THE PRACTICALITY OF ETHICS

It is important to understand at the outset what we are doing when we "do" ethics. Aristotle tells us that ethics is a "practical" endeavor which gives us practical knowledge. But what precisely does this mean? Does Aristotle simply mean that ethics provides us with practical opinions about human actions or behavioral standards which help us choose between right and wrong? According to one distinguished philosopher, Aristotle had much more in mind:

He meant that one does ethics properly, adequately, reasonably, if and only if one is questioning and reflecting in order to be able to act - i.e. in order to conduct one's life rightly, reasonably, in the fullest sense well.¹

In other words, ethics is practical because living and acting in a certain way is the primary goal of doing ethics. The purpose of ethics is to help us behave honorably and attain those basic goods that make us more

fully human. Ethics of this type, often called normative ethics, is distinct from the discipline of metaethics. Metaethics is the study of moral discourse, the meaning of ethical terminology, and the provability of ethical judgments. It deliberately eschews the old Socratic questions that are also asked by Aristotle: "How should life be lived?" or "What is the good life?" Normative ethical inquiry, on the other hand, is a quest for the practical truth of how one's choices and actions will be good and worthwhile. Thus, whereas the goal of metaethics is an appreciation of the structure of moral language, the goal of normative ethics is an identification of the true human good.

Normative ethical inquiry, then, seeks the truth not only for its own sake but also as a basis for choosing proper actions and the right way of life. Unfortunately, as Aristotle also tells us, ethics is not an exact science and therefore we cannot attain the level of objective truth that is possible in the rational sciences or mathematics. Therefore many contemporary philosophers have embraced various forms of relativism or moral skepticism.

But the fact that ethical judgments do not have the same objectivity as scientific ones does not mean that ethics consists merely of emotional expressions and subjective opinions, or is a matter of convention and taste. Moral judgments can and should be based on rational moral principles and sound, carefully reasoned arguments. Normative claims are supported by an appeal to defensible moral principles which become manifest through rational discourse. Also, simply because there is no uniquely correct solution to a moral problem, we must not assume that all solutions are equally valid. We can assess moral positions according to objective criteria—in terms of whether they respect basic human rights, remain open to human fulfillment, maximize the social good, and so forth—and therefore disqualify some solutions to ethical dilemmas in favor of others.

In this chapter we will consider some basic moral principles and theories that will serve as normative guidelines for addressing the moral issues provoked by information technology. We will also consider moral responsibility and the distinction between individual and corporate responsibility. In general, this chapter presents an overview of the tools necessary for serious ethical analysis. We begin by clarifying why and how ethics must be distinguished from the law, since there is sometimes a temptation to equate the two.

**LAW AND MORALITY**

Beyond any doubt, law and morality do have in common certain key principles and obligations. In some areas, such as intellectual property, law and morality can become seriously entangled. Indeed the interplay of legal and ethical issues in intellectual property cases makes them extremely complex.
However, despite this interrelationship, it is too simplistic to reduce morality to legality or to embrace the suggestion that following the law exhausts an executive’s moral responsibility. Individuals and corporations cannot assume that just because the law permits a certain action, that action is morally acceptable. History is replete with examples of so-called “laws” that have been blatantly immoral. We need look no further than the hideously discriminatory laws of Nazi Germany or America’s own slavery laws to illustrate this point.

Of course, the law does often embody moral principles along with standards of fairness and procedural justice. However, since this is not always the case, we need to evaluate issues from a moral as well as legal perspective. For example, the Courts may allow a software vendor to copy the “look and feel” of another’s product (such as a spreadsheet), but it doesn’t necessarily follow that this action is not tantamount to the theft of intellectual property. One must also consider this behavior from a moral point of view, asking questions such as the following: Whose rights have been violated? Whom could the action injure? Clearly, then, law and morality do not always coincide. Legal constraints do not necessarily provide sufficient guidelines for addressing complicated ethical issues in information technology.

Another problem with exclusive reliance on the law as a moral guideline is that the law is essentially reactive. Laws and regulations rarely anticipate problems or possible inequities; rather, they react to problems that have surfaced, and usually in a painstakingly slow manner. For example, in the view of many privacy advocates, the legal system has been too slow to react to the steady erosion of privacy resulting from the technological advancements enumerated in Chapter 1. But if companies resolve to be morally responsible about such issues, they will not wait for new laws or regulations, but rather will regulate their own corporate activities appropriately.

Thus, although it is certainly critical to comprehend the legal dimension of some of the problems that we will be considering, legal issues should not be confused with moral ones. As we shall see, moral issues focus on rights and duties, whether harm has occurred, and similar areas. Our main purpose here is to help individuals think through the “right” thing to do, and this may sometimes go beyond the parameters of the law, especially when the law is ill-defined or has not caught up with the relentless pace of technological change.

**INDIVIDUAL AND CORPORATE RESPONSIBILITY**

In addition to the distinction between law and morality, we must also appreciate the important distinction between individual and corporate responsibility. An underlying assumption of our analysis throughout this
volume is that individuals are responsible for their actions. To some extent, these responsibilities are shaped by our personal value system. In effect, we are all moral agents who have various moral responsibilities in our different roles as citizens, neighbors, parents, professionals, and so forth. Obviously, when someone is hired into a corporation, that person does not abandon his or her moral commitments. However, there are sometimes conflicts between an individual's personal moral values and organizational values. For instance, one may value honesty but find oneself in an organization where lying and deception are taken for granted as a means of doing business. These practices will surely conflict with that manager's personal moral conviction, thereby creating a difficult dilemma: Should the person be loyal to the organization or to his or her own values? Regardless of how one resolves this problem, an individual's responsibility for his or her actions can never be shrugged off. As Karl Llewellyn reminds us, "Choice is your own. You answer for your choice. There are no rules to shoulder your responsibility."  

