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## ETHICS & CONSCIOUSNESS IN ORGANIZATIONS: A CONCEPTUAL HIERARCHICAL MODEL

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### Abstract

The authors posit that one should not take a binary approach to business ethics because there are gradations. They propose that firms may be classified according to the following metric: Level I: The Totally Unethical Organization; Level II: The Legalistic Unethical Organization; Level III: The Superficially Ethical Organization; Level IV: The Ethical Organization; and Level V: The Fully Conscious Ethical Organization. Firms at the lowest level of ethics are only concerned about profits and not getting caught. Firms at the highest level are advocates of conscious capitalism. Conscious business leaders aim to use capitalism to "elevate humanity" by serving all stakeholders and making the world a better place.

**Keywords:** business ethics, levels of ethics, social responsibility of business, reporting ratio, conscious capitalism.

### Introduction

Bazerman and Tenbrunsel (2011) assert that a considerable amount of money is spent to ensure compliance with codes of ethics— about one million for every billion dollars in sales. Despite this, questionable behavior remains quite common. Some well-documented examples of unethical behavior that rocked the corporate world in recent years include Uber's data breach coverup in 2016, the Volkswagen "diesel dupe" in 2015, Boeing 737 Max engineering design flaws in 2018, the Wells Fargo account fraud scandal in 2016, the Interbank LIBOR rate-fixing scandal in 2012, the Toshiba accounting scandal to overstate profits in 2015 and poor working conditions for warehouse employees at Amazon in 2021. Scandals such as these have damaged the reputations of countless firms, resulting in pervasive trust concerns with "big business" and a growing skepticism towards modern-day capitalism.

Approximately 23% of employees have come under pressure to engage in immoral activity. These include "rule violations (29%), lying (27%), unhealthy work environment (27%), ... sacrificing safety (9%), discrimination (3%), stealing (3%), and bullying (2%)" (Ivcevic, Menges & Miller, 2020). The misdoings of business leaders have damaged capitalism at its core. Surveys show that "nearly one-half of millennials are receptive to living under socialism and regard capitalism as a captive of greed" (Edwards, 2019, para. 1). But is it capitalism that is at fault or merely the way it is being practiced?

Capitalism with a moral foundation can be a potent tool for eliminating poverty;

however, without morality and government regulation, capitalism can cause a great deal of harm to society (Kristof, 2017; Pinkovsky & Sala-i-Martin, 2010). The emergence of contemporary theories such as *Natural Capitalism* (Hawken, Lovins, & Lovins, 2000), *Triple Bottom Line*, conceived by Elkington in 1993 (Elkington, 2018), and *Conscious Capitalism* (Mackey & Sisodia, 2013) supports this assertion. Defenders of capitalism warn that without the rewards of financial profit, companies are not incentivized to innovate. "Free-enterprise capitalism is incredibly dynamic, and its 'creative destruction' processes ensure that in the long term, the superior business philosophy triumphs" (Mackey & Sisodia, 2013, p. 303).

The Coalition for Inclusive Capitalism (website: <https://www.coalitionforinclusivecapitalism.com/>), founded by Lynn Forester De Rothschild, is an organization that maintains that society has to reconsider capitalism so that it benefits more people, not just those at the top. The organization highlights that worker productivity increased 70% from 1980 to 2018; hourly wages, however, only grew by a paltry 12% (Coalition for Inclusive Capitalism, 2021, p. 2). Its *Framework* has the following to say about what business should be doing:

Further, the wealthy and most powerful in our society, many of whom have seen their wealth grow enormously during the time of COVID-19, must give up some of the privileges they have gained and pay their fair share of the costs of building a sustainable economy based upon well-paid jobs. Government should develop systematic rules requiring a fairer, more just and racially equitable economic system, including developing rules that give workers a meaningful opportunity to have their voices heard on such basic issues as compensation, benefits and protection. Business too must do its fair share, including adopting practices that offer workers greater voice in the corporation, meaningful access to economic security and opportunities for upward mobility. As such, government and business policies and practices must be viewed through a lens which is bipartisan, inclusive and focused on improving the lives of working people and their families (p. 4).

