The Journal of Private Enterprise 24(2), 2009, 35-48

Business as an Ethical Standard

William Kline
University of Illinois, Springfield

Abstract
Half of business ethics is determined by the definition of business. In stockholder theory the purpose of business is to maximize profit, while stakeholder theory maintains that the purpose of business is to serve all stakeholders. Both define business as an amoral activity requiring a separate moral theory to guide and constrain practitioners. This paper challenges the assumption that business is an amoral activity. Certain moral rules are a constitutive part of business and yield a definition of business that is also an ethical standard: Producing a good or service for trade.

JEL Code: M14
Keywords: Business ethics; Hume; Property; Trade; Rawls

I. Introduction

> "The problems of business today are, first and foremost, profoundly ethical and philosophical problems. They are questions about the very nature of the business enterprise …" (Solomon, 1999, p. xxi)

Business is an ethical standard. The thesis that business is a way of saying what people ought to do runs counter to common experience. In the first instance it runs counter to ordinary language because it seems to suggest that people ought to do business as opposed to other activities typically deemed morally valuable, like charity. In the second instance it seems to condone activities typically thought of as immoral and criminal. If business were an ethical standard, no business could ever do wrong. Finally, if business were an ethical standard it would seem that no regulation by the state is necessary. By their nature, businesses would do the right thing, and laws governing business activity would not be needed. These are a few of the reasons why there may be an initial resistance to claiming that business is an ethical standard. Each will be addressed before going on to examine how business is an ethical standard.

To say that there is a moral normativity to business is not to claim that everyone must engage in it. It is only to claim that the practice and institution is not merely an amoral description of the world. To see this we need to distinguish a dictionary definition from its particular referent. English dictionaries are compiled by lexicographers who look to see how people actually use words and then record these usages in the order of their popularity. If this were all that any term was, then no word would be normative. All would be descriptive. However, words describe something. Something in the world, and in the case of business, something people are doing.

There may be many definitions of business, but the list is not infinite. People do restrain themselves in the use of the term. They do this for a good reason. Not everything is business. The question then is, if not everything counts as business, what does? If a person says they want to conduct business, what must they do? What must they refrain from doing? This is normative language, even if of the hypothetical variety. If I want to do business, then, there are things I ought to do and things I ought not to do. The purpose here is to examine whether any of these requirements are moral requirements. Examining business as an ethical standard is not claiming that everyone must engage in business. It is claiming that if one wishes to engage in business, must one must abide by certain moral rules that are endogenous to the practice.

This leads us to the second criticism that if, in fact, business were always a moral activity, then business people could do no wrong. This is, in part, a problem or limitation of common language arguments. Unless anything linguistically goes, at some point, people must be told they are using a word improperly. This requires a standard with which to compare usages. This paper will discuss two such standards in the form of examining competing theories regarding the purpose of business: (1) making a profit, and (2) making a good or service for trade. It will be seen that these two conceptions have critically different outcomes in deciding whether business can be an ethical standard. That is, whether business is an ethical standard depends just as much on our definition of business as it does on our definition of ethics. Business as making a profit will be found deficient in this regard, while business as the production of a good or service for trade is an ethical standard.

This leads to the final concern. If, as the paper argues, business as producing a good or service for trade is an ethical standard, then what is the proper role of the state? Once again we must be careful to note that not everything people call business is in fact business on this conception. Still, it is an astute point. If business is something that is inherently moral, the scope for proper state intervention will be far smaller than viewed proper by those who find business an amoral or immoral activity. This dispute is by no means new to this paper.

II. The Rules of Business

There is a centuries old tension between the arguments of Thomas Hobbes and the arguments of David Hume. Hobbes argues in Leviathan that in the absence of the state there is no such thing as property (1651, p.113-114). Since property is essential to the conduct of business, this line of argument would also conclude that there is no such thing as business without the state. Business owes its very existence to state sanctions, and, to the extent that property is what the state says it is, business is what the state says it is. There is no independent practice of business that could be the source of moral norms. The state is that source.

While not denying the need for a state, David Hume identifies a range of circumstances in which agents can coordinate their actions and, in the process, generate the rules that turn these patterns of behavior into conventions (1751, p.306). The convention of property arises when agents of limited benevolence, under limited scarcity, learn that if they refrain from taking the property of others, others will refrain from taking theirs. Because these conventions serve the public interest, and thus command our sympathy, they become moral rules (1751, p.183). The conventions of property, trade, and contract exist and have moral force independently of the existence of any state. The convention is the source of moral norms.

