be charged by money lenders, or even when such limits are very high, and exceed several times the inflation rate (such as the rates charged for so-called micro loans³).

¹ Wikipedia <http://en.wikipedia.org/wiki/Law> (as on 1 March 2010).

² “Law” in MIA: Encyclopedia of Marxism <http://www.marxists.org/glossary/terms/l/a.htm> (as on 1 March 2010).

³ For example small enterprises have usually no access to the bank loans, so they have to borrow, on a very large interest from the so-called loan sharks, and even if they have an access to so-called micro loans, they still have to pay, quite frequently, interest rates as high as 80 to 125 per cent a year, that is a clear example of state-sanctioned usury – Nial Ferguson *The Ascent of Money; A Financial History of the World* Camberwell (Vic., Australia): Penguin Books, 2009 p. 282.

Many philosophers, ethicists and lawyers tried to clearly differentiate between law and ethics. For example Max Weber wrote that legal norms, unlike ethical, provide description of penalties which must be applied if a given law is violated. Other theorists (usually lawyers) point to the fact, that every law has to be formally sanctioned and that disobeying legal norms is punished by the state, while disobeying moral (ethical) norms not. Some also add that disobeying the moral norms leads “only” to moral condemnation, while disobeying the law causes the formal, state-sanctioned punishment, and that the former does not causes the other and the same in the reverse. Other authors say that legal norms are always obligatory, but moral (ethical) norms apply only to those, who accept them. Finally, some experts say that law regulates our “external” behaviour, while ethics influences also our interior.⁴

In this place I propose to accept Bronisław Malinowski’s explanation, namely that legal rules are different to the other rules, especially to the moral (ethical) rules in this that the legal rules are known and regarded as an obligation for one person and a right to other person (principle “*do ut des*”).⁵ This is especially self-evident in the laws regulating commercial contracts, where every person or institution entering such contract expects something very specific from the other party, and *vice versa*. Thus is someone is, say, translating for another person (or institution) a given text as a professional translator, than such a translator expects the proper payment from the customer (the other party). However, if such a translation is made for, say, a friend, than the principle “*do ut des*” does not apply, so only in the first case a server (translator) has a legal right to expect payment from the customer. In the second case the translator can expect some gratification for his effort, but clearly not on “*do ut des*” basis (he or she can be even offended if proposed, for example, instant monetary payment from a friend).

2. *Religion*, i.e. an attempt to represent and order beliefs, feelings, imaginings and actions that arise in response to direct experience of the sacred and the spiritual; as this attempt expands in its formulation and elaboration, it becomes a process that creates meaning for itself on a sustaining basis, in terms of both its originating experiences and its own continuing responses.⁶

Obviously, ethics has very close relationship to religion, as many ethical norms, such as “do not kill” or “do not steal” have their sources in religious ethical codes, or codes strongly influenced by religion, such as Hammurabi’s code:

[Hammurabi] was the ruler who chiefly established the greatness of Babylon, the world’s first metropolis. Many relics of Hammurabi’s reign ([1795-1750 BC]) have been preserved, and today we can study this remarkable King....as a wise law-giver in his celebrated code...

[B]y far the most remarkable of the Hammurabi records is his code of laws, the earliest-known example of a ruler proclaiming publicly to his people an entire body of laws, arranged in orderly groups, so that all men might read and know what was required of them. The code was carved upon a black stone monument, eight feet high, and clearly intended to

⁴ Maria Ossowska, *Podstawy nauki o moralności* (Foundations of Moral Science) Warszawa: Państwowe Wydawnictwo Naukowe, 1957. pp. 278-285.

⁵ Bronisław Malinowski “Zwyczaj i zbrodnia w społeczności dzikich” in *Przegląd Socjologiczny* Vol. VI of 1938 pp. 307-380 – also in *Crime and Customs in Savage Society*, London: Routledge & Kegan Paul, 1926.