Businesses have increasingly adopted a "doing-well-by-doing-good philosophy" (Kolhatkar, 2017). Blackrock has been introducing socially responsible funds that exclude industries such as coal, firearms, and tobacco (Sorkin, 2019). There is now a website that ranks America's most "just" companies, defined as organizations that are "ethical, honest, and fair, and [behave] this way when it comes to its employees, customers, shareholders, and the environment, as well as the communities it impacts locally and around the world" (JUST Capital, 2019). Larry Fink, CEO of Blackrock and responsible for six trillion dollars in investor funds, has urged executives to ensure that their companies did more than earn profits and make a positive contribution to society. He postulates that profits are not inconsistent with purpose (Sorkin, 2019).

B Corporation, or benefit corporation, is a designation created by B Lab in 2006 that fills an interesting niche between owner-controlled for-profit corporations and nonprofits. B Corporations agree to balance profit and purpose and satisfy the highest transparency, accountability, and social and environmental performance standards. These organizations commit to producing a benefit for society and want to use business as a force for improving the world, not just making a profit for shareholders. B Corporations are held publicly accountable to stakeholders beyond shareholders, such as employees, customers, the local community, and the environment. There are more than 2600 Certified B corporations across 60 countries (Feloni, 2018).

Considering that 92% of millennials are more likely to purchase products from ethical

companies, it can hurt an organization to act unethically or behave dishonestly (Shewan, 2020 citing Aflac Corporate Social Responsibility study, n.d.). Firms should make a point to concentrate on "mission and purpose" because a recent Gallup poll indicates that this is what millennials are motivated by when looking for a job, rather than by remuneration alone (Robison, 2019).

### Hierarchy of Ethics

The authors of this paper assert that ethics should not be evaluated in a binary fashion but rather through the prism of gradations or levels. Some ethical misdoings are more severe than others, and to classify a company as "ethical" or "not ethical" may be short-sighted. Similar to how our legal system recognizes the difference between shoplifting and armed robbery, or between making sexual jokes and rape (Pogrebin, 2018), we can't judge an organization's ethical and moral compass as simply black or white.

In the Hebrew Bible, three terms are used to describe justice and ethics: *mishpat*, *tzedek*, and *chesed*. For example, Jeremiah stated:

Thus said God: Let not the wise man boast of his wisdom and let not the strong man boast of his strength, let not the rich man boast of his wealth. But let him who boasts boast in this, that he understands and knows me, that I am the Lord who practices lovingkindness (*chesed*), justice (*mishpat*), and righteousness (*tzedaka*) on earth; for in these things I delight, declares the Lord (Jeremiah 9:22-23).

Sacks observes that *mishpat* means retributive justice; *tzedek* means distributive justice. Thus, "Law [*mishpat*] takes out of private hands and places within society as a whole the determination of innocence and guilt. It establishes a set of rules binding on all... A law-governed society is a place of *mishpat*" (Sacks, 2005, p. 33). The correct way to dispense Justice/*mishpat* is by being detached, disengaged, and impartial; it is "best administered without emotion" (Sacks, 2005, p. 51).

A decent, caring society requires more than *mishpat*; it must incorporate *tzedek* as well and combine compassion with strict justice.

*Tzedek*, "justice," is a key word in the book of Devarim [Deuteronomy] - most famously in the verse: "Justice, justice you shall pursue, so that you may thrive and occupy the land that the Lord your God is giving you" (Deut. 16:20). What does it mean? *Tzedek/tzedakah* is almost impossible to translate because of its many shadings of meaning: justice, charity, righteousness, integrity, equity, fairness and innocence. It certainly means more than strictly legal justice, for which the Bible uses words like *mishpat* and *din*. One example illustrates the point: "If a man is poor, you may not go to sleep holding his security. Return it to him at sundown so that he will be able to sleep in his garment and bless you. To you it will be reckoned as *tzedakah* before the Lord your God" (Deuteronomy 24:12-13). *Tzedakah* cannot mean legal justice in this verse. It speaks of a situation in which a poor person has only a single cloak or covering, which he has handed over to the lender as security against a loan. The lender has a legal right to keep the cloak until the loan has been repaid. However, acting on the basis of this right is simply not the right thing to do. It ignores the human situation of the poor person, who has nothing else with which to keep warm on a cold night (Sacks, 2013, paras. 2, 6-7).