To further complicate matters, corporate executives assume yet another set of responsibilities, since they have a fiduciary obligation to act in the best interests of the shareholders. The question now is raised as to whether this fiduciary responsibility in any way constrains their moral responsibility? Executives also have obligations to the corporation's other constituencies such as labor unions, customers, suppliers, and government agencies. These obligations can conflict with the fiduciary obligation to stockholders or possibly with a manager's personal moral convictions. Thus corporate managers may experience conflicts between their obligations to shareholders and various other constituencies as well as conflicts between their organizational duties and personal value system.

Finally, the corporation, which is analogous to a person, can be viewed as a moral entity with various rights and obligations of its own. Thus it must be held responsible for its corporate acts. Although this view is not embraced by all contemporary philosophers, it is well grounded in the philosophical and legal tradition. Moreover, it does seem plausible to maintain that a corporation with a climate that fosters moral behavior, either informally or through a formal ethical code, is more responsible than the one that ignores moral issues or even encourages reprehensible behavior in the name of higher profits or other corporate objectives. Of course,
even if corporations are held accountable for immoral activities, this fact does not mitigate the responsibility of executives or others in the company. Thus, for example, under certain conditions we might hold both individuals within the corporation and the corporation itself liable for the theft of intellectual property, especially if the corporate culture was one that implicitly (or even explicitly) tolerated such behavior.

Some of the case studies in this book will primarily focus on corporate responsibility. They will consider, for example, whether or not the corporation has acted with respect for the rights of others, whether it has taken seriously its ethical duties as well as its economic ones. Revlon vs. Logisticon in Chapter 4 and The Credit Bureau Industry in Chapter 5 are examples of such cases. Other case studies will emphasize individual personal values. For example, The Product Manager case in Chapter 4 deals with how an executive's duties to his company conflict with his personal integrity when the availability of a new software product is announced.

**BASIC ETHICAL THEORIES**

We turn our attention now to the ethical theories and principles that will serve as the guidelines for our analysis and lead us to the normative judgments that will help us to differentiate right from wrong conduct. These theories define what it means to act morally. Thus, if our choices are guided by a particular theory, it can be plausibly demonstrated that the moral principles of the theory demanded that we make this decision. As we shall see, these theories are by no means flawless, nor can they function as formulas that give us simple answers to complex moral dilemmas. Rather, they are “avenues” or approaches to such problems that facilitate analysis and reflection on the issues.

For the most part we will be considering modern ethical theories, and these can be divided into two broad categories: teleological and deontological, the ethics of ends and the ethics of duty.

The term *teleological* is derived from the Greek word *felos*, which means “end” or “goal”. Teleological theories give priority to the good over the right, and they evaluate actions by the goal or consequences that they attain. In other words, the right is adjectival to the good and dependent upon it. Thus, right actions are those that produce the most good or optimize the consequences of one's choices, whereas wrong actions are those that do not contribute to the good. We will consider one example of a teleo-

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logical approach to ethics: utilitarianism. Utilitarianism is a form of consequentialism, a theory predicated on the assumption that consequences determine the rightness or wrongness of moral actions.

Deontological theories, on the other hand, argue for the priority of the right over the good, or the independence of the right from the good. Deontological is also derived from a Greek word, deon, which means "obligation". According to a deontological framework, actions are intrinsically right or wrong regardless of the consequences they produce. The ethically proper action might be deduced from a duty or a basic human right but it is never contingent on the outcome of an action. Deontological theories include both duty-based and rights-based approaches to ethical reasoning, sometimes referred to as pluralism and contractarianism, respectively. We will discuss both of these theories after our treatment of utilitarianism.

UTILITARIANISM

The Theory

Classic utilitarianism was developed by two British philosophers, Jeremy Bentham (1748-1832) and John Stuart Mill (1806-1873). According to this theory, the good or the end (telos) is happiness or more specifically, "the greatest happiness for the greatest number." This good can also be described as "utility," and this principle of utility is the foundation of morality and the ultimate criterion of right and wrong. According to Bentham,

By the principle of utility is meant the principle which approves or disapproves of every action whatsoever, according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question, or what is the same thing, in other words, to promote or oppose that happiness.5

Thus, actions are right in proportion to their tendency to bring about happiness, and wrong to the extent that they bring about pain or less happiness than another alternative.

It should be emphasized that an action is right if it produces the most happiness not for the person performing that action but for all parties affected by the action. In summary, then, utilitarianism is the moral doctrine that we should act in order to produce the greatest happiness for

everyone affected by an action. Like all teleological theories, utilitarianism is committed to the maximization of the good (happiness or utility), that is, it is committed to the optimization of consequences.

Utilitarianism assumes that we can somehow measure the benefits and harms produced by an action and thereby determine a sum of those benefits and harms. According to Velasquez, “the principle assumes that all benefits and costs of an action can be measured on a common numerical scale and then added or subtracted from each other.”

In practice, therefore, utilitarianism requires one to develop and execute a sort of moral calculus. This is usually in the form of a cost-benefit analysis that can be utilized in situations where there are several possible courses of action. Once one has determined all of the alternatives, each alternative is evaluated in terms of its costs and benefits (both direct and indirect). On the basis of this analysis, one chooses the alternative that produces the greatest net expectable utility, that is, the one with the greatest net benefits (or the lowest net costs). One might use the grid in Table 2.1 for this analysis.

