**MBA 818 - Business Ethics and Corporate governance**

**Chapter 1 - An overview of business ethics**

Business ethics has been a growth area in the business world in recent times. Before the advent of business ethics, business transactions have largely been conducted on the principle of caveat emptor(law)*.* Much has changed in recent times. The law is the most important source of ensuring that consumers receive a fair deal from retailers and manufacturers.

Some of these laws in Nigeria include: the Price Control Act of 1970 as amended by the Price Control Act, 1977;

Nigeria Standard Organisation of Nigeria Act of 1971; National Agency for Food and Drugs Administration and Control Act of 1974; Weight and Measures Act of 1974, etc.

These and other related laws are essentially an imposition of moral consideration on business.

Ethics refers to the principles and standards of moral behaviour that are accepted by society as right versus wrong.

Ethics can be defined as a set of principles of right conduct. It can also be defined as a theory or a system of moral values. Business ethics is the application of moral standards to business situations.

Many firms have a set of policies on business conduct and legal compliance. The policies embrace ethics, internal controls, conflict of interest and a host of other areas, all of which are designed to promote good and ethical business practices. Employees are acquainted with these policies and are made to sign undertakings to maintain them. As a matter of policy, the company is ready to concede business opportunity in favour of its code of ethics.

**Morality**

Morality can be defined as the standards that an individual or a group has about what is right and wrong, or good and evil.

Typically, a person’s moral standards are first imbibed as a child from family, friends and various societal influences such as church, school, television, magazines, music and associations. Later, as the person grows up, experience, learning and intellectual development may lead the maturing person to revise these standards.

Some are discarded and new ones may be adopted to replace them. Through this maturing process, the person may develop standards that are more intellectually adequate and so more suited for dealing with the moral dilemmas of adult life.

The characteristics that distinguish moral standards from standards that are not moral are;

1. Moral standards deal with matters that we think can seriously injure or seriously benefit human beings.

2. Moral standards are not established or changed by the decisions of particular authoritative bodies.

3. Moral standards should be preferred to other values including (especially) self-interest.

4. Moral standards are based on impartial considerations.

5. Moral standards are associated with special emotions and a special vocabulary.

**Ethics and the Law**

Many of the most important ethical values form the basis for legislation which governs business activity in general. However, while ethics deals with personal moral principles and values, laws express the standards of a society that can actually be enforced in court.

Often, there is fine judgment to be made. If behaviour is not subject to legal penalties and seems reasonably ethical, it is still acceptable.

Using the framework of ethics and the law, a business may be strictly operated on principles which strive to be:

1. Ethical and legal

2. Unethical and legal

3. Ethical but illegal

4. Unethical and illegal

Laws and regulations are promulgated especially in business to right the wrongs and unwholesome practices by businessmen.

Therefore, laws and regulations exist to achieve the following:

1. Protect consumers

2. Regulate competition

3. Protect organisations from each other

4. Protect the society

**Significance of Business Ethics**

Appearing to be ethical, it may be suggested, is simply good business.

- Consumers are, arguably, more likely to buy from a company which can be seen to be acting ethically.

- Graduates are more likely to be attracted to companies which treat their employees fairly and give customers a fair deal.

- Ethical business practice is a means of forestalling legislation and stringent government regulations.

- Business ethics requires companies doing their bit to contribute towards a just and fair society, while also ensuring that environmental pollution is brought under control.

- Another significance of business ethics stems from the fact that businesses need to retain the vast amount of social power entrusted to them by the public.

**Influences on Business Ethics**

1. Cultural differences

2. Knowledge

3. Organizational behaviour

**Chapter 2 - Ethical principles in business**

Ethics is the discipline that examines one’s moral standards or the moral standards of a society.

A normative study is an investigation that attempts to reach normative conclusions, that is, conclusions about what things are good or bad or about what actions are right or wrong.

A descriptive study is one that does not try to reach any conclusion about what things are truly good, bad or right or wrong. Instead, a descriptive study attempts to describe or explain the world without reaching any conclusions about whether the world is at what it should be.

Although ethics is a normative study, the social sciences engage in a descriptive study of ethics.

**Business Ethics**

Business ethics is a specialized study of moral right and wrong, as they apply to business institutions, organisations and behaviours.

A society consists of people who have common ends and whose activities are organized by a system of institutions designed to achieve these ends. That men, women, and children have common ends is obvious.

There is the common end of establishing, nurturing, and protecting family life; producing and distributing the materials on which human life depends; restraining and regularizing the use of force; organizing the means of

making collective decisions; and creating and preserving cultural values such as art, knowledge, technology, and religion.

Members of a society achieve these ends by establishing the relatively fixed patterns of activity that we call institutions: familial, economic, legal, political, and educational.

The most influential institutions within contemporary societies may be their economic institutions. These are designed to achieve two ends:

1. Production of the goods and services the members of the society want and need

2. Distribution of these goods and services to the various members of the society.

Thus, economic institutions determine who will carry out the work of production, how that work will be organized, what resources that work will consume, and how its products and benefits will be distributed among the society’s members.

Business organisations are the primary economic institutions through which people in modern societies carry on the task of producing and distributing goods and services. They provide the fundamental structure within which members of a society combine their scarce resources – land, labour, capital and technology- into useable goods, and they provide channels through which these goods are distributed in the form of consumer products, employee salaries, investors’ return, and government taxes.

Mining, manufacturing, retailing, banking, marketing, transporting, insuring, constructing and advertising are all

different facets of the productive and distributive processes of our modern business institutions.

Business ethics is a study of moral standards and how these apply to the social systems and organisations through which modern societies produce and distribute goods and services and to the behaviours of the people who work within these organisations.

Business ethics, in other words, is a form of applied ethics. It not only includes the analysis of moral norms and moral values but also attempts to apply the conclusions of these analyses to that assortment of institutions, organisations, activities and pursuits that we call business.

As this description of business ethics suggests, the issues that business ethics covers encompass a wide variety of topics. To introduce some order into this variety, it helps if we distinguish three different kinds of issues that business ethics investigates: systemic, corporate and individual.

Systemic issues in business ethics are ethical questions raised about the economic, political, legal, and other social systems or institutions within which businesses operate. These include questions about the morality of capitalism or of the laws, regulations, industrial structures and social practices within which businesses operate.

Corporate issues in business ethics are ethical questions raised about a particular organisation. These include questions about the morality of the activities, policies, practices or organizational structure which an individual company takes.

Finally, individual issues in business ethics are ethical questions raised about a particular individual or particular individuals within a company and their behaviours and decisions. These include questions about the morality of the decisions, actions or character of such individuals. It is helpful when analyzing the ethical issues raised by a particular decision or case to sort out the issues in terms of whether they are systemic, corporate or individual issues.

Often the world presents us with decisions that involve a large number of extremely complicated and interrelated kinds of issues that can cause confusion unless the different kinds of issues are first carefully sorted

out and distinguished from each other.

Moreover, the kinds of solutions that are appropriate in dealing with systemic or corporate issues are not

the same as the kinds of solutions that are appropriate in dealing with individual issues. If a company is trying to deal with a systemic issue such as a government culture that permits bribery then the issue must be dealt with on a systemic level; that is, it must be dealt with through the coordinated actions of many different social groups.

On the other hand, corporate ethical issues can be solved only through corporate or company solutions. If a company has a culture that encourages moral wrongdoing, for example, then changing that culture requires the cooperation of the many different people that constitute the company.

Finally, individual ethical issues need to be resolved through individual decisions and, perhaps, individual reforms.

**Concept of Ethical conduct**

Being an ethical corporate citizen is not enough; individuals in business must actively practice ethical conduct.

In business, besides obeying laws and regulations, a good and ethical conduct involves the followings:

- Competing fairly and honestly

- Communicating truthfully

- Not causing harm to others

**Code of Conduct**

A code of conduct is a written statement setting forth the principles that guide an organisation’s decision. An effective code of conduct requires the following:

- Top management commitment

- Employee communications efforts

- Employee commitment to follow it

- Formal training programmes

- A system that supports reporting unethical or illegal actions at work

- A system of action

**Applying Ethics to Corporate Organisations**

Organisations are composed of related human individuals that we conventionally agree to treat as a single unit, and they “act” only when we conventionally agree to treat the actions of these individuals as the actions of that unit.

A corporate organisation “exists” only if:

- There are certain human individuals who are in certain circumstances and relationships, and

- Our linguistic and social conventions lay down that when those kinds of individuals exist in those kinds of circumstances and relationships, they shall count as a corporate organisation.

A corporate organisation “acts” only if:

- Certain human individuals in the organisation performed certain actions in certain circumstances and

- Our linguistic and social conventions lay down that when those kinds of individuals perform those kinds of actions in those kinds of circumstances, this shall count as an act of their corporate organisation.

Our own social and legal conventions, for example, say that a corporation exists when there exists a properly qualified group of individuals who have agreed among themselves to incorporate and they have performed the necessary legal acts of incorporation.

Our social conventions also say that a corporation acts when properly qualified members of the corporation carry out their assigned duties within the scope of their assigned authority.

**Globalisation, Multinational and Business Ethics**

Many of the most pressing issues in business ethics today are related to the phenomenon of globalisation.

Globalisation is the worldwide process by which the economic and social systems of nations have become connected together so that goods, services, capital, knowledge and cultural artifacts are traded and moved across national borders at an increasing rate.

This process has several components, including the lowering of trade barriers and the rise of worldwide open markets, the creation of global communication and transportation systems such as the Internet and global shipping, the development of international financial institutions such as the World Bank and the International Monetary Fund that have facilitated the international flow of capital, and the spread of multinational corporations.

For centuries, of course, people have moved and traded goods across national boundaries. Merchants were carrying goods over the trading routes of Europe, Asia, Africa and the Americas almost since civilization dawned in each of these places.

But the volume of goods that are traded across national boundaries has grown almost exponentially since World War II ended, and it has transformed the face of our world to an extent that was never before possible.

Globalisation has resulted in a phenomenon that is familiar to anyone who travels outside their country: The same products, music, foods, clothes, inventions, books, magazines, movie, brand names, stores, cars and companies that we are familiar with at home are available and enjoyed everywhere in the world.

Multinational corporations are at the heart of the process of globalisation and are responsible for the enormous volume of international transactions that take place today. A multinational corporation is a company that maintains manufacturing, marketing, service or administrative operations in many different host countries.

**Business Ethics and Cultural Differences**

When faced with the fact that different cultures have different moral standards, the managers of some multinationals have adopted the theory of ethical relativism.

Ethical relativism is the theory that, because different societies have different ethical beliefs, there is no rational way of determining whether an action is morally right or wrong other than by asking whether the people of this or that society believe it is morally right or wrong.

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To put it another way, ethical relativism is the view that there are no ethical standards that are absolutely true and that apply or should be applied to the companies and people of all societies. Instead, relativism holds that something is right for the people or companies in one particular society if it accords with their moral standards and wrong for them if it violates their moral standards.

The multinational company or businessperson who operates in several different countries, then, and who encounters societies with many different moral standards is advised by the theory of ethical relativism in this way: In one’s moral reasoning, one should always follow the moral standards prevalent in whatever society one finds oneself.

After all, because moral standards differ and since there are no other criteria of right and wrong, the best a company can do is to follow the old adage: “When in Rome, do as the Romans do".

The fundamental problem with ethical relativism, critics allege, is that it holds that the moral standards of a society are the only criteria by which actions in that society can be judged. The theory gives the moral standards of each society a privileged place that is above all criticism by members of that society or by anyone else: A society’s moral standards cannot be mistaken.

We recognize that the moral standards of our own society as well as those of other societies can be wrong. This recognition implies that the moral standards a society happens to accept cannot be the only criteria of right and wrong.

**Technology and Business Ethics**

Technology consists of all those methods, processes, and tools that humans invent to manipulate their environment. To an extent never before realized in history, contemporary business is being continuously and radically transformed by the rapid evolution of new technologies that raise new ethical issues for business.

New technologies have had a revolutionary impact on business and society.

New technologies developed in the closing decades of the 20th century and the opening years of the 21st century are again transforming society and business and creating the potential for new ethical foremost problems. among these developments are the revolutions in biotechnology and in what is sometimes called information technology, including not only the use of extremely powerful and compact computers but also the development of the Internet, wireless communications, digitalization and numerous other technologies that have enabled us to capture, manipulate and move information in new and creative ways.