*Tzedek* is similar to Aristotle's idea of equity. Aristotle says the following about equity:

This is the essential nature of the equitable: it is a rectification of law where law is defective because of its generality..." Equity does not nullify the law. It upholds the law; it 'corrects' it; it refines it; it brings it closer to perfection. It does not contradict the law. Rather, it claims to fulfill the true intention of the legislator (Kirschenbaum, 1991, pp. xxiv, xxxv).

*Chesed*, usually translated as deeds of lovingkindness, goes beyond *tzedek/tzedaka* and indicates being unusually generous, beyond the requirements of the law. Thus, showing kindness to one who has no actual claim to it would constitute *chesed*. Psalm 89:15 states: "Righteousness (*tzedek*) and justice (*mishpat*) are the foundation of Your throne; lovingkindness (*chesed*) and truth (*emet*) go before You." The prophet Hosea described an ideal society in the following terms (Hosea 2: 19-20): "I will betroth you to Me in *tzedek u'mishpat* (righteousness and justice), in *chesed ve'rachamim* (lovingkindness and compassion). I will betroth you in faithfulness, and you will know the Lord."

The Talmud also takes a hierarchical approach to ethics (Friedman, 1985). The lowest level is where one is punished by the courts. At the next level, one commits a wrong that the courts cannot penalize but is "liable to Heavenly punishment," i.e., he will be punished by God. With some infractions, the court is helpless, but the victim has the right to curse the wrongdoer publicly. With other behaviors, the Talmud declares that the person's actions are "pleasing to the spirit of the Sages." or "not pleasing to the spirit of the Sages." The highest form of ethics is the "way of the pious" (*midat chasidut*). The Babylonian Talmud (Bava Kama 30a) maintains that one who wants to be pious should be strict about not causing harm to others. A discussion follows of how various sages disposed of broken glass and thorns in order to avoid harming others. It also states (Talmud, Avot 5:10) that "One who says, 'what is mine is yours and what is yours is yours is pious (*chasid*).'" A pious individual (or organization) is willing to go beyond the requirements of the law and even take a loss if it benefits others.

Reidenbach and Robin (1991) developed a model of corporate moral development with five stages: The amoral organization, the legalistic organization, the responsive organization, the emergent ethical organization, and the ethical organization. A firm that has evolved and is in stage five will emphasize ethics so that the entire corporate culture is infused with it, and individuals will not find themselves in situations where they are unsure how to act.

The authors posit the following hierarchy of ethics for organizations: Level I. The Totally Unethical Organization; Level II. The Legalistic Unethical Organization; Level III. The Superficially Ethical Organization; Level IV. The Ethical Organization; and Level V. The Fully Conscious Ethical Organization.

### **Level I: The Totally Unethical Organization**

Level I organizations do business "by any means necessary." All that matters in this type of amoral organization is the financial bottom line. Bending or completely breaking the rules is acceptable as long as "we don't get caught." Occasionally, a CEO might end up incarcerated, but it's a rarity. And when the judicial system does catch up to these organizations, it's viewed as collateral damage. Enron was the paradigm for the totally unethical corporation, and several executives did end up in prison. Another example of a Level I organization is PG&E. Documents obtained by the *Wall Street Journal* indicated that PG&E knew for years that its outdated power lines could fail and cause wildfires and did nothing about it. More than 100 people died in the November 2018 Camp Fire, started by PG&E power lines that destroyed the entire town of Paradise, California (Blunt & Gold, 2019). An independent auditor discovered that the company prioritized bonuses and profits

over safety (Kelly, 2017).

Purdue Pharma, headed by the Sackler family, made billions of dollars selling Oxycontin. The company contributed to the opioid crisis, responsible for the deaths of half a million Americans. In effect, greed trumped health, and the company had no compunction marketing its opioid as more effective than other painkillers and non-addictive. There were even kickbacks to doctors to convince others to prescribe the drugs. The Sacklers offered to pay \$4.5 billion over nine years without admitting any wrongdoing as part of a global settlement. The family is worth about \$11 billion, so this payment will have minimal effect on their overall wealth (Department of Justice, 2020; Keefe, 2021).