Table 2.1  Grid for Utilitarian Analysis

<table>
<thead>
<tr>
<th>Benefits</th>
<th>costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternative 1</td>
<td></td>
</tr>
<tr>
<td>Alternative 2</td>
<td></td>
</tr>
<tr>
<td>Alternative 3</td>
<td>etc.</td>
</tr>
</tbody>
</table>

A key notion in the principle of utility is happiness. But how do utilitarian philosophers define happiness? Bentham simply equates happiness with pleasure; this view implies that the objective of ethical analysis is to maximize pleasure in the world. Mill agrees with Bentham to a certain extent but argues for a hierarchy of pleasures. For example, intellectual pleasures are seen as superior to sensual pleasures. Other philosophers, known as pluralistic utilitarians, have maintained that happiness involves many intrinsic values such as friendship, knowledge, courage, and health.

But despite this ambiguity and disagreement about what constitutes happiness, the core idea of utilitarianism that only consequences matter has considerable merit. Even philosophers who categorically reject utilitarian-

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ism would admit that a basic requirement of ethical reasoning is attention to the probable consequences of one's decision. Also, utilitarianism is appealing to many as a natural, common-sense approach to morality. Many managers and professionals make decisions focusing on consequences and considering the costs and benefits of various alternatives. When these managers assert that they have a moral obligation to do something, they usually justify that obligation in terms of the net benefit an action will have. Another key advantage of utilitarianism is that it requires one to consider as objectively as possible the interests of all parties affected by one's action. This theory is thus superior to ethical egoism, which does not take into account the interests of others.

As an example of utilitarian reasoning in business decisions consider Karl Kotchian, the former president of Lockheed, who was accused in the early 1970s of paying $12 million in bribes to Japanese officials in order to persuade them to buy Lockheed's TriStar plane. Kotchian advanced two arguments to defend these illicit payments: (1) they did not violate any American laws, and (2) in the long run they were beneficial to many constituencies in the United States who reaped big rewards as a result of the purchase of these planes. Stockholders certainly benefited through enhanced profits; at the same time, Lockheed's suppliers, its employees and their communities, and to some degree the entire U.S. economy benefited from this action. Moreover, the Japanese received an excellent airplane at a reasonable price. Of course, there were some costs to Lockheed's competitors and perhaps to the general level of trust in society, but one could reasonably argue that these were most likely outweighed by the tangible benefits received by Lockheed's diverse stakeholders.7

The Lockheed example illustrates a key aspect of utilitarianism: What matters first and foremost are the consequences; how these consequences are achieved is only a secondary matter. This aspect points to one of the most serious deficiencies of utilitarianism. It strongly implies that there are no intrinsically evil acts. To be sure, utilitarians would maintain that deceit, murder, theft, and the like are usually morally wrong because of the harmful consequences they bring about, but at the same time, these actions can be ethically justified if they can be proven to produce the greatest good or maximize net expectable utility. Presumably, then, even human or moral rights are not absolute, since a person's or group's rights could be taken away for the sake of maximizing utility. But are there not rights that transcend utilitarian calculations, such as the rights to life and liberty? If we could somehow maximize happiness for a society by enslaving a small segment of that society, would that action be morally justified?

Another difficulty with consequentialism or utilitarianism concerns how we define the "good" or "happiness." There seems to be no univocal definition of this sometimes elusive commodity. A failure to agree on the meaning of happiness, the goal of all actions, poses real problems for properly evaluating those actions.

In addition, the utilitarian approach assumes that the goods involved in each alternative can be measured and evaluated according to some common standard. Often this is simply not the case. For example, how do we compare these two options: An automobile manufacturer can install safer back seat belts in one of its most popular models at a cost of $87 million, or it can refuse to do the installation, endure some bad publicity, but save $87 million. It is estimated that the seat belts would probably save about ten lives a year. If we attempt a cost-benefit analysis to arrive at a decision, how can we compare lives saved with dollars and cents? Aren’t these goods completely incommensurable? Or consider two goods such as justice and theoretical truth. If these goods are at stake in a moral decision, how does the consequentialist choose between them? Thus, according to philosopher Germain Grisez, if a consequentialist admits that two goods are "fundamental and incommensurable, then the consequentialist also admits that the ‘greatest net good’ is meaningless whenever one must choose between promoting and protecting or impeding and damaging these two goods in some participations."

The final difficulty with this popular theory is a practical and procedural one. Can managers and professionals work through the moral calculus objectively? Can they avoid self-serving assumptions and various prejudices in the process of moral reasoning? Unfortunately, all too often consequentialist reasoning that does not overcome those assumptions ultimately yields mere rationalizations of unethical or selfish behavior.

The task of objectively considering carefully all the diffuse consequences of an action and estimating the costs and benefits can at times be overwhelming and ultimately self-defeating.

**Utilitarianism and Information Technology**

As we have observed, utilitarian analysis entails identifying the costs and benefits of each alternative and selecting the one that maximizes utility or benefit for all parties affected by the decision. This framework can be useful in resolving certain ethical problems that arise for IT professionals and other managers. These illustrations that follow should also suggest many other possibilities for the application of utilitarianism.

Recall our discussion in Chapter 1 regarding the threats to workplace

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privacy posed by new IT capabilities such as electronic monitoring. Corporations that seek to justify the use of this controversial technology could argue that such monitoring maximizes utility. Although there may be some costs for employees in terms of inconvenience and loss of mobility, these costs are far outweighed by appreciable benefits such as increased productivity and efficiency. This tangible result in turn will benefit consumers who will pay lower prices and shareholders who will enjoy a greater return on their investment. Higher productivity and efficiency is also positive for the whole economy, since the resultant monetary savings can be used for other investments. It could also be argued that the employer will benefit not only through increased productivity but also by having more thorough, objective data for evaluating an employee's performance. The result might be fairer employee appraisals, which in turn would benefit the employees themselves. Thus, from a utilitarian perspective, a strong case can be made to legitimize the practice of electronic monitoring. Of course, these arguments are not necessarily decisive, but they do illustrate how this theory can enable one to make a convincing ethical case for the use of monitoring.