**Theories of Business Ethics**

***Stakeholder Theories***

The stakeholder theory of the firm is used as a basis to analyze those groups to whom the firm should be responsible. In this sense, the firm can be described as a series of connections of stakeholders that the managers of the firm attempt to manage.

A stakeholder is any group or individual who can affect or is affected by the achievement of the organisation’s objectives. Stakeholders are typically analyzed into primary and secondary stakeholders. A primary stakeholder group is one without whose continuing participation the corporation cannot survive as a going concern. A primary group includes shareholders and investors, employees, customers and suppliers, together with what is

defined as the public stakeholder group: the governments and communities that provide infrastructures and markets, whose laws and regulations must be obeyed, and to whom taxes and obligations may be due.

The secondary groups are defined as those who influence or affect, or are influenced or affected by the corporation, but they are not engaged in transactions with the corporation and are not essential for its survival.

***Social Contract Theory***

The social contract theory has a long tradition in ethical and political theory. In general, this theory considers the society as a series of social contracts between members of society and society itself. The social contact theory in business ethics argues that corporate rights and responsibilities can be inferred from the terms and conditions of an imaginary contract between business and society.

In the context of business ethics, an alternative possibility is not that business might act in a responsible manner because it is in its commercial interest, but because it is part of how society implicitly expects business to operate.

An integrated social contracts theory, as a way for managers to take decisions in an ethical context, has been developed. Here, distinction is made between macro social contracts and micro social contracts. Thus, a macro social contract in the context of communities, for example, would be an expectation that business provides some support to its local community and the specific form of involvement would be the micro social contract.

Hence companies who adopt a view of social contracts would describe their involvement as part of “societal expectation”.

***Legitimacy Theory***

Legitimacy is defined as a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions.

There are three types of organizational legitimacy;

- Pragmatic

- Moral

- Cognitive

It should be pointed out that legitimacy management rests heavily on communication – therefore in any attempt to involve legitimacy theory, there is a need to examine some forms of corporate communications.

Finally, an organisation may employ four broad legitimating strategies when faced with different legitimating threats;

- Seek to educate its stakeholders about the organisation’s intentions to improve that performance

- Seek to change the organisation’s perceptions of the event (but without changing the organisation’s actual performance)

- Distract (i.e. manipulate) attention away from the issue of concern

- Seek to change external expectations about its performance

Thus, there is a need to examine any particular corporate behaviour within its context and in particular to look for alternative motivations.

Legitimacy might therefore be seen as a key reason for undertaking corporate social behaviour, and then using that activity as a form of publicity or influence.

**Chapter 3 - Moral development and reasoning**

**Moral development stages**

1. Pre-conventional level

2. Conventional level

3. Post-Conventional level

**Moral Reasoning**

Moral reasoning refers to the reasoning process by which human behaviours, institutions, or policies are judged to be in accordance with or in violation of moral standards. Moral reasoning always involves two essential components:

1. An understanding of what reasonable moral standards require prohibits value or condemn;

2. Evidence or information that shows that a particular person, policy, institution, or behaviour has the kinds of features that these moral standards require, prohibit value or condemn.

**Objections to bringing ethics into business**

1. Some have argued that in perfectly competitive free markets, the pursuit of profit will by itself ensure that the members of society are served in the most socially beneficial ways.

2. A second kind of argument sometimes advanced to show that business managers should single-mindedly pursue the interests of their firms and should ignore ethical considerations is embodied in what Alex C. Michaels called the "loyal agent's argument."

3. A third kind of objection is sometimes made against bringing ethics into business. This is the objection that to be ethical it is enough for businesspeople merely to obey the law: Business ethics is essentially obeying the law.

**The Case For ethics in business**

1. People argue that ethics should be brought into business is simply by pointing out that, ethics should govern all voluntary human activities. And because business is a voluntary human activity, ethics should also govern business.

In short, there is nothing about business that would prevent us from applying the same standards of ethics to business activities that should be applied to all voluntary human activities.

2. Another argument for the view that ethics should be part of business points out that business activities, like any other human activities, cannot exist unless the people involved in the business and its surrounding community adhere to some minimal standards of ethics. Business is a cooperative activity whose very existence requires ethical behaviour.

3. People argue that ethics should be brought into business is by showing that ethical considerations are consistent with business pursuits, in particular with the pursuit of profit.

**Moral responsibility and blame**

So a more accurate-but more complicated way of characterizing moral responsibility is as follows:

- A person is morally responsible for an injury or a wrong if

- The person caused or helped cause it, or failed to prevent it when he could and should have

- The person did so knowing what he or she was doing

- The person did so of his own free will

**Types of moral responsibility**

- Corporate Responsibility

- Subordinates’ Responsibility

**Reasons for Ethical Behaviour**

- To Reverse Declining Public Confidence

- To Avoid Increase in Government Regulation

- To Retain the Power Granted by the Society

- To Protect the Company’s Image

**Chapter 4 - Business ethics and morality in international context**

Ethics of Care is an ethics that is focused on persons and their wellbeing, not on things. It does not seek to foster dependence but nurtures the development of the person so that one becomes capable of making one’s own choices and living one’s own life.

**Partiality and Care**

Ethics should be impartial and that, consequently, any special relationships that one may have with particular individuals, such as relatives, friends, or one's employees, should be set aside when determining what one should do.

Thus, an ethic of care emphasizes two moral demands;

- We each exist in a web of relationships and should preserve and nurture those concrete and valuable relationships we have with specific persons.

- We each should exercise special care for those with whom we are concretely related by attending to their particular needs, values; desires, and concrete well-being as seen from their own personal perspective, and by responding positively to these needs, values, desires, and concrete wellbeing, particularly of those who are vulnerable and dependent on our care.

A communitarian ethic is an ethic that sees concrete communities and communal relationships as having a fundamental value that should be preserved and maintained.

Two additional issues are important to note.

First, not all relationships have value, and so not all would generate the duties of care. Relationships in which one person attempts to dominate, oppress, or harm another; relationships that are characterized by hatred, violence, disrespect, and viciousness; and relationships that are characterized by injustice, exploitation, and harm to others lack the value that an ethic of care requires.

Second, it is important to recognize that the demands of caring are sometimes in conflict with the demands of justice.

**Objections to Care**

The care approach to ethics has been criticized on several grounds.

1. It has been claimed that an ethic of care can degenerate into unjust favouritism.

2. Its demands can lead to “burnout”.

The advantage of an ethic of care is that it forces us to focus on the moral value of being partial toward those concrete persons with whom we have special and valuable relationships and the moral importance of responding to such persons as particular individuals with characteristics that demand a response to them that we do not extend to others.

**Integrating Utility, Rights, Justice, and Caring**

Moral judgments are based on;

- Standards of justice

- Standards of caring

- Standards that specify how human beings must be treated and respected(moral rights)

- Utilitarian standards which consists of net social benefits and social costs consequent on the actions (or

policies or institutions) by which we can attain these objectives.

**Virtue Ethics**

A more adequate approach to ethics, according to these ethicists, would take the virtues (such as honesty,

courage, temperance, integrity, compassion, self-control) and the vices (such as dishonesty, ruthlessness, greed, lack of integrity, cowardliness) as the basic starting point for ethical reasoning.

Although virtue ethics looks at moral issues from a very different perspective than action-based ethics, it does not follow that the conclusions of virtue ethics will differ radically from the conclusions of an action-based ethic.

As we see, there are virtues that are correlated with utilitarianism (e.g., the virtue of benevolence), virtues that are correlated with rights (e.g., the virtue of respect), and virtues that are correlated with justice and caring.

**The Nature of Virtue**

A moral virtue is an acquired disposition that is valued as part of the character of a morally good human being

and that is exhibited in the person's habitual behaviour.

A person has a moral virtue when the person is disposed to behave habitually in the way and with the reasons, feelings, and desires that are characteristic of a morally good person.

**The Moral Virtues**

Moral virtues are the traits of character that make a person a morally good human being.

The four pivotal or cardinal moral virtues are courage, temperance, justice, and prudence.

**Virtues, Actions and Institutions**

Virtue theory argues that the aim of the moral life is to develop those general dispositions we call the moral virtues and to exercise and exhibit them in the many situations that human life sets before us.

It not only provides a criterion for evaluating actions, it also provides a useful criterion for evaluating our social institutions and practices.

Perhaps, there is no simple way to classify all the virtues. We have suggested that moral virtues are dispositions that are generally desirable because they are required by the human situation with which all people everywhere must cope

Some virtues are cognitive and consist of understanding the requirements of morality toward ourselves and others, such as wisdom and prudence. Other virtues are dispositions that incline one to act according to general moral principles.

**Virtues and Principles**

There is no conflict between theories of ethics that are based on principles and theories of ethics based on virtues. However, a theory of virtue differs from an ethic of principles in the perspective from which it approaches moral evaluations.

A theory of virtue judges actions whereas an ethic of principles judges dispositions in terms of the actions associated with those dispositions.

**Morality in International Contexts**

It is clear, then, that although local laws or government decrees prevalent practices, levels of development, and cultural understandings all must be taken into account when evaluating the ethics of business policies and actions in a foreign country, the local status quo cannot simply be adopted without question by the multinational manager but must still be subjected to ethical analysis.

What factors should be considered when evaluating the ethics of an action or policy in a foreign context? The foregoing discussion suggests that the following questions should be asked about any corporate action or policy under consideration by a company operating in a foreign country.

**Chapter 5 - Ethics Theory**

Ethics theory refers to the various kinds of approaches to moral evaluation that constitute some of the most important types of ethical standards studied by moral philosophers.

Each approach to moral evaluation employs distinct moral concepts, and each emphasizes aspects of moral behaviour that are neglected or at least not emphasized by the others.

**Views of Ethical Behaviours**

We can distinguish between four views of ethical behaviours;

1. *Utilitarian view:* It is based on the notion that ethics should deliver the greatest number of people.

2. *Individualism view:* This view seeks to advance the long term self interest of individuals.

3. *Moral right view:* This emphasizes respect for and protection of the fundamental right of people.

4. *Justices view:* Ethical behaviour or decision should treat people impartially and fairly according to guiding rules and standards.

We focus on utilitarianism, that is, the utilitarian view.

Utilitarianism is a general term for any view that holds that actions and policies should be evaluated on the basis of the benefits and costs they will impose on society.

In any situation, the "right" action or policy is the one that will produce the greatest net benefits or the lowest net costs (when all alternatives have only net costs).

Jeremy Bentham (1748-1832) is generally considered the founder of traditional utilitarianism. J Bentham sought an objective basis for making value judgments that would provide a common and publicly acceptable norm for determining social policy and social legislation.

The utilitarian principle assumes that we can somehow measure and add the quantities of benefits' produced by an action and subtract from them the measured quantities of harm the action will have and thereby determine which action produces the greatest total benefits or the lowest total costs.

The principle assumes that all the benefits and costs of an action can be measured on a common numerical scale and then added or subtracted from each other.

When the utilitarian principle says that the right action for a particular occasion is the one that produces more utility than any other possible action, it does not mean that the right action is the one that produces the most utility for the person performing the action.

Utilitarianism is in many respects an attractive theory. For one thing, it matches fairly nicely the views that we tend to advocate when discussing the choice of government policies and public goods.

Utilitarianism also seems to fit in rather neatly with the intuitive criteria that people employ when discussing moral conduct.

Utilitarianism also has the advantage of being able to explain why we hold that certain types of activities are

generally morally wrong (lying, adultery, killing) while others are generally morally right (telling the truth, fidelity, keeping one's promises).

Utilitarianism is also the basis of the techniques of economic cost benefit analysis.

**Problems of Utilitarianism**

1. Utility cannot be measured. Market prices, sociological surveys or political votes can be used to measure

Economic experts can also provide informed judgments of the relative quantitative values of various costs and benefits.

2. Some benefits and costs seem intractable to measurement.

3. Many of the benefits and costs of an action cannot be reliably predicted, they also cannot be measured adequately.

4. It is unclear exactly what is to count as a benefit and what is to count as a cost.

5. Inability to deal with rights and justice. There exists an influential alternative version of utilitarianism called rule-utilitarianism. The basic strategy of the rule-utilitarian is to limit utilitarian analysis to the evaluations of moral rules.

According to the rule utilitarian, when trying to determine whether a particular action is ethical, one is never supposed to ask whether that particular action will produce the greatest amount of utility.

**Rights and Duties**

The concept of a right plays a crucial role in many of the moral arguments and moral claims invoked in business discussions. In general, a right is an individual’s entitlement to something.