## **Level II: The Legalistic Unethical Organization**

A Level II organization might be concerned with abiding by the law but yet still be willing to act in an unethical manner. Leaders play a crucial role in shaping the culture of their respective organizations. If they're sincere about ethics and practicing full stakeholder integration, they will work towards reinforcing these priorities into a robust cultural environment. Simply listing codes of ethics is inadequate. Ethics must be value-driven, not rules-driven. An overemphasis on rules may encourage employees to "game the system" and figure out ways to be unethical. A corporate culture that is rules-based tends to look for ways to comply with the "letter of the law" and not the "spirit of the law" (Fox et al., 2007).

Rules usually define prohibited behavior or minimal standards, instead of inspiring exemplary or even good practices. A rules-based culture tends to emphasize compliance with "the letter of the law" as opposed to fulfilling "the spirit of the law." From an ethics perspective, overemphasizing rules can lead to "moral mediocrity"—or worse, unethical practices, if employees equate "no rule" with "no problem" or if they "game the rules" by developing ethically problematic workarounds. While employees in rules-driven organizations tend to concentrate on what they must do, those in organizations with a healthy ethical environment and culture tend to concentrate more on what they should do—finding ethically optimal ways to interpret and act on the rules in service of the organization's mission and values (Fox et al., 2007, p. 3).

Firms at this level of ethical behavior attempt to stack the deck in their favor when it comes to lawsuits with consumers and employees. Nondisclosure agreements (NDA) are often used in morally wrong ways. The number of sexual harassment cases involving executives has been astronomical, with companies often paying up to cover up crimes committed by executives and making victims sign nondisclosure agreements. The Harvey Weinstein case, together with the #MeToo movement, changed everything. By 2018, more than 200 influential men lost their positions because of sexual misconduct (Carlsen et al., 2018). Numerous scandals are covered up by having victims sign nondisclosure agreements. Spooner (2020, p. 331) observes that the NDA has become "a silencing tool that cultivated cultures of harassment and allowed sexual predators to carry on in our workplaces." NDA have also been used to silence whistleblowers (Short, 1999).

Many companies insert clauses into employment contracts that require arbitration to settle disagreements between the firm and its employees. They know that arbitration tends to stack the deck in favor of the company and against employees because arbitrators often consider businesses as potential clients. Thus, employees are forced to deal with intermediaries whose loyalties lie with their adversaries rather than with impartial judges and juries. To make matters worse, appeals are problematic in arbitration. Sometimes firms specify in contracts with employees and customers that all cases would be handled by one

arbitration firm exclusively. Some firms use the same arbitrator for numerous lawsuits. In fact, in a five-year period, the same arbitrator was used 40 times by one firm (Silver-Greenberg & Gebeloff, 2015a; Silver-Greenberg & Gebeloff, 2015b). Ethical organizations should not allow the NDA or arbitration to be used for unfair purposes or circumvent true justice, even if technically legal.

Kristof (2021) has been critical of Google and other search engines because of how they handle rape video searches. Unfortunately, it is not uncommon for young boys or girls to be secretly filmed or sexually assaulted, and then the video is uploaded to major pornographic websites such as XVideos, the seventh most visited website. The site draws its traffic through search engines such as Google. Thus, thousands of people could view a video where an unconscious woman (she was drugged) was raped by her ex-husband. One study published in *The British Journal of Criminology* found that one-eighth of videos on the three major pornography sites showed non-consensual acts or sexual violence. Some were the result of spy cams secretly placed in locker rooms displaying young, unsuspecting girls (or boys) taking showers. According to Kristof, these pornographic websites rely on Google for about 50% of their traffic, and an ethical company would stop directing people to websites showing content such as this. Google may not be breaking the law, but is this how an ethical organization should behave? Is Google a Level II or Level III company? It is difficult to say, but the organization should definitely do more to improve its ethical standards.