We might also consider how the utility principle could be applied to the problem of defining the scope of intellectual property rights. As we will explain in Chapter 6, some countries have much looser protection of property rights than the United States. The Japanese, for example, have patent laws that permit the "laying open" of patents; this practice encourages others to use patent information as a basis for further innovations or commercial applications. Once again a tenable rationale for this approach can be developed by invoking utilitarianism: through loose protection of intellectual property, society benefits through the more rapid diffusion of technology. Thus, a scheme of weak protections will inevitably lead to beneficial social consequences. To be sure, there are utilitarian arguments on the other side of this issue, since stronger protection can be seen as an important incentive to stimulate innovations. But regardless of where one stands on this issue, the point is clear: The utilitarian perspective can play a major role in developing cogent ethical arguments to support one's position.

DUTY-BASED ETHICS

We turn our attention now to deontological ethical theories. We will first consider pluralism or duty-based approaches as expressed in the philosophies of Immanuel Kant (1724-1804) and W. D. Ross (X377-1940).

Immanuel Kant

Kant's ethical theory is indeed a model of the deontological approach to morality, which stresses fidelity to principle and duty. Kant's ethical phi-
losophy, known for its severity and inflexibility, focuses on duty divorced from any concerns about happiness or pleasure. This philosophy is developed in Kant's second critique, The Critique of Practical Reason, and in a more concise work, Fundamental Principles of the Metaphysics of Morals.

Kant's moral philosophy is firmly opposed to utilitarianism and modern natural rights theories first developed by Hobbes and Locke. In the Preface to The Critique of Practical Reason Kant indicates his intention to construct a "pure moral philosophy, perfectly cleared of everything which is only empirical, and which belongs to anthropology." This pure moral philosophy is grounded not in the knowledge of our human nature but in a common idea of duty. This common idea of duty, including imperatives such as "One should not tell a lie," applies not only to all human beings but to all rational beings, including God Himself. Thus if duty is applicable to all rational beings and even to God, it cannot be based on human nature. Morality, then, for Kant consists of obligations that are binding on any being that is rational.

But what is this common idea of duty? To begin with, duty embodies the idea that one should do the right thing in the right spirit. According to Kant, "an action done from duty has moral worth, not in the purpose that is attained by it, but in the maxim according to which the action is determined." Thus an action's moral worth is found not in what it tries to accomplish but in the agent's intention and the summoning of one's energies to carry out that intention. Purpose and consequences cannot be taken into account to establish the validity of the moral law or to make exceptions to that law. In direct contrast to utilitarianism, the moral individual, for Kant, must perform actions for the sake of duty regardless of the consequences.

But what is the basis for this duty? In Kant's systematic philosophy our moral duty is simple. The moral law, like the laws of science or physics, must be rational. Also, the moral law must be universal, since universality represents the common character of rationality and law. This universal moral law is expressed as the categorical imperative: "I should never act except in such a way that I can also will that my maxim should become a universal law." The imperative is "categorical" because it does not allow for any exceptions.

A "maxim" as referred to by Kant is simply an implied principle underlying a particular action. If, for example, I usually break my promises, then I act according to the private maxim that promise breaking is morally acceptable when it is in my best interests to do so. But can one

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take this individual maxim and transform it into a universal moral law? As a universal law this maxim would be expressed as follows: "It is permissible for everyone to break promises when it is in their best interests to do so." Such a law, however, is invalid since it contains a logical contradiction. Universal promise breaking is logically impossible (like a square circle), since if everyone broke promises, the entire institution of promising would collapse; there would be no such thing as a "promise" because anyone making a promise would lack credibility. This maxim would thus destroy itself as soon as it was transformed into a universal law.

Kant's categorical imperative, then, is his ultimate ethical principle. In the simplest terms, it is a test of whether an action is right or wrong. If an action cannot pass the test of universalization, it is immoral and one has a duty to avoid it. The categorical imperative is a "moral compass" that gives us a way of knowing when we are acting morally.

Although there is only one categorical imperative, it can be expressed in several ways. In some regards Kant's second formulation of this imperative makes his position even clearer: "Act in such a way that you treat humanity, whether in your own person or in the person of another, always at the same time as an end and never simply as a means." This principle of humanity as an end in itself serves as a limiting condition of our freedom of action. We cannot treat other human beings exclusively as a means to our own ends. Quite simply, one's projects or objectives cannot supercede the worth of other human beings. For Kant, this principle can be summed up in the word respect: The moral law can be reduced to the absolute principle of respect for other human beings, who deserve respect because of their rationality and freedom, the hallmark of personhood for Kant.

Clearly, Kant's ethical theory has many virtues, but it is also fraught with serious problems because of its rigid absolutism. Do we really have absolute duties to keep promises or tell the truth? What if by lying to a criminal or a madman I can save the life of an innocent person? Am I still obliged to tell the truth under such circumstances? Kant would appear to say that the duty to tell the truth always prevails since lying cannot be universalized. But this stance seems to violate moral common sense, since we all recognize conditions when lying or deception is appropriate behavior. Consider the overwrought but helpful example of telling a lie to save someone from a ruthless murderer. In this case there is a conflict of universal laws: the law to tell the truth and the law to save a life in jeopardy. We must, of course, admit an exception to one of these laws. As A. C. Ewing points out,

"...in cases where two laws conflict it is hard to see how we can rationally decide between them except by considering the goodness or badness of the

12Ibid., p. 36.
consequences. However important it is to tell the truth and however evil to lie, there are surely cases where much greater ‘evils can still be averted by a lie, and is lying wrong then?13

Thus it is difficult to avoid an appeal to consequences when two laws conflict, and this problem is a grave one for Kant.