⁶ Paul Connelly *Definition of Religion and Related Terms* <http://www.darc.org/connelly/religion1.html> (as on 1 March 2010). By “sacred” Connelly understands “a mysterious manifestation of power and presence that is experienced as both primordial and transformative, inspiring awe and rapt attention. This is usually an event that represents a break or discontinuity from the ordinary, forcing a re-establishment or recalibration of perspective on the part of the experiencer, but it may also be something seemingly ordinary, repeated exposure to which gradually produces a perception of mysteriously cumulative significance out of proportion to the significance originally invested in it.”

be reared in public view. This noted stone was found in the year 1901, not in Babylon, but in a city of the Persian mountains, to which some later conqueror must have carried it in triumph. It begins and ends with addresses to the gods. Even a law code was in those days regarded as a subject for prayer, though the prayers here are chiefly cursing of whoever shall neglect or destroy the law.

The code then regulates in clear and definite strokes the organization of society. The judge who blunders in a law case is to be expelled from his judgeship forever, and heavily fined. The witness who testifies falsely is to be slain. Indeed, all the heavier crimes are made punishable with death. Even if a man builds a house badly, and it falls and kills the owner, the builder is to be slain. If the owner's son was killed, then the builder's son is slain. We can see where the Hebrews learned their law of "an eye for an eye." These grim retaliatory punishments take no note of excuses or explanations, but only of the fact--with one striking exception. An accused person was allowed to cast himself into "the river," the Euphrates. Apparently the art of swimming was unknown; for if the current bore him to the shore alive he was declared innocent, if he drowned he was guilty. So we learn that faith in the justice of the ruling gods was already firmly, though somewhat childishly, established in the minds of men.

Yet even with this earliest set of laws, as with most things Babylonian, we find ourselves dealing with the end of things rather than the beginnings. Hammurabi's code was not really the earliest. The preceding sets of laws have disappeared, but we have found several traces of them, and Hammurabi's own code clearly implies their existence. He is but reorganizing a legal system long established.⁷

3. Customs, in a sense of "habits" and "traditions" that regulate behaviour of the society members. Ossowska in her **Podstawy nauki o moralności**⁸ analyses those differences in detail. In this place it seems sufficient to point that:

- moral rules and social customs have different origin (genesis) – for example it is argued that moral rules originate in the so-called human nature (*leges aeternae*), while social customs are a result of some kind of agreement;
- moral rules are more authoritative than social customs and the former are valid even if they are not obeyed, while the latter cease to function when they are disobeyed by the majority;
- disobeying moral rules triggers significantly stronger responses than disobeying social customs;
- people obey moral rules for different reasons than they conform to social customs⁹ and
- moral rules have different contents than social habits, i.e. moral rules are much deeper (more "philosophical" in meaning "profound") than basically superficial or even sometimes simple phoney social customs.¹⁰

4. Etiquette, and especially business etiquette, i.e. code of behaviour which is considered socially acceptable, as opposed to be morally right or wrong¹¹ In other way ethical

⁷ Charles F. Horne: *The Code of Hammurabi: Introduction* (1915) on: <http://www.fordham.edu/halsall/ancient/hamcode.html> (as on 1 March 2010).

⁸ *Op. cit.* pp. 285-295.

⁹ For example Malinowski in his "Zwyczaj i zbrodnia w społeczności dzikich" *op. cit.* p. 334 distinguished in the so-called primitive societies of South Pacific the following types of norms:

1. Which are sanctioned by supernatural forces, and are thus absolute (moral rules).

2. Practical rules, followed for purely utilitarian reasons.

3. Game rules followed also for utilitarian rules (i.e. in order to not spoil the fun).

4. Rules of proper behaviour (*savuar-vivre*), that are followed in order to improve some one's image as a "cultural person".

¹⁰ Ossowska *Podstawy nauki o moralności op. cit.* p. 287.

behaviour is not necessary socially acceptable – conducting important business negotiation wearing casual clothes is, as a rule, not socially acceptable (at least in the so-called West), as it violates business etiquette, but is not unethical.