A person has a right when that person is entitled to act in a certain way or is entitled to have others act in a certain way toward him or her. The entitlement may derive from a legal system that permits or empowers the person to act in a specified way or that requires others to act in certain ways toward that person; the entitlement is then called a legal right. Legal rights are limited, of course, to the particular jurisdiction

within which the legal system is in force.

Entitlements can also derive from a system of moral standards independently of any particular legal system e.g. The right to work; many argue that this is a right that all human beings possess.

Such rights, which are called moral rights or human rights, are based on moral norms and principles that specify that all human beings are permitted or empowered to do something or are entitled to have something done for them.

Moral rights, unlike legal rights, are usually thought of as being universal insofar as they are rights that all human beings of every nationality possess to an equal extent simply by virtue of being human beings. Unlike legal rights, moral rights are not limited to a particular jurisdiction.

**Moral rights has 3 features;**

1. Moral rights are tightly correlated with duties.

2. It provide individuals with autonomy and equality in the free pursuit of their interests.

3. It provides a basis for justifying one's actions and for invoking the protection or aid of others.

**Negative Rights**

A large group of rights called negative rights is distinguished by the fact that its members can be defined wholly in terms of the duties others have not to interfere in certain activities of the person who holds a given right e.g. if I have a right to privacy, this means that every other person, including my employer, has the duty not to intervene in my private affairs.

**Positive Rights**

Positive rights do more than impose negative duties. They also imply that some other agents have the positive duty of providing the holders of the right with whatever they need to freely pursue their interests e.g. if I have a right to an adequate standard of living, this does not merely mean that others must not interfere; it also means that if I am unable to provide myself with an adequate income, then I must be provided with such an income (perhaps by the government).

Similarly, the right to work, the right to an education, the right to adequate health care, and the right to social security are all rights that go beyond non interference to also impose a positive duty of providing people with something when they are unable to provide it for themselves.

**Contractual Rights and Duties**

Contractual rights and duties (sometimes called special rights and duties or special obligations) are the limited rights and correlative duties that arise when one person enters an agreement with another person e.g. if l am contracted to do something for you, then you are entitled to my performance: You acquire a contractual right to whatever I promised; and I have a contractual duty to perform as I promised.

Contractual rights and duties are distinguished by;

1. The fact that they attach to specific individuals and the correlative duties are imposed only on other specific individuals.

2. Contractual rights arise out of a specific transaction between particular individuals. Unless I actually

make a promise or enter some other, similar arrangement with you, you do not acquire any contractual rights over me.

3. Contractual rights and duties depend on a publicly accepted system of rules that define the transactions that give rise to those rights and duties. Without the institution of contract and the rights and duties it can create, modern business societies could not operate. Virtually every business transaction at some point requires one of the parties to rely on the word of the other party to the effect that the other party will pay later, will deliver certain services later, or will transfer goods of a certain quality and quantity. The institution of contracts provides a way of ensuring that individuals keep their word, and this in turn makes it impossible for business society to operate.

The ethical rules that govern contracts are the system of rules that underlies contractual rights and duties has been traditionally interpreted as including several moral constraints;

- Both of the parties to a contract must have full knowledge of the nature of the agreement they are entering.

- Neither party to a contract must intentionally misrepresent the facts of the contractual situation to the other party.

- Neither party to the contract must be forced to enter the contract under duress or coercion.

- The contract must not bind the parties to an immoral act.

Contracts that violate one or more of these four conditions traditionally have been considered void.

**Basis for Moral Rights**

Immanuel Kant and Robert Nozick theories are basis for moral rights.

**Chapter 6 - Ethics, Justice and Business**

Disputes among individuals in business are often interlaced with references to justice or fairness.

Justice and fairness are essentially comparative. They are concerned with the comparative treatment given to the members of a group when benefits and burdens are distributed, when rules and laws are administered, when members of a group cooperate or compete with each other, and when people are punished for the wrongs they have done or compensated for the wrongs they have suffered.

Although the terms justice and fairness are used almost interchangeably, we tend to reserve the word justice for matters that are especially serious, although some authors have held that the concept of fairness is more fundamental.

Standards of justice are generally taken to be more important than utilitarian considerations.

Standards of justice do not generally override the moral rights of individuals. Part of the reason for this is that, to some extent, justice is based on individual moral rights.

Issues involving questions of justice and fairness are usually divided into 3 categories;

1. **Distributive Justice:** The basic category which is concerned with the fair distribution of society's benefits and burdens.

2. **Retributive Justice:** This refers to the just imposition of punishments and penalties on those who do wrong: A just penalty is one that in some sense is deserved by the person who does wrong.

3. **Compensatory Justice:** This is concerned with the just way of compensating people for what they lost when they were wronged by others: A just compensation is one that in some sense is proportional to the loss suffered by the person being compensated (such as loss of livelihood).

**Distributive Justice**

Questions of distributive justice arise when different people put forth conflicting claims on society's benefits and burdens and all the claims cannot be satisfied.

If there were enough goods to satisfy everyone's desires and enough people willing to share society's burdens, then conflicts between people would not arise and distributive justice would not be needed.

When people’s desires and aversions exceed the adequacy of their resources, they are forced to develop principles for allocating scarce benefits and undesirable burdens in ways that are just and that resolve the conflicts in a fair way. The development of such principles is the concern of distributive justice.

The fundamental principle of distributive justice is that, equals should be treated equally and unequals treated unequally.

**Egalitarianism[Justice as Equality]**

Egalitarianism is justice based on equality.

Egalitarians hold that there are no relevant differences among people that can justify unequal treatment. According to the egalitarian, all benefits and burdens should be distributed according to the following formula: Every person should be given exactly equal shares of a society's or a group’s benefits and burdens.

Egalitarians base their view on the proposition that all human beings are equal in some fundamental respect and that, in virtue of this equality, each person has an equal claim to society’s goods. According to the egalitarian, this implies that goods should be allocated to people in equal portions.

Despite their popularity, however, egalitarian views have been subjected to heavy criticisms. These are;

1. Egalitarians claim that all human beings are equal in some fundamental respect, Critics claim that there is no quality that all human beings possess in precisely the same degree: Human beings differ in their abilities, intelligence, virtues, needs, desires, and all other physical and mental characteristics. If this is so, then human beings are unequal in all respects.

2. Another criticism argues that the egalitarian ignores some characteristics that should be taken into account in distributing goods both in society and in smaller groups: need, ability, and effort, If everyone is given exactly the same things, critics point out, then the lazy person will get as much as the industrious one, although the lazy one does not deserve as much.

Some egalitarians have tried to strengthen their position by distinguishing two different kinds of equality: political equality and economic equality.

Political equality refers to an equal participation in, and treatment by, the means of controlling and directing the political system. This includes equal rights to participate in the legislative process, equal civil liberties, and equal rights to due process.

Economic equality refers to equality of income and wealth and equality of opportunity. The criticisms leveled against equality, according to some egalitarians, only apply to economic equality and not to political equality.

Although everyone will concede that differences of need, ability, and effort may justify some inequalities in the distribution of income and wealth, everyone will also agree that political rights and liberties should not be unequally distributed.

Thus, the egalitarian position may be correct with respect to political equality even if it is mistaken with respect to economic equality.

Other egalitarians have claimed that even economic equality is defensible if it is suitably limited. Thus, they have argued that every person has a right to a minimum standard of living and that income and wealth should be distributed equally until this standard is achieved for everyone. The economic surplus that remains after everyone has achieved the minimum standard of living can then be distributed unequally according to need, effort, and so on.

A major difficulty that this limited type of economic egalitarianism must face, however, is specifying what it means by minimum standard of living. Different societies and cultures have different views as to what constitutes the necessary minimum to live on. A relatively primitive economy will place the minimum at a lower point than a relatively affluent one.

Nonetheless, most people would agree that justice requires that affluent societies satisfy at least the basic needs of their members and not let them die of starvation, exposure, or disease.

**Capitalist Justice[Justice Based on Contribution]**

It is justice based on contribution. Some writers have argued that a society’s benefits should be distributed in proportion to what each individual contributes to a society and/or to a group.

Justice requires, then, that the benefits people receive should be proportional to the value of their contribution.

Benefits should be distributed according to the value of the contribution the individual makes to a society, a task, a group, or an exchange.

This tends to promote among people an uncooperative and even competitive atmosphere in which resources and information are less willingly shared and in which status differences emerge. Workers in countries that are characterized as having a more individualistic culture.

The main question raised by the contributive principle of distributive justice is how the “value of the contribution” of each individual is to be measured.

However, there are many problems with using effort as the basis of distribution;

1. Rewarding a person’s efforts without any reference to whether the person produces anything worthwhile through these efforts is to reward incompetence and inefficiency.

2. A second important tradition has held that contributions should be measured in terms of productivity.

A major problem with this second proposal is that it ignores people’s needs.

To deal with the last difficulty mentioned, a third and highly influential version of the principle of contribution:

They have argued that the value of a person’s product should be determined by the market forces of supply and demand.

The value of a product would then depend not on its intrinsic value, but on the extent to which it is both relatively scarce and is viewed by buyers as desirable. In other words, the value of a person’s contribution is equal to whatever that contribution would sell for in a competitive market. People then deserve to receive in exchange with others whatever the market value of their product is worth.

Unfortunately, this method of measuring the value of a person’s product still ignores people’s needs. Moreover, to many people, market prices are an unjust method of evaluating the value of a person's product precisely because markets ignore the intrinsic values of things. Markets, for example, reward entertainers more than doctors. Also, markets often reward a person who, through pure chance, has ended with something

(e.g., an inheritance) that is scarce and that people happen to want. This, to many, seems the height of injustice.

**Socialism[Justice Based on Needs and Abilities]**

This is justice based on needs and abilities. The socialist principle, then, can be paraphrased as follows: Work burdens should be distributed according to people's abilities, and benefits should be distributed according to people’s needs.

This socialist principle is based first on the idea that people realize their human potential by exercising their abilities in productive work.

Perhaps most fundamental to the socialist view is the notion that societies should be communities in which benefits and burdens are distributed on the model of a family. Just as able family members willingly support the family, and just as needy family members are willingly supported by the family, so also the able members of a society should contribute their abilities to society by taking up its burdens while the needy should be allowed to share in its benefits.

The socialist principle has its critics;

1. Opponents have pointed out that, under the socialist principle, there would be no relation between the amount of effort a worker puts forth and the amount of remuneration the worker receives (because remuneration would depend on need, not on effort).

Socialists have usually replied to this charge by arguing that human beings are trained to acquire the vices of selfishness and competitiveness by modern social and economic institutions that inculcate and encourage competitive and self-interested behavior, but that people do not have these vices by nature. By nature, humans are born into families where they instinctively value helping each other. If these instinctive and “natural” attitudes continued to be nurtured, instead of being eradicated, humans would continue to value helping others even outside the family and would acquire the virtues of being cooperative, helpful, and selfless. The debate on what kinds of motivations human nature is subject to is still largely unsettled.

2. Another objection that opponents of the socialist principle have urged is that, if the socialist principle were enforced, it would obliterate individual freedom. under the socialist principle, the goods a person gets will be determined by the person’s needs and not by free choice.

The sacrifice of freedom is even greater, the critics claim, when one considers that in a socialist society some central government agency has to decide what tasks should be matched to each person's abilities and what goods should be allotted to each person's needs. The decisions of this central agency will then have to be imposed on other persons at the expense of their freedom to choose for themselves. The socialist

principle substitutes paternalism for freedom.

**Libertarianism[Justice as Freedom]**

It is justice based on freedom. The libertarian holds that no particular way of distributing goods can be said to be just or unjust apart from the free choices individuals make.

In general, people should be allowed to keep everything they make and everything they are freely given. Obviously, this means it would be wrong to tax one person (i.e., take the person's money) to provide welfare benefits for someone else's needs.

The problems with Libertarian principles are;

1. It enshrines a certain value-freedom from the coercion of others-and sacrifices all other rights and values to it without giving any persuasive reasons why this should be done. Opponents of the libertarian view argue that other forms of freedom must also be secured, such as freedom from ignorance and freedom from hunger. In many cases, these other forms of freedom override freedom from coercion.

2. A second related criticism of libertarianism claims that the libertarian principle of distributive justice will generate unjust treatment of the disadvantaged.

**Justice as fairness [Rawl]**

Altogether, a comprehensive theory capable of drawing these considerations together and fitting them together into a logical whole.