Also it is worth pointing out that some philosophers, such as G. W. F. Hegel, have criticized Kant’s categorical imperative because, being only a formal principle, it is empty and deficient. For Hegel, the moral law presented by Kant requires an empirical content, some genuine substance, and there is no content that can fit with its formal universality. Also, in some cases the universalization of a maxim such as “One should help the poor” is contradictory, since it would result in the elimination of poverty. Hegel argues that for duty to be respected, duty must preserve its opposite; the duty to help the poor, for example, requires the perpetuation of poverty. On this basis, Hegel rejects Kant’s conception of duty and his formal approach to ethics.14

In some respects, however, this criticism, which has been repeated by other philosophers, is somewhat unfair to Kant. There is a content to Kantian moral philosophy that is implicit in the categorical imperative. Recall that the second formulation of this imperative commands us to treat humanity as an end, never as a means. Thus the dignity of the other as an end is the unconditioned principle and “content” of Kant’s moral philosophy.

It is true, of course, that the categorical imperative is a very general moral principle, but this is precisely what Kant intended. It is a guide that provides us with a test for determining our concrete ethical duties. Indeed, it becomes clear that this emphasis on respect for persons endows Kant’s ethics with a certain vitality. For Kant, the ethical life is never achieved; rather, we are always striving to close the distance between our real moral situations and the ideal of the categorical imperative.

W. D. Ross

The British philosopher William D. Ross, in his book The Right and the Good, developed a duty-based ethical theory that can be viewed as an extension of Kant’s focus on a single, absolute duty. Ross claims that through reflection on our ordinary moral beliefs we can intuit the rules of morality. These moral rules or duties are ultimate and irreducible; hence, they are the first principles of moral reasoning. Ross, however, in contrast to Kant, refuses to

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14Hegel’s criticism of Kant is expressed in works such as Natural Law, trans. T. M. Knox (Philadelphia: University of Pennsylvania Press, 1975).
accept these duties as absolute or prevailing without exception. Rather, he argues that they are prima facie duties, which means that they are moral imperatives that should apply most of the time under normal circumstances, but they are not categorical imperatives which hold regardless of the situation.

In simplest terms, a prima facie obligation is a conditional one that can be superceded by a higher obligation, usually under exceptional circumstances. We do, for example, have a prima facie duty to be honest and truthful, but if a murderer comes to your home looking for his wife whom you have hidden in the basement, your obligation to tell the truth becomes subordinate to your obligation to protect human life. A moral principle can be sacrificed only for another moral principle. Although these prima facie duties must not be dismissed lightly, each of them has exceptions and in extraordinary circumstances can be overridden.

According to Ross, there are seven basic moral duties that are binding on moral agents:

1. One ought to keep promises and tell the truth. (fidelity)
2. One ought to right the wrongs that one has inflicted on others. (reparation)
3. One ought to distribute goods justly. (justice)
4. One ought to improve the lot of others with respect to virtue, intelligence, and happiness. (beneficence)
5. One ought to improve oneself with respect to virtue and intelligence. (self-improvement)
6. One ought to exhibit gratitude when appropriate. (gratitude)
7. One ought to avoid injury to others. (noninjury)

Ross does not maintain that this list is exhaustive, but he does believe that these duties are self-evident and indisputable. They are manifest to the mind through simple intuition. As he writes in and *The Right* and *the Good*:

I am assuming the correctness of some of our convictions as to prima facie duties, or more strictly, am claiming that we know them to be true. To me it seems self-evident as anything could be, that to make a promise, for instance, is to create a moral claim on us in someone else’s. Many readers will say that they do not know this to be true. If so, I certainly cannot prove it to them: I can only ask them to reflect again, in the hope that they will ultimately agree that they know it.15

As Ross indicates here, he makes no effort to provide substantial arguments that will convince us to accept these duties. Anyone who doesn’t see them must be obtuse or morally blind!

One final issue regarding these *prima facie* duties points to a deficiency in Ross's approach to morality: How do we handle cases in which duties conflict? If two such duties are in conflict, Ross recommends that this basic principle be followed: "That act is one's duty which is in accord with the more stringent *prima facie* obligation." If there are more than two duties in conflict, then we must abide by a different guideline: "That act is one's duty which has the greatest balance of *prima facie* rightness over *prima facie* wrongness."

Both of these principles, however, are somewhat vague and seem to raise more questions rather than help us reach answers. What does Ross mean by "stringent"? What makes one obligation more compelling or stringent than another? Ross's silence on this critical issue represents a serious flaw in his ethical philosophy. Likewise, Ross's second principle is riddled with ambiguity. His statement that we should choose the duty that yields the greatest proportion of "rightness" doesn't offer us much assistance in deliberating over the question of which duty takes precedence.

Despite these shortcomings, however, Ross's theory is not without merit. A focus on one's duty in a particular situation is an excellent starting point for determining the right course of action in an ethical dilemma. Moreover, Ross's approach, unlike that of Kant, provides for considerable flexibility and so is more applicable to complex moral problems. Finally, several other ethical theories, such as natural law, highlight similar obligations, but these duties are derived differently than are Ross's.