This paper follows the Humean tradition. Conventions, specifically the conventions for property, trade and contract, can and do arise in the absence of states and state enforcement mechanisms. Through perception of their common interest and appropriate incentive structures, people will respect property, establish trade, and fulfill contracts. To the extent that these rules are constitutive of business activity, business can and does exist independently from the state. It is this independent practice that is the source of some of the most important moral norms that govern business activity. This paper does not aim to entirely resolve the conflict between Hobbes and Hume. Rather, this paper adds to the Humean argument by examining how business is an ethical standard, for if there are no endogenous moral rules for business, then ultimately the Hobbesian position is correct.

Before examining rules specific to business, we must take care to distinguish between two types of rules identified by John Rawls: summary rules and practice rules (1955, p.19- 28). The distinction is important because while summary rules carry a pragmatic normativity, they are not morally normative rules. If an agent wishes to violate a summary rule, they are morally free to do so. The same is not true of practice rules.

Summary rules are rules of thumb gained by experience (1955, p.19-24). As a rule of thumb, one wants to raise with a pair of kings in Texas Hold'em. This rule is subject to conditions and exceptions. Holding and folding rules are the result of experience. No poker player is normatively bound to hold or fold in any situation. The rule of thumb is calculated to help the player do better over the long run, and this is the standard used to judge individual actions. The question is whether acting in accord with the rule of thumb makes the player better or worse off. If following the rule makes the player worse off, so much the worse for the rule, and the player is free to adjust their judgment and action by violating the rule.

A practice rule is different than a summary rule in at least two respects. First, the practice rule is not merely the experiential summation of what works. The rule may have evolved, but the content of the rule is not a rule of thumb. The rule, at least in part, defines the practice (1955, p.24). Rawls uses baseball as an example (1955, p.25). The rule that stipulates how to round the bases to get a run is not a rule of thumb. It is a rule that defines how you play the game. Second, "[t]o engage in a practice, to perform those actions specified by a practice, means to follow the appropriate rules" (1955, p.26). Players are not free to violate the rules based on calculations of personal or public utility. In chess, pawns move a certain way. Players are not free to move pawns like queens because, in this instance, it would be really helpful and result in an increase in the player's overall utility. To play chess is to at least move the pieces in accordance with acceptable moves. One cannot say, and have it be true, that they are playing chess and move their pieces like checkers. To play the game is to accept and abide by the practice rules constitutive of the practice.

The question now is: what are the summary and practice rules of business? The answer to this question is governed, in large part, by what we shall call an underlying philosophy of business. We will consider two philosophies of business here. The first is the theory that the sole purpose of business is to make a profit (Friedman, 1970). The second theory is that the purpose of business is to produce a good or service for trade (Kline, 2006a). The first is, by far, the most popular view of business. When considering the theory that the purpose of business is to make a profit, it is important not to confuse two separate issues. First is the question of what business is. In this theory, business entities are those which either make, or strive to make, a profit, where profit is defined as some formulation of revenue in excess of cost. The second question is a question of distribution: who receives the profit? The reason this distinction is important concerns the nature of the debate between stockholder and stakeholder theories. Debates over stakeholder and stockholder theory are debates about the second question, distributive justice, not the first, ontology. On both theories the purpose of the firm is to earn revenues over costs: to make a profit.

To see this, let us assume we are looking at a successful business enterprise that has managed to earn a profit, X, which is simply the difference between revenue and cost. In stockholder theory, the stockholders have the primary claim to X. Let us assume they take all of X. Now all of the excess revenue has been distributed. In worker stakeholder theory, X goes to the workers. What must not be overlooked, though, is that X can go to the workers in two ways. It could go in some form of monetary remuneration to the workers after all costs of production have been realized and revenues earned, or it can go to them before or during this process in the form of increased costs of production. One example of such a distribution is safety equipment. There is a common notion that profit is something that is calculated and spent at some definite time resembling pay periods or budget years. In fact, profit is an ongoing process, and is earned and spent throughout the business year and process. Increasing spending on safety equipment is a profit disbursement to workers just as surely as dividends are to stockholders. The same goes for disbursements to any stakeholder group, including the environment.