John Rawls provides one approach to distributive justice that at least approximates this ideal of a comprehensive theory.

John Rawls’s theory is based on the assumption that conflicts involving justice should be settled by first devising a fair method for choosing the principles by which the conflicts are resolved.

Once a fair method of choosing principles is devised, the principles we choose by using that method should serve us as our own principles of distributive justice.

Rawls proposes two basic principles that, he argues, we would select if we were to use a fair method of choosing principles to resolve our social conflicts.

The principles of distributive justice that Rawls proposes can be paraphrased by saying that the distribution of benefits and burdens in a society is just if and only if:

1. Each person has an equal right to the most extensive basic liberties compatible with similar liberties for all, and

2. Social and Economic inequalities are arranged so that they are both;

- To the greatest benefit of the least advantaged persons, and

- Attached to offices and positions open to all under conditions of fair equality of opportunity.

Principle 1 is supposed to take priority over Principle 2 should the two of them ever come into conflict, and within Principle 2, Part b is supposed to take priority over Part a.

Principle 1 is called equal liberty , Principle 2(part a) is called the difference principle and Principle 2(part b) is called is called the principle of fair equality of opportunity.

Essentially principle1 says that each citizen’s liberties must be protected from invasion by others and must be equal to those of others. These basic liberties include the right to vote, freedom of speech and conscience and the other civil liberties, freedom to hold personal property, and freedom from arbitrary arrest.

Principle 2(part a) says that a productive society will incorporate inequalities, but it then asserts that steps must be taken to improve the position of the most needy members of society, such as the sick and the disabled, unless such improvements would so burden society that they make everyone, including the needy, worse off than before.

Principle 2(part b) says that everyone should be given an equal opportunity to qualify for the more privileged positions in society's institutions. This means not only that job qualifications should be related to the requirements of the job (thereby prohibiting sexual discrimination) but that each person must have access to the training and education needed to qualify for the desirable jobs. A person's efforts, abilities, and contribution would then determine remuneration.

The principles that Rawls proposes are quite comprehensive and bring together the main considerations stressed by the other approaches to justice

However, Rawls not only provides us with a set of principles of justice, he also proposes a general method for

evaluating in a fair way the adequacy of any moral principles.

**Retributive Justice**

Retributive justice concerns the justice of blaming or punishing persons for doing wrong.

These conditions are also relevant to determining the justice of punishing or blaming someone for doing wrong: If people do not know or freely choose what they are doing, they cannot justly be punished or blamed for it.

The conditions for just punishment are;

1. Ignorance and inability. These conditions are also relevant to determining the justice of punishing or blaming someone for doing wrong: If people do not know or freely choose what they are doing, they cannot justly be punished or blamed for it.

2. Another kind of condition of just punishments is certitude that the persons on being punished actually did wrong.

For example, many firms use more or less complex systems of due process that are intended to ascertain whether the conduct of employees was realty such as to merit dismissal or some other penalty. Penalizing an employee on the basis of flimsy or incomplete evidence is rightly considered an injustice.

3. A third kind of condition of just punishments is that they must be consistent and proportioned to the wrong. Punishment is consistent only when everyone is given the same penalty for the same infraction punishment is proportioned to the wrong when the penalty is no greater in magnitude than the harm that the wrongdoer inflicted.

It is unjust, for example, for a manager to impose harsh penalties for minor infractions of rules or to be lenient toward favourites but harsh toward all others. If the purpose of a punishment is to deter others from committing the same wrong or to prevent the wrongdoer from repeating the wrong, the punishment should not be greater than what is consistently necessary to achieve these aims.

**Compensatory Justice**

It concerns the justice of restoring to a person what the person lost when wronged by someone else. We generally hold that when one person wrongfully harms the interests of another person, the wrong doer has a moral duty to provide some form of restitution to the person wronged.

Justice seems to require that the wrong doer as far as possible should restore whatever was taken, and this would usually mean that the amount of restitution should be equal to the loss the wrong doer knowingly inflicted on the victim.

However, some losses are impossible to measure.

Traditional moralists have argued that a person has a moral obligation to compensate an injured party only if three conditions are present;

- The action that inflicted the injury was wrong or negligent.

- The person’s action was the real cause of the injury.

- The person inflicted the injury voluntarily.

**Chapter 7 - The Business System**

An economic system is the system a society uses to provide the goods and services it needs to survive and flourish.

Arguments about free markets and free trade are arguments about economic systems.

This system must accomplish two basic economic tasks:

1. The task of actually producing goods and services, which requires determining what will be produced, how it will be produced, and who will produce it.

2. The task of distributing these goods and services among its members, which requires determining who will get what and how much each will get.

To accomplish these two tasks, economic systems rely on three kinds of social devices: traditions, commands, and markets.

Each of these three provides a way to organize people’s activities, a way to motivate them, and a way to decide who owns or controls the society’s productive resources.

The so-called primitive societies used economic systems based primarily on tradition. Tradition-based societies are small and rely on traditional communal roles and customs to carry out the two basic economic tasks.

Individuals are motivated by the community's expressions of approval or disapproval, and the community's productive resources, such as its herds are often owned in common.

Large modern societies carry out the two main economic tasks primarily through two very distinctive ways of organizing themselves: commands and markets.

In an economic system based primarily on commands, a government authority (a person or a group) makes the economic decisions about what is to be produced, who will produce it, and who will get it.

Productive resources such as land and factories are owned or controlled by government and are considered to belong to the public or to “the people.” Individuals are motivated to put forth the required effort by the rewards and punishments government doles out and by its exhortations to serve society. China, Vietnam, North Korea, Cuba, the former Soviet Union, and several other nations have run their economies primarily on the basis of commands.

By contrast, in a system based primarily on markets, private individuals make the main decisions about what they will produce and who will get it. Productive resources like land and factories are owned and managed by private individuals and are consequently considered “private property.” People are motivated to work primarily by the desire to get paid for voluntarily supplying the things others are willing to pay for. England in the 19th century is often cited as a prime example of an economy that was based primarily on a market system.

Economies today contain elements of all three of these devices: traditions, commands, and markets The United States, for example, is highly “market-oriented,” yet some Americans still consider some jobs to be “men's work,” or “women’s work,” so for them “tradition” determines who does those jobs, and the U.S. government not only issues “commands” that regulate business, labour, and international trade but also owns several important businesses, including the Export- Import Bank, the Postal Service, the Tennessee Valley Authority, and several others.

In fact, it would be undesirable to run an economy completely on the basis of traditions, commands, or markets. If an economy was a pure market system, for example, with no economic interventions by government, there would be no constraints whatsoever on the property one could own or what one could do with it. Slavery would be entirely legal, as would prostitution and all drugs including hard drugs. Today, the governments of even the most market-oriented economies decree that there are some things that may not be owned (such as slaves), some things that may not be done with one's own property (such as pollution), some exchanges that are illegal (children's labor), and some exchanges that are imposed (through taxation).

Such limitations on markets are intrusions of a command system: Government concern for the public welfare leads it to issue commands concerning which goods may or may not be produced or exchanged.

Similarly, even under the almost all encompassing command system of the former Soviet Union's harsh Stalinist regime, local markets-many of them so called "black markets"- existed where workers could trade their wages for the goods they wanted.

Since the 18th century, debates have raged over whether economies should be based more on commands or on markets. Should we have more government commands in the form of more economic regulations and more government control of business enterprises, or should government stand back and trust the economy more to the workings of the “market” and the decisions of private owners of companies?

There has been arguements to and against free markets; We analyze these ideologies which is a system of normative beliefs shared by members of some social group. The ideology expresses the group’s answers to questions about human nature.

**Free Market and Rights (John Locke)**

One of the strongest cases for an unregulated market derives from the idea that human beings have certain "natural rights" that only a free market system can preserve.

The two natural rights that free markets are supposed to protect are the right to freedom and the right to private property.

Free markets are supposed to preserve the right to freedom in so far as they enable each individual to voluntarily exchange goods with others free from the coercive power of government. They are supposed to preserve the right to private property insofar as each individual is free to decide what will be done with what he or she owns without interference from government.

John Locke (1632-1704) developed this theory.

Locke’s view that, when a person expends labor and effort to create or improve a thing, that person acquires property rights over that thing.

**Criticisms of Lockean Rights**

Criticisms of the Lockean defense of free markets have focused on four of its major weaknesses:

1. The assumption that individuals have the “natural rights” Locke claimed they have. These rights has not been proven.

2. The conflict between these negative rights and positive rights. even if human beings have a natural right to liberty and property, it does not follow that this right must override all other rights.

3. The conflict between these Lockean rights and the principles of justice. It is based on the idea that free markets create unjust inequalities.

4. The individualistic assumptions Locke makes and their conflict with the demands of caring. They ignore the key role of caring relationships in human societies and the demands of caring that arise from these relationships.

Critics of Locke point out that humans are born dependent on the care of others; as they grow, they remain dependent on the care of others to acquire what they need to become able adults. Even when they become adults, they depend on the caring cooperation of others in their communities for virtually everything they do or produce.

The degree of liberty a person has depends on what the person can do: The less a person can do. The less he is free to do. But a person’s abilities depend on what he learns from those who care for him as well as on what others care to help him to do or allow him to do.

**Free Markets and Utility (Adam Smith)**

It says that unregulated markets rests on the utilitarian argument that unregulated markets and private property will produce greater benefits than any amount of regulation could.

In a system with free markets and private property, buyers will seek to purchase what they want for themselves at the lowest prices they can find. Therefore, it will pay private businesses to produce and sell what consumers want and it will do this at the lowest possible prices.

To keep their prices down, private businesses will try to cut back on the costly resources they consume. Thus, the free market, coupled with private property, ensures that the economy is producing what consumers want, that prices are at the lowest levels possible, and that resources are efficiently used. The economic utility of society's members is thereby maximized.

Adam Smith (1723-1790) originated this theory.

**Criticisms of Adam Smith**

1. The assumption that the impersonal forces of supply and demand will force prices down to their lowest levels because the sellers of products are so numerous and each enterprise is so small that no one seller can control the price of a product.

This assumption was perhaps true enough in olden days, when the largest firms employed only a few dozen men and a multitude of small shops and petty merchants competed for the consumer’s attention.

However, today many industries and markets are completely or partially monopolized, and the small firm is no longer the rule.

2. The assumption that all the resources used to produce a product will be paid for by the manufacturer and that the manufacturer will try to reduce these costs to maximize profits. As a result, there is a tendency toward a more efficient utilization of society's resources. This assumption is also proved false when manufacturers of a product consume resources for which they do not have to pay and on which they, therefore, do not try to economise. e.g. Oil Companies.

Pollution is one example of such effects, but there are others, such as the effects on society of introducing advanced technology, the psychological effects increased mechanization has had on labourers, and the economic shocks that result when natural resources are depleted for short-term gains.

3. Another assumption that every human being is motivated only by a “natural” and self-interested desire for profit. Human nature follows the rule of “economic rationality”.

Human nature follows the rule of “economic rationality”.

**The Utility of Survival of the Fittest (Social Darwinism)**

Nineteenth-century social Darwinists added a new twist to utilitarian justifications of free markets by arguing that free markets have beneficial consequences over and above those that Adam Smith identified. They argued that economic competition produces human progress.

The doctrines of social Darwinism were named after Charles Darwin (1809-1882), who argued that the various species of living things were evolving as the result of the action of an environment that favoured the survival of some things while destroying others: “This preservation of favourable individual differences and variations, and the destruction of those which are injurious, I have called natural selection or the survival of the fittest.”

The environmental factors that resulted in the survival of the fittest were the competitive pressures of the animal world. As a result of this competitive "struggle for existence," Darwin held, species gradually change because only the "fittest" survive to pass their favorable characteristics on to their progeny.

Even before Darwin published his theories, philosopher Herbert Spencer (1820-1903) and other thinkers had already begun to suggest that the evolutionary processes that Darwin described were also operative in human societies. Spencer claimed that just as competition in the animal world ensures that only the fittest survive, so free competition in the economic world ensures that only the most capable individuals survive and rise to the top.

It was easy enough for later thinkers to revise Spencer's views so as to rid them of their apparent callousness. Modern versions of Spencerism hold that Competition is good not because it destroys the weak individual but because it weeds out the weak firm. Economic competition ensures that the "best" business firms survive and, as a result, the economic system gradually improves. The lesson of modern social Darwinism is the same: Government must stay out of the market because competition is beneficial.