Following the business etiquette (business *savoir vivre*) is very important, but should not be confused with following the rules of business ethics. Business etiquette is concerned with such things as:¹²

- Proper business dress (guidelines for business dress),
- welcome (and unwelcome) topics of conversation,
- addressing others with respect (for example by their first name, surname or title),
- gift giving and receiving (selecting and presenting an appropriate business gift),
- accepted and unaccepted forms of entertaining for business success and
- proper and improper public behaviour (acceptable public conduct).

For example: in Poland, according to **Executive Planet Website**¹³ you should follow the following rules of business etiquette:

In selecting garments: “In big companies, conservative suits and ties in subdued colours are the norm. Vivid colours are considered inappropriate. Women should wear conservative suits or dresses. Vivid colours should be avoided. Preferred colours are black, grey, brown, beige and dark blue. A scarf or a tie expressing your personal style is acceptable.”

In conversation: “Compliments are welcome. However, do not exaggerate with the number of them as it may be confusing for the addressee. You should not speak with your hands in your pockets. If you feel ill-at-ease, it is acceptable to put your thumbs into your pockets when standing. Do not sit with one ankle resting on the other knee.

Welcome Topics of Conversation are

- your home country or city.
- your work experience (perhaps adding some humorous anecdotes).
- hobbies and
- art, while

Topics to Avoid are:

- politics,
- religion and
- money.”

When addressing people: “There is no general rule as to how Polish people address each other. In initial contacts they may use the person's title or the basic courtesy titles like *Pan* [Mr], *Pani* [Mrs] and *Panno* [Miss] followed by a surname or first name. Just follow your hosts' example.

When selecting gifts: According to Polish business etiquette, gifts are given at the beginning of a relationship, especially when contacts are made for the first time, and at the end of a collaboration. In the first case, you should handle gift giving with care if you do not want to be misunderstood.”

When entertaining business partners: “If you want to get to know your fellow workers or business partners better, just invite them for a cup of coffee and a piece of cake to a cafe or for lunch. Or, you might want to invite them to dinner to a restaurant. Breakfast meetings are uncommon and supper meetings are typically reserved for lovers. Limit your invitation to one

¹¹ Compare W. Michael Hoffman, Robert E. Frederick and Mark S. Schwartz *Business Ethics: Readings and Cases in Corporate Morality* Boston: McGraw-Hill, 2001 p. 1.

¹² Examples taken from *Poland Business Etiquette* <http://www.executiveplanet.com/business-etiquette/Poland.html> (as on 1 March 2010).

¹³ <http://www.executiveplanet.com/> (as on 1 March 2010).

or two persons, as you may have problems dealing with more than two people at a time. A small hint: Do not bring up the subject of business unless your business partner does so.”

And generally: “You should not speak with your hands in your pockets. If you feel ill-at-ease, it is acceptable to put your thumbs into your pockets when standing. Do not sit with one ankle resting on the other knee.” *Etc.*

Such advices as above should be taken with extreme caution. *Firstly*, they are sometimes illogical, as it very difficult, if not impossible to conduct business without taking about money. *Secondly*, such guidelines are frequently written with people who do not possess proper knowledge of a given culture. For example the “experts” from the Executive Planet advice addressing Polish businesswomen as ”*Panno* [Miss] followed by a surname or first name”, which is in today’s Poland considered not only sexist, but also offensive.

Basically, those rules prefer some very conformist, standardised behaviour, and do not tolerate individualism. The ideal businessperson is thus, at least according to the Executive Planet kind, simple, modest (especially in dress), able to control his or her emotion and without any personality. The main problem with such an ideal is that such a person is not necessary ethical, as even a thief (such as Arsen Lupin) can have excellent manners, and not necessary effective, as in pursuit of conformity it is not only easy to lose ability to be competitive, but also today’s business environment frequently prefers aggression.