The notion that stakeholder theory is itself hostile to profit is false. What stakeholder theory challenges concerns who and where the profit goes. Stakeholder theory does not challenge the notion that the purpose of the firm is to maximize revenue over costs; the challenge is how the revenue is and ought to be distributed. Given that the business ethics world seems to be divided roughly into stockholder and stakeholder theorists, the notion that the purpose of the firm is to make a profit is by far the dominant theory. This has definite implications for how both sides view the existence, or non-existence, of endogenous moral norms in business.

Business conceived of as those institutions or activities that make, or endeavor to make, a profit is heavily composed of summary rules and very light on practice rules. In fact, the only *practice* rule within this view is making a profit. There are at least three distinct ways of interpreting this practice rule: necessary condition, maximization, and sole purpose.

Making a profit could simply be a minimalist necessary condition of business. If an agent or institution does not make a profit, it will go out of business. If this is all the practice rule of making a profit were, it would be hard to find grounds for criticism unless one advocated for a non-market economic system. In a market economy, businesses must generate revenue over costs or go out of business. This, in fact, is a descriptive statement that arouses debate in terms of economic systems, but not of the description of business within a market economy.

The second interpretation is that the practice rule for making a profit could be a more substantive injunction to widen the revenue/cost spread. Here the purpose of business is to maximize profit. As already stated, this is the dominant theory of business represented in business schools and economics.

The third interpretation is that the purpose of making a profit is the only goal of agents who conduct business. This view transforms business life from being something complementary to the rest of our lives into something that is competitive or contradictory to the rest of our lives. This view subordinates all business and personal goals to profit making. Personal happiness, family harmony, peace, rest, meaning, etc., are, by definition, of secondary importance to the business person. The single normative goal of making a profit extracts a steep personal price and allows, if not sanctions, a wide array of immoral behaviors justified by the making of profit. Critiques of this interpretation usually focus on problems of egoism and selfishness (Bakan, 2005, p.1-2).[1] The supposed solution often offered is to embrace a more other-regarding framework.

This critique misses its mark because while egoism and profit maximization are often combined, they need not be. As stated earlier, other regarding stakeholder theorists embrace profit maximization as the purpose of the firm. They could also embrace profit maximization for their preferred stakeholder as the only purpose of business. Here a "socially conscious" business person could squeeze workers in favor of the environment, or owners for the benefit of workers.[2] The most common criticism is owners violating the rights of workers, consumers and/or the environment in the quest for profit. Yet, a zealous ecologically friendly business could violate the rights of workers and consumers in favor of the environment. Unions look out for their members first and would run the firm the same way. The problem is not whether individuals are other- or self-regarding. The problem is with the very notion of business itself.

The real ethical problem with identifying making a profit as the primary or sole practice rule of business enterprise is that no practice rules exist for making a profit. Making a profit is entirely composed of, and governed by, summary rules. These summary rules are subject to revision, or even violation, justified solely by whether such deviances actually result in profit. Whatever works, works. Since profit is typically conceived of as revenue in excess of cost, any action that results in excess revenue is profitable. Since any action that is profitable is by definition business, any activity that makes money is business. This definition is far too broad and includes activities that have no business being classified as business. Scams, robberies, extortion, fraud, and theft can net considerable amounts of money. This is why many think business ethics is extremely important and an oxymoron because, to them, business ethics exists to tell business

---

[1] "The corporation's legally defined mandate is to pursue, relentlessly and without exception, its own self-interest, regardless of the often harmful consequences it might cause to others. As a result, I argue, the corporation is a pathological institution." Bakan also makes the mistake of conflating egoism with profit making, as he concludes, "For in a world where anything or anyone can be owned, manipulated, and exploited for profit, everything and everyone will eventually be" (Bakan, 2005, p.138).

[2] There is nothing inherent to stakeholder theory that necessitates that all stakeholders receive an equal share of a firm's profit or loss.

people that lucrative fraud is unethical. This is also perceived as its futility. Business on this view, because of its definition, cannot be an ethical standard. But this view is not our view.