The shortcomings of Spencer's views were obvious even to his contemporaries Critics were quick to point out that the skills and traits that help individuals and firms advance and "survive" in the business world are not necessarily those that help humanity survive on the planet.

Advancement in the business world might be achieved through a ruthless disregard for other human beings. The survival of humanity, however, may well depend on the development of cooperative attitudes and the mutual willingness of people to help each other.

The basic problem underlying the views of the social Darwinist, however, is the fundamental normative assumption that survival of the fittest means survival of the best.

**Free Trade and Utility (David Ricardo)**

David Ricardo (1772-1823), a British economist, is usually credited with showing that even if one country has an absolute advantage at producing everything, it is still better for it to specialize and trade.

**Criticisms of Ricardo**

1. The assumption that there are only two countries making only two products with only a fixed number of workers. These assumptions clearly do not hold in the real world.

2. Another assumption that the resources used to produce goods (labour, equipment, factories, etc.) do not move from one country to another and that each country's production costs are constant and do not decline as countries expand their production (i.e., there are no "economies of scale") or as they acquire new technology.

Yet today multinational companies can, and easily do, move their productive capital from one country to another and we know that the costs of producing goods always decline as companies expand production and develop ever better production technologies.

3. Thirdly, Ricardo assumes that workers can easily and costlessly move from one industry to another (from making wine, for example, to making cloth).This is not true always.

4. Finally, and perhaps most importantly, Ricardo ignores international rule setters. International trade inevitably leads to disagreements and conflicts, and so countries must agree to abide by some set of rules and

rule setters.

Today, the main organisations that set the rules that govern globalization and trade are the World Trade Organisation, the World Bank, and the International Monetary Fund. Critics claim that these organisations impose requirements that harm poor developing countries while benefiting the wealthy developed nations.

**Marx and Justice: (Criticizing and Free Trade)**

Karl Marx (1818-1883) is undoubtedly the harshest and most influential critic of the inequalities that private property institutions, free markets, and free trade are accused of creating.

In Marx’s view,

1. Capitalism and its private property system “alienates” the lower working classes by not allowing them to develop their productive potential, nor to satisfy their real human needs, nor to form satisfying human relationships.

2. Capitalism forces people into work that they find dissatisfying and unfulfilling and that is controlled by someone else.

3. Thirdly, capitalism alienates people from themselves by instilling in them false views of what their real human needs and desires are. Marx describes this alienation as "the renunciation of life and of human needs.”

4. Capitalist societies alienate human beings from each other by separating them into antagonistic and unequal social classes that break down community and caring relationships.

**The Real Purpose of Government**

According to Marx, The actual function that governments have historically served is that of protecting the interests of the ruling economic class.

It may be a popular belief that government exists to protect freedom and equality and that it rules by consent (as Locke insisted), but in fact such beliefs are ideological myths that hide the reality of the control the wealthy class exercises over the political process.

To back up his claim, Marx offered a breathtakingly comprehensive analysis of society.

According to Marx, every society can be analyzed in terms of its two main components: its economic substructure and its social superstructure.

Marx refers to the materials (land, labour, natural resources machinery, energy, technology) used in production as the forces of production.

Marx called the social controls used in producing goods (i.e., the social controls by which society organizes and controls its workers) the relations of production. There are, Marx suggests, two main types of relations of production:

a. Control based on ownership of the materials used to produce goods, and

b. Control based on authority to command.

In modern industrial society, capitalist owners control their factory labourers because;

a. The capitalists own the machinery on which labourers must work if they are to survive, and

b. labourers must enter a wage contract by which they give the owner (or manager) the legal authority to command.

According to Marx, a society’s relations of production define the main classes that exist in that society.

A society's superstructure consists of its government and its popular ideologies. Marx claims that the ruling class created by the economic substructure inevitably controls this superstructure. That is, the members of the ruling class will control the government and use it to protect their position and property, and they will popularize ideologies that justify their position of privilege.

According to Marx, a society’s government and its ideologies are designed to protect the interests of its ruling economic classes. These classes, in turn, are created by the society's underlying relations of production, and these relations of production in their turn are determined by the underlying forces of production. In fact, Marx claimed, all major historical changes are ultimately produced by changes in society’s forces of production.

Economic or "material" forces determine the course of history because they determine the functions of government.

**Immiseration of Workers**

Marx also claims that so long as production in modern economies is not planned but is left to depend on private ownership and unrestrained free markets, the result could only be a series of related disasters that would harm the working class.

1. Modern capitalist systems will exhibit an increasing concentration of industrial power in a relatively few hands. As self-interested private owners struggle to increase the assets they control, little businesses will gradually be taken over by larger firms that will keep expanding in size.

2. Capitalist societies will experience repeated cycles of economic downturns or crises.

3. Marx argues, the position of the worker in capitalist societies will gradually worsen.

The most telling criticism of Marx is that the immiseration of workers that he predicted did not in fact occur.

Workers in capitalist countries are much better off now than their fathers were a century ago. Nonetheless, contemporary Marxists point out that many workers today find their work de-humanizing, meaningless, and lacking in personal satisfaction.

Unemployment, recessions, and other “crises” continue to plague our economy. Advertisements attempt to instill in us desires for things that we do not really need. Inequality persists. In fact, on an international scale, as capitalist free trade has expanded through globalisation, the gulf between the haves and the have-nots around the world appears to have grown greater.

**Chapter 8 - Ethics in the market place**

**The Perfect Competition**

A market is any forum in which people come together for the purpose of exchanging ownership of goods or money. Markets can be small and very temporary (two friends trading clothes can constitute a tiny transient market) or quite large and relatively permanent (the oil market spans several continents and has been operating for decades).

A perfectly competitive free market is one in which no buyer or seller has the power to significantly affect the prices at which goods are being exchanged. Perfectly competitive free markets are characterized by the following seven features;

- There are numerous buyers and sellers, none of whom has a substantial share of the market.

- All buyers and sellers can freely and immediately enter or leave the market.

- Every buyer and seller has full and perfect knowledge of what every other buyer and seller is doing, including knowledge of the prices, quantities, and quality of all goods being bought and sold.

- The goods being sold in the market are so similar to each other that no one cares from whom each buys or sells.

- The costs and benefits of producing or using the goods being exchanged are borne entirely by those buying or selling the goods and not by any other external parties.

- All buyers and sellers are utility maximizers: Each tries to get as much as possible for as little as possible.

- No external parties (such as the government) regulate the price, quantity or quality of any of the goods being bought and sold in the market.

Moreover, this surprising result of perfectly competitive free markets has an even more astonishing outcome: It satisfies three of the moral criteria-justice, utility, and rights.

**Equilibrium in Perfectly Competitive Markets**

A demand curve is a line on a graph indicating the most that consumers (or buyers) would be willing to pay for a unit of some product when they buy different quantities of those products. As we mentioned, the fewer the units of a certain product consumers buy, the more they are willing to pay for those units, so the demand curve slopes down to the right.

Notice that the demand curve slopes downward to the right, indicating that consumers are willing to pay less for each unit of a good as they buy more of those units.

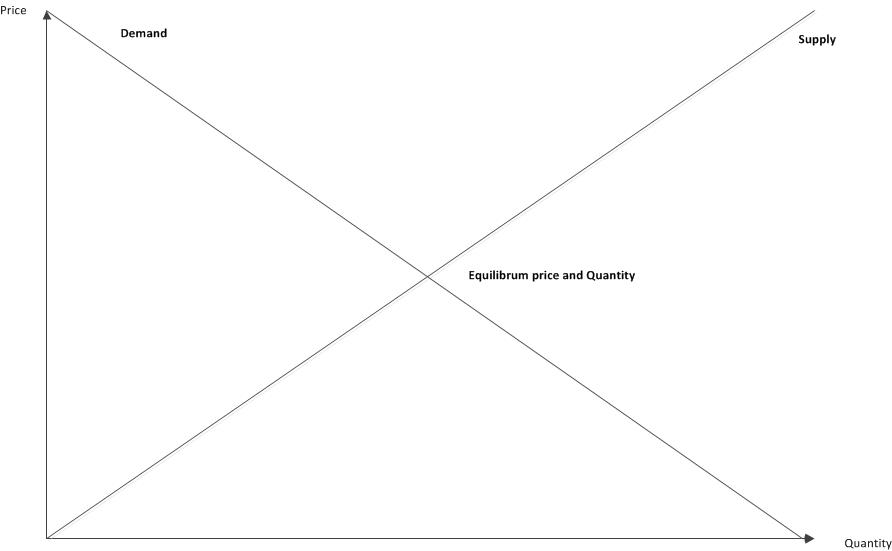
The value for consumers diminishes according to a phenomenon explained by a the assumption that human nature always follows-the so-called principle of diminishing marginal utility. This principle states that each additional item a person consumes is less satisfying than each of the earlier items the person consumed.

Now let us look at the other side of the market: the supply side. A supply curve is a line on a graph indicating the prices producers must charge to cover the average costs of supplying a given amount of a commodity. Beyond a certain point (which we explain shortly), the more units producers make, the higher the average costs of making each unit, so the curve slopes upward to the right.

At first sight, it may seem odd that producers or sellers must charge higher prices when they are producing large volumes than when producing smaller quantities. We are accustomed to thinking that it costs less to produce goods in large quantities than in small quantities. However, the increasing costs of production are explained by a principle that we call the principle of increasing marginal costs.

This principle states that, after a certain point, each additional item the seller produces costs more to produce than earlier items. Why? Because of an unfortunate feature of our physical world: Its productive resources are limited. A producer will use the best and most productive resources to make the first few goods and at this point costs will indeed decline as production expands.

Typically when this is done, the supply and demand curves will meet and cross at some point. The point at which they meet is the point at which the price buyers are willing to pay for a certain amount of goods exactly matches the price sellers must take to cover the costs of producing that same amount. This is called the “equilibrium price”.



**Ethics and Perfect Competitive Markets**

A perfectly competitive free markets incorporate forces that inevitably drive buyers and sellers toward the so-called utility of buyers and sellers by leading them to allocate, use, and distribute point of equilibrium. In doing so, they achieve three major moral values:

- They lead buyers and sellers to exchange their goods in a way that is just (in a certain sense of just);

- They maximize their goods with perfect efficiency; and

- They bring about these achievements in a way that respects buyers' and sellers’ right of free consent.

From the seller's point of view. The supply curve indicates the price producers must receive to cover what it costs them to produce given quantities of a good. Consequently, if prices (and quantities) fall below the seller’s supply curve, consumers are unfairly shortchanging the seller because they are paying less than the seller contributed to produce those goods in those quantities.

If prices rise above the seller’s supply curve, the average seller is unfairly overcharging consumers because they are being charged more than what the seller knows those goods are worth in terms of what it costs to produce them. Thus, from the standpoint of the seller's contribution, the price is fair (i.e., the price equals the costs of the seller's contribution) only if it falls somewhere on the seller's supply curve.

Next, consider the matter from the standpoint of the average buyer. The demand curve indicates the highest price consumers are willing to pay for given quantities of goods. So if the prices (and quantities) of goods were to rise above the consumer’s demand curve, the average consumer would be contributing more for those goods than what the goods (in those quantities) are worth. If prices (and quantities) fall below the consumer’s demand curve, the average consumer unfairly contributes less to sellers than the value (to the consumer) of the goods being received.

Thus, from the standpoint of the value the average consumer places on different quantities of goods, the contribution is fair (i.e., the price the consumer pays is equal to what the goods are worth) only if it falls somewhere on the consumer's demand curve.

Obviously, there is only a single point at which the price and quantity of a commodity lies both on the buyer's demand curve (and is thus fair from the standpoint of the value the average buyer places on the goods) and on the seller's supply curve (and is thus fair from the standpoint of what it costs the average seller to bring those goods to market): the equilibrium point.

Thus, the equilibrium point is the one and only point at which prices on average are just both from the buyer's and seller's points of view. When prices or quantities deviate from the equilibrium point, either the average buyer or the average seller is unjustly being shortchanged: One or the other has to contribute more than what being is received.

In addition to establishing a form of justice, competitive markets also maximize the utility of buyers and sellers by leading them to allocate, use, and distribute their goods with perfect efficiency.

A market system is perfectly efficient when all goods in all markets are allocated, used, and distributed in a way that produces the highest level of satisfaction possible from these goods. A system of perfectly competitive markets achieves such efficiency in three main ways;

1. It motivates firms to invest resources in those industries where consumer demand is high and to move resources away from industries where consumer demand is low.