Google's old "Don't be evil" phrase in its code of conduct sounds very much like a firm that is only interested in avoiding the lower two levels of ethics. Alphabet's (paper company of Google and other firms) mantra is now "Do the right thing" (Moyer, 2015). Doing the right thing is what a firm at a higher level of ethics should be striving to do.

### **Level III: The Superficially Ethical Organization**

Level III companies could be observed using corporate social responsibility (CSR) campaigns to cover up an underlying business model that is at best ethically neutral. These organizations view CSR as a sacrifice or "a way to give back" rather than attempting to integrate the interests of all stakeholders into their business practices. For example, the consumer packaged goods industry has profited for decades by selling highly addictive processed food products loaded with sugar, sodium, and other artificial elements. There is evidence that many food companies are purposely manipulating the ingredients of their products to interfere with the reward circuitry of consumers' brains to get them hooked on processed foods such as ice cream, cookies, potato chips, and cheeseburgers. For many people, a bag of chips can be as addictive as cigarettes; consumers are being transformed into fast-food addicts (O'Connor, 2021).

The fast-food industry has long been linked to the rise in obesity around the world. Many successful companies such as McDonald's Corporation have worked hard to counter this reality by adding healthier options to its menu and establishing CSR campaigns that help manage its image. But it does not change the fact that McDonald's continues to profit from the sale of hamburgers, French fries, and sugary soft drinks.

Dvorak and Power (2020) contend that most organizations do not know the strength of their ethical culture. Will employees do the right thing if they see unethical behavior? According to a recent Gallup study, 24% of employees described seeing or being aware of wrongdoing in the workplace during the last twelve months. However, only 47% spoke up and reported the misconduct. The authors opine that the "reporting ratio," the percentage of employees who will speak up if they see any immoral behavior in the workplace, is the best test of the ethical culture in an organization. If the reporting ratio in an organization is low, then the company is probably, at best, superficially ethical.

Vivek Ramaswamy (2021) has written about what he calls "corporate America's

social justice scam." Organizations sometimes cynically adopt popular causes as a fig leaf to shield them from disapproval. What they are doing is attempting to distract the public from what they really care about, profits. It is duplicitous to adopt a trendy cause – it is not difficult to find a fashionable social cause -- to fool the public into believing that it cares about people. At the same time, the firm might be manipulating the ingredients of its processed food to make product users addicts (Stephens, 2021).

#### **Level IV: The Ethical Organization**

Level IV companies promote, support, and nurture a solid ethical culture. The Ethisphere Institute uses a ratings system known as the Ethics Quotient to create a list of the "The World's Most Ethical Companies." In 2021, 135 companies were recognized by Ethisphere for their steadfast commitment to running an ethical business (Ethisphere, 2021).

The 3M company is on the list and describes its "Code of Conduct" on its website ([https://www.3m.com/3M/en\\_US/ethics-compliance/code/](https://www.3m.com/3M/en_US/ethics-compliance/code/)). The company's core business principles are:

- Be Good (Obey the law and 3M's Code of Conduct)
- Be Honest (Act with honesty and integrity)
- Be Fair (Play by the rules, whether working with government, customers, or suppliers)
- Be Loyal (Protect 3M's interests, assets, and information)
- Be Accurate (Keep complete and accurate business records)
- Be Respectful (Respect one another and our social and physical environment around the world)

In addition, Report a Concern or Ask a Question

(At 3M, we encourage all employees and people who interact with 3M to report suspected misconduct or ask a compliance question and speak up. It is the right thing to do. Those who report a concern can be confident that they will not be subject to retaliation.)

Organizations striving to reach a minimum of Level IV (and possibly Level V) should emulate the code of ethics of honorees such as 3M.

The following litmus test might be used to determine whether a firm is at least a Level IV organization: would it engage in a project that is sure to help humankind but may not result in a positive financial return on investment? About fifteen years ago, the deadly Ebola virus recently threatened the entire world. The pharmaceutical industry ignored a promising vaccine with the potential to prevent the disease because the vaccine would primarily benefit poor African countries with a limited ability to pay for it. Had the pharmaceutical companies invested in its development, it would have probably saved thousands of lives (Grady, 2014).