Business ethics *does not* exist to tell business people that fraud is immoral. Business ethics exists to show us that fraud is not business. This, though, requires a different account than the dominant theory of what business is: an account that identifies moral rules as a subset of the practice rules that define business, thereby identifying an endogenous moral normativity to business. Here I will consider one such conception of business, one that I have argued for in a previous paper: The purpose of business is to produce a good or service for trade (Kline, 2006a).[3]

On this view, business is at least partly composed of the practice rules of property, trade and contract. This conception of business is an improvement on stockholder theory because it directly prohibits theft and fraud. What Friedman has to contingently look to the law and culture for, this view regards as inherent to the practice itself. This conception of business is also an improvement on stakeholder theory by identifying the "normative core" within the practice. The normative core thus bears a necessary, rather than contingent, relation to business. This normative core, in part, defines what business is. It is the acceptance of these rules that makes business an ethical standard. If this sounds odd at all, it is only because we have somehow managed to separate owning and running a business from the same ethical considerations we apply to every other profession.

Choosing a profession involves, at the very least, the acceptance of basic professional norms and the decision to pursue activities constitutive of that profession. For example, accountants must calculate figures according to certain norms and produce reports. Journalism requires certain processes and standards for work to count as journalism. Cooking the numbers is no longer accounting, and fabricating stories is not journalism. Certain skills, learned in school or on the job, may help to perpetrate these frauds, but the skill set is not the profession. Accounting is not simply manipulating numbers, and journalism is more than putting words on paper. Likewise, business is more than getting money.

---

[3] This is not the only possible account that identifies moral rules as a subset of business practice. For another such account, see Duska (1997). I argue against this view in another article (Kline 2006a).

The choice of profession is a choice to accept certain norms and practices. This can take the form of an explicit agreement or promise, but it need not. The moral obligation to follow practice rules need never be explicitly agreed to and can evolve over time. A host of goods accompany any profession. Doctors enjoy a certain status, museum curators get to enjoy works not on display, journalists get access to not yet public information, and the list goes on. Practitioners enjoy these goods, in part, due to their signaling to others of their profession of choice. Representing oneself as a professional gains one access to the goods of that profession. This is not a secret, and all reasonable people calling themselves a certain profession realize this. Self-presentation combined with an acceptance of associated goods creates a moral obligation to accept and follow the relevant practice rules.[4]

Choosing to be in business involves accepting the production of a good or service for trade as defining business activity. Property must be traded for and not stolen. Trade requires voluntary interaction. Delineating what rights and conditions must be respected in order to constitute voluntary exchange is not imposing ethics on business so much as deciding what counts as business in the first place. Contract rules can be a world unto themselves, but it is a world that cannot be ignored by anyone claiming the title of business person. Engaging in this procedurally just activity gives the practitioner the benefit of a just claim to her returns. By respecting the rights of others, she, in turn, earns the same protection. Given the sums that business activity can generate, this is no small benefit.

It may be thought that this account of business ethics, even if accurate, is overly narrow. The protection of negative rights of life and property do not begin to exhaust our moral obligations to our fellow human beings. According to this counter argument, we still need a robust exogenous moral code to handle all those wrongs not covered under the protection of negative rights.

---

[4] There is a question concerning the deeper nature of this moral obligation. While this is not a paper on meta-ethics, there are several possible sources. Obligations of promising, honesty, rule utilitarianism and considerations of Kantian Autonomy could serve as the foundation for this moral obligation. In fact, it is a strength of this view that several different moral theories could be used to support this point. It is a broadly shared intuition that there is a moral obligation for an agent to follow the rules that they are claiming to follow, and this does not stand or fall with any single moral theory.

The first thing to say to this poignant reply is that the argument of this paper is not to show that no exogenous morality is needed on human action. Rather, the point is to show that business is not an amoral, ethically neutral, practice. Business itself is an ethical standard, even if incomplete.

The second point to note is that the application of business as an ethical standard is not confined merely to the protection of negative rights. Ethical issues not necessarily covered by the protection of negative rights, namely sexual harassment and discrimination, are also covered by the purpose of business. This is a salient topic for distinguishing the moral implications of different conceptions of business.