**Universal Acceptability**

A variation of Kant's morality that is worth a brief treatment here is the notion of universal acceptability. This is another way of formulating and interpreting the categorical imperative. It considers an action from the perspective of the victim and other disinterested parties. The criterion for differentiating between right and wrong, then, becomes the following: Do all rational beings accept this action or decision regardless of whether they are the perpetrators or the victims? In other words, would the victim and other neutral parties consider my actions moral and aboveboard? This sort of thinking forces us to step out of our egoistic framework and consider our actions from the perspective of others, especially the potential victim. This approach is consistent with Kant's ethics and what has been traditionally known as the Golden Rule: Do unto others as you would have them do unto you. Thus the key to this ethical viewpoint is to pose the simple question: Is my action universally acceptable even to those who are directly affected by it?

\[16\]Ibid., p. 144.
Another approach is to consider whether one's actions can pass a "publicity test." Would others accept what I have done if it were to become public knowledge? In her essay "Ethics without the Sermon," Laura Nash phrases the question this way: "Could you disclose without qualm your decision or action to your boss, your CEO, the board of directors, your family, or society as a whole?" If we felt diffident about such disclosure because we thought that this "public" could not accept our actions, then there is probably something seriously wrong.

Pluralism in the Context of Information Technology

Let us now consider the practical value of pluralism or an orientation to ethics based on duty. How do we apply such an ethic to resolving moral issues that arise through information technology? To begin with, from Ross's general list of prima facie duties, corporations and IT professionals can elicit some specific secondary obligations. These include the following: Avoid using computers to harm others; respect intellectual property; respect the right of privacy; be honest about product capabilities and availability. In addition to these and other moral obligations, there are duties that managers assume by virtue of their role as economic agents. These include fiduciary obligations to shareholders and other corporate stakeholders such as customers, employees, and others.

Managers, therefore, must take into account all of these various obligations when they make decisions, and doing so can pose many problems. For example, in Chapter 4 we will consider the unique position of IT vendors. These vendors often possess considerable leverage over the future economic success of their customers. They must sometimes make difficult decisions regarding continuing support for software or hardware. The goal of profitability can conflict with the customer's need for a product with ongoing usefulness. The pluralist mode of reasoning would direct such companies to balance their duty to seek profits and maximize returns for its shareholders with ethical duties such as honesty and the avoidance of any ostensible harm to its customers.

More specifically, in making product announcements vendors must seriously consider the ethical duty to avoid fraudulent, deceptive, or misleading claims. This is a fundamental ethical imperative which cannot be easily dismissed for the sake of financial expediency. Of course, how a manager balances this obligation with his or her other duties is a formidable challenge. Moreover, from a Kantian perspective one cannot justify

misrepresentation about products since, as with lying, the maxim on which such misrepresentation is based could never become a valid universal moral law.

RIGHTS-BASED ETHICS

Theoretical Overview

A third distinct approach to ethics focuses on a respect for individual rights. This avenue of ethical thinking, with its focus on moral principle instead of consequences, is another example of a deontological approach to ethics. A right can be most simply defined as an entitlement to something. Thus, thanks to the First Amendment of the U.S. Constitution, all Americans are entitled to freedom of speech. This right is derived from and guaranteed by our legal system so it is a “legal right.” There are also moral or human entitlements that all human beings should have by virtue of being human. Such rights are not confined to a particular legal jurisdiction but are universal, since they are grounded in human nature. In addition, these human rights are equal rights; everyone, for example, equally shares in the right of free expression regardless of nationality or status in society.

Philosophers make an important distinction between negative and positive rights. Negative rights imply freedom from outside interference in certain activities. Examples of negative rights are freedom of expression, the right to liberty, and the right to privacy. Thus, if one has a right to privacy in the workplace, an employer cannot interfere with one’s private affairs. The corollary of these rights is one’s duty to avoid such interference. A positive right, on the other hand, is one that gives a person “whatever he or she needs to freely pursue his or her interests.” The rights to health care and education are examples of positive rights. If someone had a right to medical care, there would be a correlative duty on the part of some agent (probably the government) to provide that care in some fashion. In American society there has been far more emphasis on negative rights than on positive rights.

The rights-based viewpoint is synonymous with contractarianism, which has its roots in the social philosophy of Hobbes, Locke, Rousseau, and others. According to these philosophers, morality is grounded in the so-called “social contract”. This contract is necessitated by the pre-political state of nature which preceded civil society and in which there was absolute freedom and a constant state of war and strife. In order to overcome these intolerable conditions, a civil government is established and all individuals

\[18\] Velasquez, Business Ethics, p. 76.
enter into a tacit, implicit contract with that government to respect each other’s desire for life and liberty. In return, civil society agrees to respect and protect the basic rights of its citizens, specifically the rights of life, liberty, property, and so forth. Society owes each individual protection of these rights in exchange for their obedience to the law. These are contractual rights, synonymous with the legal rights guaranteed by the Constitution.

Several contractarians, such as John Locke, have argued for the social contract but also support the notion that our rights are fundamental and not dependent on this contract. Locke maintained that the rights of life, liberty, and property are natural, God-given rights that can never be abrogated by the state. What Hobbes and Locke and other social contract philosophers have in common is their strong emphasis on rights as the fundamental of morality. According to this perspective, moral reasoning should be governed by respect for individual rights and a philosophy of fairness. As Ken Goodpaster observes, "fairness is explained as a condition that prevails when all individuals are accorded equal respect as participants in social arrangements."19 In short, then, contractarianism focuses on the need to respect an individual’s legal, moral, and contractual rights as the basis of justice and fairness.