2 It encourages firms to minimize the amount of resources consumed in producing a commodity and use the most efficient technology available.

3. It distribute commodities among buyers in such a way that all buyers receive the most satisfying bundle

of commodities they can purchase, given the commodities available to them and the money they can spend on these commodities.

Perfectly competitive markets establish capitalist justice and maximize utility in a way that respects buyers' and sellers' negative rights by;

1. In a perfectly competitive market, buyers and sellers are free (by definition) to enter or leave the market as they choose.

2. In the perfectly competitive free market, all exchanges are fully voluntary.

3. No single seller or buyer will so dominate the perfectly competitive free market that others are forced to accept the terms or go without.

Thus, perfectly competitive free markets are perfectly moral in three important respects;

- Each continuously establishes a capitalist form of justice;

- Together they maximize utility in the form of market efficiency; and

- Each respects certain important negative rights of buyers and sellers.

**Monopoly Competition**

The opposite extreme of a perfectly competitive market.

1. The monopoly market has only one seller, and that single seller has a substantial (100 percent) share of the market.

2. In the monopoly market, there is only one seller and other sellers cannot enter. Instead, there are “barriers to entry” such as patent laws, which give only one seller the right to produce a commodity, or high entry costs, which make it too expensive for a new seller to start a business in that industry.

Monopolies can also be created through mergers.

Monopoly markets, then, are those in which a single firm is the only seller in the market and which new sellers are barred from entering.

A seller in a monopoly market, therefore, can control the prices of the available goods by fixing its output at a quantity that is less than equilibrium and at which demand is so high that it allows the firm to reap an excess monopoly profit by charging prices that are far above the supply curve and above the equilibrium price.

Conclusively, pure monopoly is a situation whereby one firm provides a certain product or service in a particular country or area e.g., Power Holding Company of Nigeria.

Note that an unregulated monopolist might charge a high price, do little or no advertising, and offer minimal service.

If partial substitutes are available and there is some danger of competition, the monopolist might invest in more service and technology. A regulated monopolist is required to charge a lower price and provide more service as a matter of public interest.

**Monopoly Competition: Justice, Utility, and Rights**

Unregulated monopoly markets can fall short of the three values of capitalist justice, economic efficiency, and respect for negative rights that perfect competition achieves.

The obvious failure of monopoly markets are;

1. The high prices they enable the monopolist to charge and the high profits they enable the monopolist to reap-a failure that violates capitalist justice.

2. A monopoly market also results in a decline in the efficiency with which it allocates and distributes goods by;

i. The monopoly market allows resources to be used in ways that will produce shortages of those things buyers want and cause them to be sold at higher prices than necessary.

ii. Monopoly markets do not encourage suppliers to use resources in ways that will minimize the resources consumed to produce a certain amount of a commodity.

iii. A monopoly market allows the seller to introduce price differentials that block consumers from putting together the most satisfying bundle of commodities they can purchase given the commodities available and the money they can spend.

3. Monopoly markets also embody restrictions on the negative rights that perfectly free markets respect.

A monopoly market, then, is one that deviates from the ideals of capitalist justice, economic utility, and negative rights.

Instead of continually establishing a just equilibrium, the monopoly market imposes unjustly high prices on the buyer and generates unjustly high profits for the seller.

Instead of maximizing efficiency, monopoly markets provide incentives for waste, misallocation of resources, and profit gouging.

Instead of respecting negative rights of freedom, monopoly markets create an inequality of power that allows the monopoly firm to dictate terms to the consumer. The producer then replaces the consumer as “sovereign” of the market.

**Oligopolistic Competition**

Market structures of this "impure" type are referred to collectively as imperfectly competitive markets. They are made up of monopolistic and oligopolistic markets. In oligopoly;

1. The Market is shared by relatively small number of large firms (2-8) who together influence the price.

2. Sellers are not able to freely enter the market because of the high cost of startup, long term contracts tied to firms, entry loyalties etc.

Oligopolies can form in a variety of ways e.g. horizontal mergers.

Oligopolies function like a single giant firm when they join forces and act as a unit.

**Explicit Agreement**

Prices can be set at profitable levels through explicit agreements that refrain competition. These agreement curtails market justice, market efficiency and market rights.

The agreements cover the following;

1. Price Fixing

2. Manipulation of Supply

3. Exclusive dealing arrangement

4. Tying arrangement

5. Retail price maintenance agreement

6. Price discrimination

**Tacit Agreement**

Although most of the forms of explicit market agreements enumerated are illegal, the more common types of price-setting in oligopolies are accomplished through some unspoken form of cooperation against which it is difficult to legislate.

The managers of the major firms in an oligopoly can learn by hard experience that competition is not in their personal financial interests. Price-cutting competition, they find, will only lead to minimal profits. The firms in an oligopoly, therefore, may each come to the conclusion that cooperation is in the best interests of all. Each firm may then reach the independent conclusion that they will all benefit if, when one major firm raises its prices, all other firms set their prices at the same high levels.

To co-ordinate their prices, some oligopoly industries will recognize one firm as the industry's “price leader.” Each firm will tacitly agree to set its prices at the levels announced by the price leader, knowing that all other firms will also follow its price leadership.

Because each oligopolist knows it will not have to compete with another firm's lower prices, it is not forced to reduce its margin of profit to the levels to which open competition would reduce them. There need be no overt

collusion involved in this form of price-setting, only an unspoken understanding that all firms will follow the price leadership of the dominant firm and will not engage in the price-lowering tactics of competition.

Whether prices in an oligopoly market are set by explicit agreements or implicit understandings, it is clear that social utility declines to the extent that prices are artificially raised above the levels that would be set by a perfectly competitive market. Consumers must pay the unjust prices of the oligopolists, resources are no longer efficiently allocated and used, and the freedom of both consumers and potential competitors diminishes.

***Bribery***

When used to secure the sale of a product, political bribery can also introduce diseconomies into the operations of markets.

When bribes are used to secure the purchase of a commodity, the net effect is a decline in market competition. The product of the briber no longer competes equally with the product of other sellers on the basis of its price or merits. Instead, the bribe serves as a barrier to prevent other sellers from entering the briber's government market.

Because of the bribe, the government involved buys only from the firm who supplies the bribe and the briber becomes in effect a monopoly seller.

If a briber succeeds in preventing other sellers from receiving equal entry into a government market, it becomes possible for the briber to engage in the inefficiencies characteristic of monopolies. The bribing firm can impose higher prices, engage in waste, and neglect quality and cost controls because the monopoly secured by the bribe will secure a sizeable profit without the need to make the price or quality of its products competitive with those of other sellers.

Bribes used to secure the sale of products by shutting out other sellers differ, of course, from bribes used for other purposes. An official may insist on being paid to perform legal duties on behalf of a petitioner, as when, for example, a customs officer asks for a "tip" to expedite the processing of an import permit. A government official may offer to lower a costly tariff in return for an under-the-table payment.

The previous analysis would not apply to bribes of this sort, which are being used for a purpose other than to erect market barriers.

**Oligopolies and Public Policy**

Oligopolies are not a modern phenomenon. Toward the end of the 19th century, companies that had previously competed with each other began uniting into gigantic "trusts" that would then monopolize their markets, raising prices for consumers, cutting prices for suppliers such as farmers, and terrorizing their remaining competitors with predatory pricing.

The rise of the trusts coincided with the Progressive Movement, a political reform movement directed against big business abuses of power with the avowed aim of "busting" up the trusts. Responding to this movement, particularly the lobbying of struggling small farmers, Congress in 1887 passed the Interstate Commerce Act to regulate the large railroad companies.

Then in 1890 Congress passed what was to become the most important single piece of antitrust legislation, the

Sherman Antitrust Act. The two key sections of the act read.

**Section 1** - Every contract, combination..., or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations , is hereby declared illegal.

**Section 2** - Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony.

In the two decades following passage of the Sherman Antitrust Act, little was done to enforce it. But in 1908, the US Federal Government filed suit against the Tobacco Trust, claiming that its ruthless tactics against competitors had violated the Sherman Act. In a May 1911 decision, the Supreme Court agreed and ordered the Tobacco Trust to be broken up into 15 separate companies. Encouraged by the victory, the “trust busters” in government went on to successfully prosecute Standard Oil, DuPont, and other large trusts.

Since that time, Section 1 of the Sherman Antitrust Act has been interpreted as prohibiting competing companies from making agreements to fix prices, to divide up territories or customers, or to restrict the quantity of goods they bring to market.

Section 2 has been interpreted as prohibiting a company that already holds a monopoly from using its monopoly power to maintain its monopoly or to extend its monopoly into other markets.

Thus, the Sherman Antitrust Act does not prohibit a company from acquiring a monopoly through legitimate

business dealings (like having a better product, a shrewd strategy, or sheer luck). However, if a company that acquires a monopoly then tries to use its monopoly power to acquire a new monopoly, or to maintain its current monopoly, it is “guilty of a felony.”

There are three main views on oligopoly power;

1. The Do-Nothing View

2. The Antitrust View

3. The Regulation view

**The Do-Nothing View**

Some economists hold that nothing should be done about the economic power held by oligopoly corporations because the power of large oligopoly corporations is actually not as large as it may first appear. Several arguments have been given to support this claim

1. It is argued that although competition within industries has declined, it has been replaced by competition between industries with substitutable products.

2. John Kenneth Galbraith once argued, the economic power of any large corporation may be balanced and restrained by the “countervailing power” of other large corporate groups in society. Government and unions, for example, both restrain the power of big businesses. Although a business corporation may have a large share of an industrial market, it is faced by buyers that are equally large and equally powerful.

Finally, yet others have argued that big is good particularly in light of the globalisation of business that has taken place during recent decades. If American companies are to compete with large foreign companies, they must be able to achieve the same economies of scale that are achievable by large foreign companies. Economies of scale are reductions in the cost of producing goods that result when larger quantities of goods are produced using the same fixed resources, such as the same machines, marketing programs, group of managers, or employees.

**The Antitrust View**

The oldest view about the economic power oligopolies and monopolies possess is the view that lay behind the actions of the “trust busters” at the end of the 19th century. Like the trust busters, many contemporary economists and antitrust lawyers are suspicious of the economic power exerted by oligopoly corporations. They argue that prices and profits in concentrated industries are higher than they should be and that monopolists and oligopolists use unfair tactics against their competitors and suppliers.

The solution, they argue, is to reinstate competitive pressures by forcing the large companies to divest themselves of their holdings, thereby breaking them up into smaller firms

Clearly, the antitrust view is based on a number of assumptions. J. Fred Weston has summarized the basic propositions on which this traditional view is based:

- If an industry is not atomistic with many small competitors, there is likely to be administrative discretion over prices.

- Concentration results in recognized interdependence among companies with no price competition in concentrated industries.

- Concentration is due mostly to mergers because the most efficient scale of operation is not more than 3 to 5 per cent of the industry. A high degree of concentration is unnecessary.

- There is a positive correlation between concentration and profitability that gives evidence of monopoly power in concentrated industries-the ability to elevate prices and the persistence of high profits. Entry does not take place to eliminate excessive profits.

- Concentration is aggravated by product differentiation and advertising. Advertising is correlated with higher profits.

- There is oligopolistic coordination by signaling through press releases or other means.

**The Regulation View**

A third group of observers holds that oligopoly corporations should not be broken up because their large size has beneficial consequences that would be lost if they were forced to decentralize. In particular, they argue, mass production and mass distribution of goods can be carried out only by using the highly centralized accumulation of assets and personnel that the large corporation makes possible.

Moreover, the concentration of assets allows large firms to take advantage of the economies made possible by large-scale production in large plants. These savings are passed on to consumers in the form of cheaper and more plentiful products.

Although firms should not be broken up, it does not follow that they should not be regulated. According to this third view, concentration gives large firms an economic power that allows them to fix prices and engage in other forms of behaviour that are not in the public interest. To ensure that consumers are not harmed by large firms, regulatory agencies and legislation should be set up to restrain and control the activities of large corporations.

Some observers, in fact, advocate that where large firms cannot be effectively controlled by the usual forms of regulation, then regulation should take the form of nationalization. That is, the government should take over the operation of firms in those industries where only public ownership can ensure that firms operate in the public interest.

Other advocates of regulation, however, argue that nationalization is not in the public interest. Public ownership of firms, they claim, inevitably leads to the creation of unresponsive and inefficient bureaucracies.