Business ethics can be also analysed as a special case of group ethics. For example joint stock company, which is also a legal entity, has a “personality” of its own, and behaviour of individual human beings, when acting as a representatives of a company, is very different to their individual behaviour.¹⁴ Thus as early as in 1936, Sir Josiah Stamp, Chairman of the British Association for the Advancement of Science, argued for the need of corporate codes of conduct.¹⁵

Is business ethics possible?

Many people argue that ethics is not compatible with business. Even when we reject orthodox Marxist point of view, i.e. that profit equals so-called surplus value, which is simply unpaid wages of the worker, as “surplus value is the difference between the value produced by the worker and the value of his own labour-power”, or in other words difference between living cost of worker and the value created by his labour-power,¹⁶ we are still confronted with the fact, that in business profit always takes precedence.¹⁷ Thus many authors argue that as business has its own rules, objectivities and priorities, so ethical concepts, standards and judgements do not apply there (“are inappropriate in the context of business”, using words from Hoffman’s *et al.* book). As Milton Friedman was supposed to say “the business of business is business”¹⁸.

But, on the other hand, business is an economic, i.e. social institution, so it does not work in a moral vacuum. Therefore, as Hoffman *et al.* and many other theorists of business ethics argue,¹⁹ profit making is **not** a morally neutral activity. We simply no longer accept,

¹⁴ Compare Ossowska *Podstawy nauki o moralności op. cit.* p. 361 and Nial Ferguson *The Ascent of Money op. cit.*, chapter on corporations.

¹⁵ *Report from the Convention of the British Association for the Advancement of Science* Blackpool: 1936 p. 25.

¹⁶ Ernest Mandel *An Introduction to Marxist Economic Theory* New York” Pathfinder Press, 1979 p. 24.

¹⁷ W. Michael Hoffman *et al. Business Ethics op. cit.* p. 2.

¹⁸ Those words were widely attributed to Friedman, and sometimes cited as being in his work *Capitalism and Freedom* (1962). However, they were also attributed to Alfred P. Sloan, long-time president and chairman of General Motors, sometimes with citation of a statement of 1964, but sometimes with attestations to his use of it as a motto as early as 1923.

¹⁹ W. Michael Hoffman, Robert E. Frederick and Mark S. Schwartz *Business Ethics: Readings and Cases in Corporate Morality* Boston: McGraw-Hill, 2001.

even in a liberal, free market (*laissez faire*) West, that business makes only positive contribution to general welfare. We have to accept, especially after the latest financial crisis of 2008-2010, that business, and thus the whole capitalistic system, faces today a crisis of legitimacy. Thus it is very important, and also urgent, to start taking about moral dimension of business, and thus business ethics, seriously. Although we can trace business ethical codes to the Bible and even earlier sources (for example to ethical codes implemented in business by the ancient Sumerians and to the Code of Hammurabi, so at least to times 4 thousand years ago), we must remember that modern business ethics is not older than 50 years.

Prior to the 1960s business was simply regarded in the developed capitalist countries as morally neutral activity, so concepts such as business ethics and even social responsibility of business were rarely mentioned, especially in the free market West. It was the rise of the Civil Rights Movement in the US, and later increasing weight of environmental and consumer issues, that sparked interest in business ethics. From the 1980s business ethics started to be offered as a separate subject in business schools in America and Western Europe, and since 1990s large Western corporations started to develop their own codes of ethics. Collapse of the Soviet Bloc only temporarily removed urgency in implementing the more ethical ways in conducting business in the West. Rising challenge from China and India, strong independence movements in Latin America (no longer only in “communist” Cuba, but also in Argentina, Brazil and Venezuela) and prolonged socio-economic crisis in Western Europe, as well as the recent events in the US, made it no longer possible to ignore the ethical dimension of business activities.

Conclusion - Main questions in business ethics

The most fundamental question in business ethics is, most likely, linked to the more basic question, namely about economic values, and how are they different from the moral values. Basically, the question is if we can oppose these economic values, usually denominated in money (currency), to moral or esthetical values. Thus people ask cynically how much does it cost girl’s virginity or incorruptibility of a politician (especially from the government of the day).²⁰ We can add to this list a question about the monetary value of businessman’s honesty: although it is frequently declared that “honesty is the best policy”, we know from the practice that this “best policy” is not always followed, thus the need for the legislation regulating the conduct of business and, last but not least, the need for special government offices protecting the customers, such as “Customer Affairs” or “Customer Protection” Bureaus.