With the profit maximizing conception of business, arguments against discrimination and harassment must be housed in either cost-benefit terms or violation of contract. In the former case, it is often argued that a businessperson should not discriminate because doing so may exclude skilled employees and potential customers. In the long run both will result in a decrease in profits. In the case of sexual harassment, it could be argued that those who are harassed never agreed to such working conditions and that imposing them after hiring is a violation of an implicit, if not explicit, contract. Many find these arguments insufficient. Even if discrimination had no effect on profits, and employees signed contracts with sexual provisos, discrimination and harassment would still be wrong.

Business as producing a good or service for trade argues differently. What is wrong about discrimination in hiring is that it is antithetical to the original injunction of doing business. To the extent that one engages in such activity, they are not being a businessperson, they are being a bigot. Discrimination in hiring is precisely considering characteristics that are irrelevant for production. Such discrimination is not business activity and deserves none of the rewards and protections of such legitimate activity. Similarly, writing sexual provisos into the secretary's job description does not change the fact that such activities have nothing to do with providing a good or service for trade.

To say, as a businessperson, that these ethical rules have nothing to do with business is to fundamentally misunderstand what business is. Discrimination and harassment are both cases of a business person using either their position or, in the case of owners, their business enterprise for decidedly non-business purposes. Friedman (1970) is not far from arguing the same point when he claims that corporate charity is actually an illicit transfer of money from those properly associated with the business to those who are not. Such uses of power and/or resources fall outside the proper purview of business activity and are a violation of the practice rules that establish just claims. With this said, the view of business as producing a good or service for trade makes for legitimate exceptions, but the exceptions are not *ad hoc* and are tied directly to the purpose of business.

That there are exceptions in cases of *bona fide* occupational qualities is implied in the purpose of business. In the case of discrimination, in the United States at least, it is acceptable to discriminate based on bona fide occupational qualities. Religious institutions are permitted to discriminate on the basis of religion. Minority organizations are permitted to discriminate on the basis of race. In such cases, the good or service of the business involves directly engaging in discriminatory behavior. Sexually explicit contracts are permitted in the adult industry. In such cases, the good or service of the business involves engaging in sexual behavior.[5] In these cases the specific purpose of the business provides a moral rationale for engaging in behavior that is otherwise morally unacceptable. If nothing about business were morally normative, it is hard to see how citing a specific business purpose would give one such a moral exemption.

III. The Virtue of Business

This discussion of business has focused on rules and is perhaps open to the charge of ignoring the importance of virtue ethics. While that charge is fairly accurate of this paper, it is not with regards to the proposition that the purpose of business is to provide a good or service for trade. The full argument as to how this conception of business relates to virtue ethics deserves its own paper. However, this does not justify totally ignoring the question here.

This paper presents a Humean conception of business, and it should be noted that Hume addresses both the importance of moral rules and moral virtues. A virtue for Hume is a character trait that is useful or agreeable to self or others. The rules of justice are moral

---

[5] We should not make the mistake of thinking that any unwanted advance counts as part of such contracts. The good or service to be produced is distinct from the relationship between employer and employee.

rules because they serve the public interest. Actions in accordance with these rules also tend to serve the public interest. Justice and just actions are useful and "(u)sefulness is agreeable, and engages our approbation" (Hume, 1751, p.218). This is why a just character is virtuous. Justice is a virtue on Hume's account because a just character is useful and agreeable to self or others.

It is Hume's connection of utility and virtue that leads him to say, "Can anything stronger be said in praise of a profession, such as merchandize or manufacture, than to observe the advantages which it procures to society …" (1751, p.179). While Hume does not go into further detail, we can list at least three reasons why these serve the public interest. The first, and most obvious, reason that merchandizing and manufacture are useful and agreeable to self or others is because of the goods and services they produce for trade. The second reason concerns the stability of society that is central to human happiness. This is so important that, at times, it leads Hume to claim that it is the sole foundation of the virtue of justice (1751, p.203). We need not answer the question of ultimate moral foundations to note that the more people and institutions respect and use the rules of justice, the more stable and prosperous society becomes. By being institutions and actions that by their very nature participate in the rules of justice, manufacture and merchandizing strengthen the stability of society.

The final reason, however, is one that is almost completely overlooked. Choosing to engage in business is choosing a way of life that offers an opportunity for human flourishing.[6] If it were not a good way to live, all the products and services would be so much worthless toys, produced at the expense of each worker's character and happiness. Each human being would, perhaps, find themselves contented as a consumer only to be truly miserable as a cog in the business machine. This type of criticism is leveled at business, but it is erroneous precisely because it is aimed at the wrong conception of business.