Moreover, publicly owned enterprises are not subject to competitive market pressures, and this result in higher prices and higher costs. Which of these three views is correct: the do-nothing view, the antitrust view, or the regulation view? Readers will have to decide this issue for themselves because at the moment there does not appear to be sufficient evidence to answer this question unequivocally.

**Social and Ethics Issues in Marketing Communications**

Many laws and regulations determine what advertisers can and cannot do, not every issues is covered by a rule.

Marketers must often make decisions regarding appropriate responsible actions on the basics of ethical considerations rather than on what is legal or within industry guidelines.

A particular action may be within the law and still not be ethical e.g. target marketing of tobacco production.

Ethical issues must be considered in integrated marketing communications decisions. Advertising and promotion are areas where a lapse in ethical standards or judgment can result in actions that are highly visible and often very damaging to a company. The role of advertising in society is controversial and has sometimes resulted in attempts to restrict advertising and other form of promotion to certain group for certain products.

**Social and Ethical Criticisms of Advertising**

1. Advertising as Untruthful or Deceptive

2. Advertising as offensive e.g. source of distaste, sexual appeals etc.

3. Children are vulnerable to advertising

4. Social and cultural consequence

5. It encourages materialism

6. It makes people buy things they do not need

7. Stereotyping during advertising

8. Advertisers control the media

**Chapter 9 - The Ethics of Consumer Production and Marketing**

Many people believe that consumers automatically will be protected from injury by the operations of free and competitive markets and that neither governments nor free markets promote an allocation, use, and distribution of goods that are, in a certain sense, just, respectful of rights, and efficiently productive of maximum utility for those who participate in the market.

Moreover, in such markets, the consumer is said to be “sovereign.” When consumers want and will willingly pay for something, sellers have an incentive to cater for their wishes. If sellers do not provide what consumers want, then sellers will suffer losses. However, when sellers provide what consumers want, they will profit.

The ultimate uses to which society's resources are channeled”. In the “market” approach to consumer protection, consumer safety is seen as a good that is most efficiently provided through the mechanism of the free market whereby sellers must respond to consumer demands.

If consumers want products to be safer, they will indicate this preference in markets by willingly paying more for safer products and showing a preference for manufacturers of safe products while turning down the goods of manufacturers of unsafe products. Producers will have to respond to this demand by building more safety into their products or they risk losing customers to competitors who cater to the preferences of consumers. Thus, the market ensures that producers respond adequately to consumers' desires for safety.

However, if consumers do not place a high value on safety and demonstrate neither a willingness to pay more for safety nor a preference for safer products, then it is wrong to push increased levels of safety down their throats through government regulations that force producers to build more safety into their products than consumer demands. Such government interference, as we saw earlier, distorts markets, making them unjust, disrespectful of rights, and inefficient. It is just as wrong for businesspeople to decide on their own that consumers should have more protection than they are demanding as to force on them costly safety devices that they would not buy on their own.

Only consumers can say what value they place on safety, and they should be allowed to register their preferences through their free choices in markets and not be coerced by businesses or governments into paying

for safety levels they may not want.

Unfortunately, virtually all consumer choices are based on probability estimates we make concerning the chances that the products we buy will function as we think they will. All the research available shows that we become highly inept, irrational, and inconsistent when we make choices based on probability estimates.

1. It is obvious to any observer, few of us are good at estimating probabilities. We typically underestimate the risks of personal life threatening activities, such as driving, smoking, or eating fried foods, and of being injured by the products we use, and we overestimate the probabilities of unlikely but memorable events such as tornadoes or attacks by animals at the zoo. Studies have shown that our probability judgments go astray for a number of reasons, including the following:

- Prior probabilities are ignored when new information becomes available, even if the new information is irrelevant.

- Emphasis on “causation” results in the underweighting of evidence that is relevant to probability but is not perceived as “causal.

- Generalizations are made on the basis of small sample findings.

- Belief is placed in a self-correcting but nonexistent “law of averages.

- People believe that they exert control over purely chance events.

2. As a number of researchers have shown, people are irrational and inconsistent when weighing choices based on probability estimates of future costs or payoffs.

Finally, as several critics have pointed out markets often fail to incorporate the most fundamental characteristic of competitive markets: the presence of numerous buyers and sellers. Although buyers or consumers in most markets are numerous, still many, perhaps most, consumer markets are monopolies or oligopolies; that is, they are dominated by one or a few large sellers. Sellers in monopoly and oligopoly markets are able to extract abnormally high profits from consumers by ensuring that supply is insufficient to meet demand thereby ,creating shortages that put upward pressures on prices.

On balance, then, it does not appear that market forces by themselves can deal with all consumer concerns for safety, freedom from risk, and value. Market failures characterized by inadequate consumer information, irrationality in the choices of consumers, and concentrated markets, undercut arguments that try to show that markets alone can provide adequate consumer protection. Instead, consumers must be protected through the legal structures of government and through the voluntary initiatives of responsible businesspeople.

**The Contract View of the Business Firm’s Duties to Consumers**

According to the contract view of the business firm’s duties to its customers, the relationship between a business firm and its customers is essentially a contractual relationship, and the firm’s moral duties to the customer are those created by this contractual relationship. When a consumer buys a product, this view holds, the consumer voluntarily enters into a “sales contract” with the business firm.

The firm freely and knowingly agrees to give the consumer a product with certain characteristics, and the consumer in turn freely and knowingly agrees to pay a certain sum of money to the firm for the product. By virtue of having voluntarily entered this agreement, the firm then has a duty to provide a product with those characteristics, and the consumer has a correlative right to get a product with those characteristics.

The contract theory of the business firm's duties to its customers rests on the view that a contract is a free agreement that imposes on the parties the basic duty of complying with the terms of the agreement. A person

has a duty to do what the person contracts to do because failure to adhere to the terms of a contract is a practice that

a. Cannot be universalized and

b. Treats the other person as a means and not as an end.

Traditional moralists have argued that the act of entering into a contract is subject to several secondary moral constraints:

- Both of the parties to the contract must have full knowledge of the nature of the agreement they are entering.

- Neither party to a contract must intentionally misrepresent the facts of the contractual situation to the other party.

- Neither party to a contract must be forced to enter the contract under duress or undue influence.

Hence, the contractual theory of business firms' duties to consumers claims that a business has four main moral duties;

- The basic duty of complying with the terms of the sales contract and the secondary duties of:

- Disclosing the nature of the product,

- Avoiding misrepresentation, and

- Avoiding the use of duress and undue influence.

By acting in accordance with these duties, a business respects the right of consumers to be treated as free and equal persons-that is, in accordance with their right to be treated only as they have freely consented to be treated.

*The Duty to Comply*

The most basic moral duty that a business firm owes its customers, according to the contract view, is the duty to provide consumers with a product that lives up to those claims that the firm expressly made about the product, which led the customers to enter the contract freely and which formed the customers' understanding concerning what they were agreeing to buy.

Any affirmation of fact or promise made by the seller to the buyer that related to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.

In addition to the duties that result from the express claim a seller makes about the product, the contract view also holds that the seller has a duty to carry through on any implied claims knowingly made about the product.

Thus, the seller of a product (according to the contractual theory) has a moral duty to provide a product whose use involves no greater risks than those the seller expressly communicates to the buyer or those the seller implicitly communicates by the implicit claims made when marketing the product for a use whose normal risk level is well known.

*The Duty of Disclosure*

An agreement cannot bind unless both parties to the agreement know what they are doing and freely choose to do it. This implies that the seller who intends to enter a contract with a customer has a duty to disclose exactly what the customer is buying and what the terms of the sale are.

At a minimum, this means the seller has a duty to inform the buyer of any characteristics of the product that could affect the customer's decision to purchase the product. Some have argued that sellers should also disclose a product's components or ingredients, its performance characteristics, costs of operation, product ratings, and any other applicable standards.

Behind the claim that entry into a sales contract requires full disclosure is the idea that an agreement is free only to the extent that one knows what alternatives are available: Freedom depends on knowledge. The more the buyer knows about the various products available on the market and the more comparisons the buyer is able to make among them, the more one can say that the buyer's agreement is voluntary.

*The Duty not to Misrepresent*

Misrepresentation, even more than the failure to disclose information, renders freedom of choice impossible. That is, misrepresentation is coercive: The person who is intentionally misled acts as the deceiver wants the person to act and not as the person would freely have chosen to act if the person had known the truth.

Because free choice is an essential ingredient of a binding contract, intentionally misrepresenting the nature of a commodity is wrong. Sellers misrepresent a commodity when they represent it in a way deliberately intended to deceive the buyer into thinking something about the product that the seller knows is false. The deception may created by a verbal lie, as when used model is described as new, or it may be created by a gesture, as when an unmarked us model is displayed together several new models. That is, the deliberate intent to misrepresent

by false implication is as wrong as the explicit lie.

*The Duty not to Coerce*

People often act irrationally when under the influence of fear or emotional stress. When a seller takes advantage of a buyer's fear or emotional stress to extract consent to an agreement that the buyer would

not make if the buyer were thinking rationally, the seller is using duress or undue influence to coerce e.g. An unscrupulous funeral director, may skillfully induce guilt-ridden and grief-stricken survivors to invest in funeral services they cannot afford.

Because entry into a contract requires freely given consent, the seller has a duty to refrain from exploiting emotional states that may induce buyers to act irrationally against their own best interests.

For similar reasons, the seller also has the duty not to take advantage of gullibility, immaturity, ignorance, or any other factors that reduce or eliminate the buyer's ability to make free rational choices.

**Problems with the Contractual Theory**

The main objections to the contract theory focus on the unreality of the assumptions on which the theory is based.

First, critics argue, the theory unrealistically assumes that manufacturers make direct agreements with consumers. Nothing could be farther from the truth. Normally, a series of wholesalers and retailers stands between the manufacturer and the ultimate consumer. The manufacturer sells the product to the wholesaler, who sells it to the retailer, who finally sells it to the consumer. The manufacturer never enters into any direct contract with the consumer.

Advocates of the contract view of manufacturers’ duties have tried to respond to this criticism by arguing that manufacturers enter to indirect agreements with consumers. Manufacturers promote their products through their own advertising campaigns.

These advertisements supply the promises that lead people to purchase products from retailers, who merely function as “conduits” for the manufacturer’s product. Consequently, through these advertisements, the manufacturer forges an indirect contractual relationship not only with the immediate retailers who purchase the manufacturer's product but also with the ultimate consumers of the product.

In fact, sellers and buyers do not exhibit the equality that these doctrines assume. A consumer who must purchase hundreds of different kinds of commodities cannot hope to be as knowledgeable as a manufacturer who specializes in producing a single product.

Consumers have neither the expertise nor the time to acquire and process the information on which they must base their purchase decisions. Consequently, consumers must usually rely on the judgment of the seller in making their purchase decisions and are particularly vulnerable to being harmed by the seller. Equality, far from being the rule, as the contract theory assumes, is usually the exception.

**The Due Care Theory**

The “due care” theory of the manufacturer's duties to consumers is based on the idea that consumers and sellers do not meet as equals and that the consumer's interests are particularly vulnerable to being harmed by the manufacturer who has a knowledge and an expertise that the consumer lacks. Because manufacturers are in a more advantaged position, they have a duty to take special care to ensure that consumers' interests are not harmed by the products that they offer them.

Today as never before the product in the hands of the consumer is often a most sophisticated and even mysterious article. Not only does it usually emerge as a sealed unit with an alluring exterior rather than as a

visible assembly of component parts, but its functional validity and usefulness often depend on the application of electronic, chemical, or hydraulic principles far beyond the ken of the average consumer.

Advances in the technologies of materials, of processes, of operational means have put it almost entirely out of the reach of the consumer to comprehend why or how the article operates, and thus even farther out of his reach to detect when there may be a defect or a danger present in its design or manufacture.

In today's world it is often only the manufacturer who can fairly be said to know and to understand when an

article is suitably designed and safely made for its intended purpose.

Once floated on the market, many articles in a very real practical sense defy detection of defect, except possibly in the hands of an expert after labourious, and perhaps even destructive, disassembly.

The “due care” view holds, then, that because consumers must depend on the greater expertise of the manufacturer, the manufacturer not only has a duty to deliver a product that lives up to the express and implied claims about it but also has a duty to exercise due care to prevent others from being injured by the product even if the manufacturer explicitly disclaims such responsibility and the buyer agrees to the disclaimer.

The manufacturer violates this duty and is negligent when there is a failure to exercise the care that a reasonable person could have foreseen would be necessary to prevent others from being harmed by use of the product.