In her **Podstawy nauki o moralności**²¹ Ossowska analyses so called merchant’s ethics, which we can easily regard as an ancestor of more general business ethics. Firstly, she notices that analysing business (merchant’s) ethics in free market capitalism we touch such important (fundamental) questions as:

1. What is ownership, and is it moral?
2. Are relationships between labour and capital based on sound moral principles?
3. Where is the border between ethical and unethical methods in fighting the competition?
4. What is the definition of “fair profit” and “fair interest rate”? (and so on).

The basic problem, according to Ossowska, is that during almost every business transaction there is underling conflict of interests: in the pursuit of profit maximization: the seller wants the highest possible price, while the buyer wants to pay the lowest possible price. As we know from the theory, and especially practice, of economics, the “invisible hand of the

²⁰ Ossowska *Podstawy nauki o moralności* op. cit. pp. 325-326.

²¹ *Op. cit.* pp. 349-353.

market” rarely solves this problem, as in practice we have either a monopoly or semi-monopoly, such as duopoly, price cartel and so on (i.e. the supremacy of the seller), or much more rarely a monopsony, i.e. the dominance of the buyer. Usually, especially in today’s capitalism, dominated by huge multinational (and even “global”) corporations, there is a growing domination of the sellers, who dictate high prices even when market is depressed, such as in the case of “brand new” motor car market. On the other hand huge corporate buyers from the First World dominate the market of raw materials (with partial exception of oil).

According to John A. Hobson²², in business the main principle is “to take as much as possible, while giving away as little as possible”, which, especially in the so-called West, is in open conflict with Christian morality. Thus, we do not name, at least in the West, a trader who maximises his or her profit an egoist, whilst similar behaviour in relation to, for example, family members, would be condemned in the same West as evidently egoistic.²³ Clearly, in business relations we accept as moral the principle *caveat emptor* (buyers beware), and frequently do not condemn such practices as:

- not informing the buyers that the price of a good (or service) they are purchasing will most likely drop significantly in the very near future,
- ordering by the “more than average informed” trader excessive amounts of goods, that will dramatically increase in price in the very near future, or
- advertising, which publicises only merits of advertised good or services, but is silent about their shortcomings etc.

Thus such eminent sociologists, such as Florian Znaniecki, following the original Christian beliefs, say that trading is a “dirty” profession, and seek genesis of trade (understood as exchange of goods and services) not in the exchange of gifts, but in common robbery, which changes into a business transaction when the potential victim is too strong to be robbed.²⁴ As Ossowska notices²⁵ that both partners in a business transaction usually try to “cheat” or “trick” the “rival”, while exchanging goods or services (either directly, i.e. by the way of barter, or using various form of money, including credit), but we usually condemn only the professional merchant, as such a person “tricks” other people more frequently. In other way: no one is completely innocent whilst trying to achieve the best possible business deal, whilst the difference between a merchant and a non-merchant is only quantitative, not qualitative. As an illustration Ossowska proposes the fact that many people feel something similar to moral scruples (compunction) when they think that they could have paid a lower price.

Therefore it is now obvious that we do really need business ethics. The most important question is thus what kind of business ethic should we follow? However, answer to this question is definitely beyond the scope of this paper.

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²² *Wealth and Life: A Study in Values* London: Macmillan, 1929 Part III chapter “Ethics in Property”.

²³ Compare Ossowska *Podstawy nauki o moralności op. cit.* pp. 350-351.

²⁴ Florian Znaniecki *Social Actions* Poznań: The Polish Sociological Institute, 1936 p. 591 and ff.

²⁵ *Podstawy nauki o moralności op. cit.* pp. 351-352.

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