For our purposes, a rights-based analysis of moral problems should consider whether a particular course of action violates an individual’s human or legal rights such as the right to privacy, the right to own property, or the right to the fruits of one’s labor. As we shall see in subsequent chapters, the primary challenge in this sort of analysis is the difficulty of establishing the parameters of these rights. Like pluralism, this approach to morality is markedly different from utilitarianism, which regards rights as subservient to the general welfare. Those who embrace contractarianism would categorically reject the utilitarian claim that rights can be circumscribed if by doing so one can maximize the common good.

Finally, one can surely observe that an ethical theory based on rights has certain shortcomings. For one thing, in American society there is a tendency to argue for a proliferation of various rights without an accompanying discussion of the limits that must be imposed on those rights. What are the limits of the right to free expression, for example? Also, this avenue of ethical reflection can lead to introversion and a focus on my rights instead of on the correlative duties imposed by another’s rights. In addition, philosophers provide little guidance for reconciling conflicting rights, and this failing can make the practical application of this theory somewhat difficult. These shortcomings, however, by no means undermine this avenue

of ethical reasoning, which has many important features including its special focus on basic human values such as equality and freedom.

**Rawls's Theory of Justice**

John Rawls follows in the tradition of Hobbes and Locke and represents a contemporary approach to a deontological moral framework that emphasizes rights as the basis of morality. Rawls's ethic focuses on justice as fairness and gives priority to the right over the good. The right actions are those that are consistent with his principles of justice, which emphasize an individual's basic rights or liberties.

Rawls's theory of justice establishes conditions that must be established in order for anyone to reach an agreement acceptable to all parties. According to Rawls, the principles of justice are those that equal, rational, self-interested individuals would choose as the terms of a social contract for themselves and their descendants. Rawls postulates a fundamental, pre-political "original position" where this choice would be made. This corresponds to the state of nature in the traditional theory of social contract. It is a hypothetical construct which enables one to formulate principles of justice that would command universal assent. It is assumed that all parties act under the "veil of ignorance," which prohibit the knowledge of any contingencies one could conceivably use to exploit others. Thus, one is not cognizant of his or her own natural abilities, social status, interests, intelligence, and conception of the good life. One is cognizant only of certain general facts such as elements of social and economic theory. This veil of ignorance makes it impossible to design principles to suit one's own circumstances and ensures pure procedural justice, since the results are free from any arbitrary influences.

Although parties in the original position do not know their conception of the good nor any specific needs and desires, they do realize that they desire as much as possible of primary social goods. Among these goods are rights, opportunities, powers, income, wealth, and self-respect. These are goods necessary for one's self-fulfillment and the advancement of one's interests and goals, as well as the overall plan of life.

With this in mind, Rawls argues that those in the original position are virtually compelled to be fair to everyone so that they can be fair to themselves. And given their aversion to risk and the chance that they could be among the disadvantaged of society, Rawls assumes that the rational, safest course of action would be to adopt the perspective of the potentially most disadvantaged group in society. It would be to their advantage to maximize this position in case they themselves were included in this group. This reasoning leads to the following principles:

*First Principle:* Each person is to have an equal right to the most exten-
sive total system of equal basic liberties compatible with a similar system of equal liberty for all.

Second Principle: Social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity.20

The principles are arranged in lexical order, which means that the second cannot be satisfied at the expense of the first.

In the first principle Rawls is arguing that those in the original position would certainly demand an extensive system of liberties, which are essential if one is to pursue different goals, develop one's personality, and fulfill one's life plan. Included in this list of liberties is the right to vote, freedom of speech, liberty of conscience, and "freedom of the person along with the right to hold personal property."21 Also, according to Rawls, "These liberties are all required to be equal by the first principle, since citizens of a just society are to have the same basic rights."22 This important statement merely means that these political liberties must equally apply to everyone. Thus, for example, it is required that the rules for the acquisition and transfer of property will equally apply to all citizens. Each person has an equal right to acquire, own, and dispose of property. However, the statement does not mean that everyone must own the same amount of property.

While the first principle guarantees a system of equal liberty, the second, known as the difference principle, deals with the distribution of social goods. According to Rawls, those in the original position would not opt for an egalitarian society wherein all goods are distributed equally. Rather, they would choose the second principle. This means that disparities in the distribution of wealth and other social goods would be tolerated only if they could be shown to benefit the "least advantaged," the lowest on the social scale. Thus a just society is not necessarily an egalitarian one, but one in which inequalities must work to everyone's advantage, especially the most disadvantaged.

It is evident that Rawls is indebted to the contractarian tradition since he relies heavily on the notion of individuals agreeing to a contract outside of an organized social system. Moreover, this contract is the ground of their rights, duties, liberties, and the condition for the distribution of society's goods. Rawls's theory, like that of Locke and other predecessors, emphasizes fundamental rights or liberties which can never be suspended for any utilitarian considerations.

21 Ibid., p. 61.
22 Ibid.
Rawls's ethic and the viewpoint of a rights-based approach to morality has many difficulties. One difficulty with Rawls is that the implementation of the difference principle could prove to be an almost impossible task. To begin with, there is a serious problem in the identification of the "least advantaged" who must be somehow aided by inequalities in society. Are they simply those with the lowest income? Couldn't one make the case with equal persuasion that the least advantaged are prosperous blacks or Hispanics who can't live where they want or well-paid but overtaxed, undervalued, and "alienated" assembly line workers? In short, many different groups in society could qualify in some way as being the "least advantaged," posing problems for translating Rawls's difference principle into concrete terms.

Rights, Justice, and Information Technology

The issue of rights seems especially acute for IT professionals because of the formidable threat that technology could pose to some commonly accepted rights. This threat is probably most pronounced in the area of informational privacy. As a result, it seems essential to formulate the scope of an individual's "information rights," that is, the rights that individuals should possess regarding their personal information that is scattered about in various databases. At a minimum, every person deserves a right to the privacy, accuracy, and security of such information.