Due care must enter into the design of the product, the choice of reliable materials for constructing the product, the manufacturing processes involved in putting the product together, the quality control used to test

and monitor production, and the warnings, labels, and instructions attached to the product.

*The Duty to Exercise Due Care*

According to the due care theory, manufacturers exercise sufficient care only when they take adequate steps to prevent whatever injurious effects they can foresee that the use of their product may have on consumers after having conducted inquiries into the way the product will be used and after having attempted to anticipate any possibly misuses of the product.

A manufacturer then is not morally negligent when others are harmed by a product and the harm was not one that the manufacturer could have possibly foreseen or prevented. Nor is a manufacturer morally negligent after having taken all reasonable steps to protect the consumer and ensure that the consumer is informed of any irremovable risks that might still attend the use of the product. e.g. a car manufacturer cannot be said to be negligent from a moral point of view when people carelessly misuse the cars the manufacturer produces. A car manufacturer would be morally negligent only if it had allowed unreasonable dangers to remain in the design of the car that consumers cannot be expected to know about or cannot guard against by taking their own precautionary measures.

*The Problems with “Due Care”*

1. The basic difficulty raised by the “due care” theory is that there is no clear method for determining when one has exercised enough “due care”. That is, there is no hard-and fast rule for determining how far a firm must go to ensure the safety of its product.

2. A second difficulty raised by the “due care” theory is that it assumes that the manufacturer can discover the risks that attend the use of a product before the consumer buys and uses it. In fact, in a technologically innovative society, new products whose defects cannot emerge until years or decades have passed will continually be introduced into the market.

3. Third, the “due care” view appears to some to be paternalistic: It assumes that the manufacturer should be the one who makes the important decisions for the consumer, at least with respect to the levels of risks that are proper for consumers to bear.

**The Social Costs View of the Manufacturer’s Duties**

A third theory on the duties of the manufacturer would extend the manufacturer's duties beyond those imposed by contractual relationships and beyond those imposed by the duty to exercise due care in preventing

injury or harm.

This third theory holds that a manufacturer should pay the costs of any injuries sustained through any defects in the product, even when the manufacturer exercised all due care in the design and manufacture of the product and has taken all reasonable precautions to warn users of every foreseen danger.

According to this third theory, a manufacturer has a duty to assume the risks of even those injuries that arise out of defects in the product that no one could reasonably have foreseen or eliminated. The theory is a strong version of the doctrine of caveat vendor: Let the seller take care.

This third theory, which has formed the basis of the legal doctrine of strict liability, is founded on utilitarian arguments. The utilitarian arguments for this third theory hold that the “external” costs of injuries resulting from unavoidable defects in the design of an artifact constitute part of the costs society must pay for producing and using an artifact.

By having the manufacturer bear the external costs that result from these injuries as well as the ordinary internal costs of design and manufacture, all costs are internalized and added on as part of the price of the product. Internalizing all costs in this way, according to proponents of this theory, will lead to a more efficient use of society's resources.

First, because the price will reflect all the costs of producing and using the artifact, market forces will ensure that the product is not overproduced and resources are not wasted on it. (Whereas if some costs were not included in the price, then manufacturers would tend to produce more than is needed.)

Second, because manufacturers have to pay the costs of injuries, they will be motivated to exercise greater care

and thereby reduce the number of accidents. Therefore, manufacturers will strive to cut down the social costs of injuries, and this means a more efficient care for our human resources. To produce the maximum benefits possible from our limited resources, therefore, the social costs of injuries from defective products should be internalized by passing them on to the manufacturer even when the manufacturer has done all that could be done to eliminate such defects.

Third, internalizing the costs of injury in this way enables the manufacturer to distribute losses among all the users of a product instead of allowing losses to fall on individuals who may not be able to sustain the loss by themselves. Underlying this third theory on the duties of the manufacturer are the standard utilitarian assumptions about the values of efficiency.

The theory assumes that an efficient use of resources is so important for society that social costs should be allocated in whatever way will lead to a more efficient use and care of our resources. On this basis, the theory

argues that a manufacturer should bear the social costs for injuries caused by defects in a product even when no negligence was involved and no contractual relationship existed between the manufacturer and user.

*Problems with the Social Costs View*

The major criticism of the social costs view of the manufacturer’s duties is that it is unfair. It is unfair, the critics charge, because it violates the basic canons of compensatory justice. Compensatory justice implies that a person should be forced to compensate an injured party only if the person could have foreseen and prevented the injury. By forcing manufacturers to pay for injuries they could neither foresee nor prevent, the social costs theory (and the legal theory of “strict liability” that flows from it) treats manufacturers unfairly. Moreover, insofar as the social costs theory encourages passing the costs of injuries on to all consumers (in the form of higher prices), consumers are also being treated unfairly.

A second criticism of the social costs theory attacks the assumption that passing the costs of all injuries on to manufacturers will reduce the number of accidents. On the contrary, critics’ claim, by relieving consumers of the responsibility of paying for their own injuries, the social costs theory will encourage carelessness in consumers. An increase in consumer carelessness will lead to an increase in consumer injuries.

A third argument against the social costs theory focuses on the financial burdens the theory imposes on manufacturers and insurance carriers.

Critics claim that a growing number of consumers successfully sue manufacturers for compensation for any injuries sustained while using a product even when the manufacturer took all due care to ensure that the product was safe. Not only have the number of “strict liability” suits increased, critics claim, but the amounts awarded to injured consumers have also escalated. Moreover, they continue, the rising costs of the many liability suits that the theory of “strict liability” has created have precipitated a crisis in the insurance industry because insurance companies end up paying the liability suits brought against manufacturers. These high costs have imposed heavy losses on insurance companies and have forced many insurance companies to raise their rates to levels that are so high that many manufacturers can no longer afford insurance. Thus, critics claim, the social costs or “strict liability” theory wreaks havoc with the insurance industry, forces the costs of insurance to climb to unreasonable heights, and forces many valuable firms out of business because they can no longer afford liability Insurance nor can they afford to pay for the many and expensive liability suits they must now face.

Defenders of the social costs view, however, have replied that in reality the costs of consumer liability suits are not large. Studies have shown that the number of liability suits filed in state courts has increased at a fairly low rate. Less than 1 per cent of product-related injuries results in suits. Defenders of the social costs theory also point out that insurance companies and the insurance industry as a whole have remained quite profitable; they also claim that higher insurance costs are due to factors other than an increase in the amount of liability claims.

**Advertising Ethics**

Advertising is providing information to consumers. The Primary function is to sell a product to prospective buyers, and whatever information they happen to carry is subsidiary to this basic function and usually determined by it.

Commercial advertising can be defined as a certain kind of communication between a seller and potential buyers. It is distinguished from other forms of communication by two features.

First, it is publicly addressed to a mass audience as distinct from a private message to a specific individual. Because of this public feature, advertising necessarily has widespread social effects.

Second, advertising is intended to induce members of its audience to buy the seller's products. An advertisement can succeed in this intent in two main ways:

- By creating a desire for the seller's product in consumers and

- By creating a belief in consumers that the product is a means of satisfying some desire the buyer already has.

*Social Effects of Advertising*

1. It Creates consumer desires

2. It has effects on consumer beliefs

**Consumer Privacy**

Advances in ICT have given us the power to collect, manipulate, and disseminate personal information about consumers on a scale unprecedented in the history of the human race. This new power over the collection, manipulation, and dissemination of personal information has enabled mass invasions of the privacy of consumers and has created the potential for significant harms arising from mistaken or false information.

It is clear, then, that our interest in privacy is important enough to recognize it as a right that all people have, including consumers.

However, this right must be balanced against the rights and legitimate needs of others.

Thus, consumers' rights to privacy have to be balanced with these legitimate needs of businesses. Several considerations have been suggested as key to balancing legitimate business needs with the right to privacy, including;

a. relevance

b. informing

c. consent

d. accuracy

e. purpose

f. recipients and security.

**Consumerism**

The demand on businesses for ethical practices has been further fuelled by consumerism. Consumerism is the organized movement of consumers/customers and government aimed at aiding and protecting the rights, interests and powers of consumers/customers by exerting legal, moral and economic pressures on business organisations.

It can also be seen as protest by consumers against real and/or perceived injustice and efforts to remedy injustices perceived by consumers. The protest may also be against marketing malpractices and injustice and adverse effects of business activities on the environment.

Consumerism is on the rise. This because consumers are more educated, knowledgeable, and organized. They are demanding better consumer information, quality service, and dependability, and fair prices.

The consumerism movement is one reason businesses need to adopt an ethical perspective.

The 8 consumer rights are;

- Consumers have a right to save products: Marketers can’t knowingly sell products that they suspect of being defective. For example, a central legal argument in the recent problems involving Firestone tire was whether or not company officials knew in advance that the firm was selling defective.

- Consumers have a right to be informed about relevant aspects of a product: For example, apparel manufacturers are now required to provide full disclosure on all fabrics used (cotton, silk, polyester, and so forth) and instruction for (dry-clean, machine wash, hand wash).

- Consumers have a right to be heard: consumers must be given the opportunity to register their complaints about poor product or service delivery. Labels on products sold should carry telephone numbers and/or Web site of the marketers.

- Consumers have a right to choose what they buy: Consumers should be able to choose from a whole range of products supplied by a firm and competitors. There should be no competitive restriction on what should be made available to consumers.

- Consumers have a right to be educated about purchases: All prescription drugs and foods now come with detailed information regarding dosage, possible side effect, expiry date, caution and potential interactions with other medications.

- Consumers have a right to basic needs: The basic needs of life worldwide include food, shelter, clothing, healthcare and transportation. Every government should provide these basic needs to guarantee consumers’ minimum standard of living.

- Consumers have a right to representation: This becomes necessary where the rights of consumers have been trampled upon. Consumers suffering from any form of infringements can seek redress in law courts, tribunals and regulatory authorities.

- Consumers have a right to a good environment: Because companies’ productive, marketing, and distributive activities sometimes cause environmental degradation, which affects the quality of life of consumers, consumers need to be insulated from this right.

**Public and other Actions to Protect Consumers in Nigeria**

Various measures have been taken to protect consumers in Nigeria.

Various individuals, organisations and governments have attempted to protect consumers in Nigeria. The various measures for protecting consumers are:

1. *Government Economic and Social Policy Measures*

- Promulgation of the Price Control Decree of 1970. It was aimed at checking profiteering and hoarding.

- Establishment of Standards Organisation of Nigeria (SON), National Agency for Food and Drugs Administration and Control (NAFDAC), Nigerian Communications Commission(NCC),National Broadcasting Commission(NBC) and several other agencies.

They were set up for the following reasons:

- To continuously formulate laws and regulations aimed at protecting consumers.

- To cater for the welfare of consumers.

- NAFDAC ensures that manufactured foods and drugs are tested, duly approved and registered with the container carrying the registration number as stamp of authority and assurance to consumers.

- SON ensures that goods and services conform to set minimum quality levels.

- It stipulates weights and measures to be used by organisations.

- NCC ensures that telecommunications companies pursue minimum standards at reasonable rates.

2. *Newspapers and Magazines:* Most newspapers and government agencies’ magazines devote sections regularly to consumer awareness.

For instance, there was a media report on how some Nigerian oil marketers rip off Nigerian motorists. Oil marketers such as Conoil, Oando, Global Feet oil, Sea Petroleum and Gas and Ine Oil Filling Stations were found to have tampered with their pumps, dispensing lower value of Premium Motor Spirit (PMS) to their customers.

In a report by Department of Petroleum Resources (DPR), following the inspection exercise it carried out in the Lekki area of Lagos, customers lose 1.2 litres of PMS in every 10 litres of the product bought in Conoil, 0.8 litres in Oando and 0.6 litres in Texaco.

3. *Formation of Tenants Associations and Consumers Associations:* This is to protect consumers by taking

all necessary actions within the law to minimize exploitation.

4. *Introduction of Consumer Suggestion Box:* This is used by some organisations to encourage consumers’ complaints and suggestions. How well consumers employ this avenue to air their grievances and how efficiently organisations react is a matter that should really concern customer-oriented organisations.

5. *Consumers’ Boycott:* This is a threat or decision by a group of customers to stop buying a particular product or service for reasons such as high price, poor quality and poor services . For instance, a boycott of GSM service was undertaken in Nigeria a few years ago.

**Chapter 10 - Ethics and Environmentalism**