While Level IV companies rank high on the ethical scale, Level V companies go one step further, striving to reach a level of consciousness that transcends ethics.

#### **Level V: The Fully Conscious Ethical Organization**

At their core, Level V businesses operate with a higher purpose than profit. These organizations are not only ethical but are also built upon the four foundational pillars of conscious capitalism: higher purpose, stakeholder integration, conscious leadership, and conscious culture (Mackey & Sisodia, 2013). The Conscious Capitalism organization is a network of corporate leaders committed to the idea that business is about more than just making money. The credo of conscious capitalists is at their website, where the "Four Principles of Conscious Capitalism" are stated (Conscious Capitalism, 2020):

We believe that business is good because it creates value, it is ethical because it is based on voluntary exchange, it is noble because it can

elevate our existence and it is heroic because it lifts people out of poverty and creates prosperity (Conscious Capitalism, 2020, para. 1).

Conscious business leaders aim to use capitalism to "elevate humanity" by serving all stakeholders (customers, employees, suppliers, local communities, the environment, society), not just shareholders, and thus improve the world. This is not to be confused with corporate social responsibility. Mackey observes: "Conscious capitalism puts higher purpose and creating value for the community stakeholder at the core of every business decision rather than being added on later as a program to thwart criticism or help manage a business's reputation" (Schawbel, 2013, para. 15).

There is evidence that firms that practice conscious capitalism outperformed the S&P 500 firms by 14 times (Lewis, 2020). Many investors are demanding metrics like ESG (environmental, social, and governance criteria) to see the impact of a company on all stakeholders: customers, employees, suppliers, communities, society, and the government (Clifton, 2021).

At the Davos 2019 World Economic Forum, Punit Renjen, Global CEO of Deloitte, discussed the results of a major survey by his firm which polled 2,000 C-suite executives across 19 countries. The survey showed that executives are now aware that societal impact is crucial when evaluating performance, not shareholder value (Renjen, 2019). Bazerman (2020) feels that ethical leaders should be guided by the overarching goal of creating as much value as possible for society.

One example of a probable Level V company is TOMS, founded by Blake Mycoskie in 2006. TOMS started as an online shoe retailer, but what made the company special was its "One For One" giving pledge: a new pair would be given to a child in need for every pair of shoes sold. The company commits 1/3 of its profits to make the world a better place and has helped more than 100,000,000 people. Since 2006, the company has donated more than 60 million pairs of shoes to children worldwide and more than 400,000 pairs of glasses to people in need (Shewan, 2020).

A second Level V example is Southwest Airlines, founded by Herbert Kelleher and Rollin King in 1967. Southwest was created with the purpose of democratizing the skies, making air travel accessible to the average person. Herb Kelleher, an authentic and charismatic leader, also understood the value of building and retaining a passionate, inspired team. He achieved this by creating solid values, a sense of purpose, and a fun workplace where everybody loved to come. Fast forward to 2019, and Southwest benefits from a 96% employee retention rate, 44 consecutive years of profitability, and no layoffs/furloughs ever (Robertson, 2018).

John Deere, a heavy machinery manufacturer, is not only on the Ethisphere Institute's list of "The World's Most Ethical Companies," but it is also on Green Citizen's list of "17 of the world's most ethical companies." Some of the things done by the company include recycling 85% of total waste, a commitment to best management practices regarding conserving water, and investing 1% of profits towards social and environmental causes (Gemes, 2021).

The Kao Corporation has been included on Ethisphere Institute's list for a record 15 consecutive years (the list was started in 2007). Kao is an Asian consumer goods company dedicated to ethical decision-making and ESG management best practices.

## **Conclusion**

Admittedly, it is not easy to fit an organization into one of five categories with total certainty. Many will straddle multiple levels. Others may slide up or down over time. The levels presented in this paper are meant to be a guide for organizations, with the hope that more will aspire to reach the highest plateau. The authors assert that Level V is an attainable

goal if an organization is willing to harness capitalism's power to generate attractive financial returns for its investors while also making the world a better place for its other stakeholders.

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