The practical wisdom it requires, its social nature, and the virtues that contribute to excellence firmly place business activity within the set of actions and ways of life that can lead to human flourishing (Kline, 2008). Insofar as human flourishing is the total happiness and

---

[6] For the complete definition of flourishing used here, see Rasmussen and Den Uyl (2005, p.127-140).

well being of an agent, it is useful and agreeable to both self and others. The life of business, properly conceived, is a virtuous life.

IV. Conclusion

Logically, half of business ethics is analyzing what business is. Two views of business have been examined in this paper. The first, and dominant, view is that the purpose of business is to make a profit. This view of business relies primarily on pragmatic summary rules that help agents in business make a profit. While these summary rules are not normative, this should not blind us to the fact that making a profit is. Even here, business is not merely a descriptive term. However, this view is often thought to be morally deficient, at the very least requiring moral side constraints to confine profit making activity.

An alternative view of business, considered here, locates moral rules within the practice itself by postulating that the purpose of business is to produce a good or service for trade. Here, the goal of action is production for trade. Production and trade require that agents follow, at a minimum, rules of property, trade and contract. To do otherwise is not doing business. This applies not only to the following of negative rights, but also to abstaining from actions within a business context that are decidedly not business activities: sexual harassment and discrimination. Both cases are a violation of the role of business person and are therefore immoral uses of power and position.

Business as producing a good or service for trade is not simply a list of negative injunctions. Agents actively engage in production, service, and trade. Business requires us to use both our rational and social faculties to serve ourselves and others. Since business activity is procedurally just and serves the public interest, business activity is virtuous activity. The theory that the purpose of business is to produce a good or service for trade, then, is not merely a theory about the moral practice rules of business but also of the virtuous activity that is constitutive of doing business. The theory that the purpose of business is producing a good or service for trade consistently incorporates both Hume's rules and virtues of justice. Business is an ethical standard because producing a good or service for trade is both a right, and virtuous, thing to do.

References

Bakan, Joel. 2005. *The Corporation: The Pathological Pursuit of Profit and Power.* London: Constable & Robinson, Ltd.

Duska, Ronald F. 1997. "The Why's of Business Revisited." *Journal of Business Ethics,* 16(12-13): 1401–1409.

Freeman, R. Edward. 1997. "A Stakeholder Theory of the Modern Corporation." In *Ethical Theory and Business*. 5th ed, ed. Tom Beauchamp and Norman Bowie, 66–76. Upper Saddle River: Prentice Hall.

Friedman, Milton. 1970. "The Social Responsibility of Business is to Increase Its Profits." *The New York Times Magazine*. September 13.

Hobbes, Thomas. 1651. *Leviathan: Or the Matter, Forme and Power of a Commonwealth Ecclesiastical and Civil.* New York: Collier, 1962.

Hume, David. 1751. *Enquiries Concerning Human Understanding and Concerning the Principles of Morals*. 3rd ed, ed. L.A. Selby-Bigge. Revised by P.H. Nidditch. Oxford: Clarendon Press, 1975.

Hume, David. 1740. *A Treatise of Human Nature.* 2nd ed, ed. L.A. Selby-Bigge. Revised by P.H. Nidditch. Oxford: Clarendon Press, 1978.

Kline, William. 2006(a). "Business Ethics from the Internal Point of View." *Journal of Business Ethics*, 64(1): 57–67.

Kline, William. 2006(b). "Collapsing Goods and the Milieu of Innovation." *The Journal of Value Inquiry*, 40(2-3): 181–193.

Kline, William. 2008. "Flourishing Through Trade." In *Reading Rasmussen and Den Uyl: Critical Essays on Norms of Liberty*, ed. Aeon J. Skoble, 149–164. Lanham: Lexington Books.

Rasmussen, Douglas, and Douglas Den Uyl. 2005. *The Norms of Liberty: a Perfectionist Basis for Non-Perfectionist Politics*. University Park, PA: The Pennsylvania State University Press.

Rawls, John. 1955. "Two Concepts of Rules." *Philosophical Review*, 64(1): 3–32.

Solomon, Robert C. 1999. *A Better Way to Think About Business: How Personal Integrity Leads to Corporate Success*. Oxford: Oxford.