Let us briefly elaborate on these rights. To begin with, individuals have a basic right to privacy since privacy is essential for the protection of their freedom and autonomy. Personal information should be regarded as confidential; it should not be distributed to other interested parties without the subject's permission. One could maintain, therefore, that this fundamental right to privacy should serve as a constraint on certain data collection and dissemination activities.

Second, individuals have a right to the accuracy of their personal information. This information should be kept up-to-date, germane, and verified. Thus, banks, credit bureaus, hospitals, and others have an obligation to ensure that its information on a data subject is as accurate and error-free as possible.

Individuals also have a right to the security of their personal information. This means that data collectors and handlers have an obligation to protect computer systems from breaches of confidentiality. In summary, therefore, the data subject has the right to have its data maintained in a way that keeps it confidential, accurate, and secure.

But these information rights for an individual must be juxtaposed against a corporation's "information property rights." Organizations claim with some legitimacy that their information resources are their property...
and that they have a right to dispose of their property as they see fit. How do we establish which set of rights takes precedence? The problem is that certain rights are like Ross's duties: They are prima facie or conditional claims that can conflict with other rights. We will consider these conflicting rights in Chapter 5 and attempt to establish some balance between these competing claims.

Finally, Rawls's rights-based theory dwells on the important issue of justice, which is certainly applicable to many problems that arise in the sphere of information technology. Equal access, for example, is an important justice issue, albeit one that will not be dealt with in this book. Another issue is the potential for information monopolies in some industries. Is absolute control of information in an industry consistent with standards of justice and fair play? Moreover, since IT gives rise to new forms of competition and new industry arrangements between competing firms, there are many issues of justice at stake. We will consider these at some length in Chapter 3, but it is worth noting here that Rawls provides a useful framework for assessing the fairness of these information partnerships.

**NORMATIVE PRINCIPLES**

In addition to this treatment of ethical frameworks it is also important to introduce several moral principles that are relevant for making ethical decisions in the area of information technology. To a great extent, these principles are based on the moral theories we have just considered. Those theories might not formulate these principles in the same way or give them the same emphasis, but they accept them as part of the moral decision making process. Because of their simplicity and concreteness, these principles can sometimes serve as a more practical and direct way of coming to terms with a moral dilemma. For example, the basic principle of nonmaleficence or "avoid injury to others" is more transparent and intuitively obvious than Kant's categorical imperative.

We will discuss here three key normative principles that have some applicability to computer ethics: autonomy, nonmaleficence, and informed consent. Like the theories, these principles serve only as general and incomplete guides for action. They are not hard and fast rules that can produce easy answers to complex ethical problems. They merely provide a basis for making decisions according to a valid moral principle rather than to capricious feelings or tendentious evaluations.

The Principle of Autonomy

Kant and other philosophers have stressed that a vital element of personhood is the capacity to be self-determining. The Kantian notion of person-
Ethical analysis emphasizes the equal worth and universal dignity of all persons, because all rational persons have a dual capacity: the ability to develop a rational plan to pursue their conception of the good life, and also the ability to respect this same capacity of self-determination in others. In other words, for an individual to be truly human, that person must be free to decide what is in his or her best interests. Not only is autonomy a necessary condition of moral responsibility, but also it is through the exercise of autonomy that individuals shape their lives. When someone is deprived of autonomy, that individual is not being treated as a person deserving of respect. Indeed, none of us likes to have our freedom compromised through the actions of others.

But what does all this have to do with information technology? In what ways does the expansion of information technology interfere with autonomy? Or do these technologies actually support the exercise of autonomy? On the one hand, quicker access to information can help an individual to make informed decisions more quickly and efficiently. However, as we shall see in several chapters, computer technology can interfere with autonomy when it is used to encroach upon one's personal privacy. Privacy is a necessary condition for autonomy, since our freedom is inhibited when our actions are being scrutinized by others. In addition, our autonomy is impaired when we lack control over our personal information that is in the hands of others. Hence, unless computer technology is implemented responsibly, it can be hostile to the important value of autonomy.

It is also worth pointing out that if professionals such as doctors use expert systems to help make decisions, they might not question the decisions that emanate from those systems. This phenomenon is known as the ELIZA syndrome—expert systems are endowed with such authority that “users feel compelled to accept whatever they suggest.” But when technology takes on this aura, it limits a physician’s autonomy, since it could prompt him to abdicate his basic professional responsibility. This is another way in which technology can become a threat to autonomy.

The Principle of Nonmaleficence

The principle of nonmaleficence is best summed up in the simple phrase used in the medical profession, “above all, do no harm.” According to this most basic of all moral principles, one ought to avoid needless injury to others whenever possible. Thus, one should not use computers or information technology to inflict harm on other people, either directly or indirectly. For example, if hackers or disgruntled employees infect a mission-critical application with a debilitating virus, they are causing significant injury. When

computer systems are disrupted in this way, the result can cause irreparable damage to a business and considerable inconvenience for its stakeholders.

This negative injunction against doing injury to others is sometimes called the moral minimum, that is, however one may choose to develop a moral code, this injunction must not be excluded. To be sure, most moral systems will go well beyond the moral minimum, as we have already seen, but at the core of these and other theories is this moral imperative to avoid injury to others. According to one group of authors:

> We know of no societies, from the literature of anthropology or comparative ethics, whose moral codes do not contain some injunction against harming others. The specific notion of harm or social injury may vary, as well as the mode of correction and restitution but the injunctions are present.24

It seems evident that this moral principle can be quite helpful in analyzing moral dilemmas or quandaries that emerge in the field of information technology. A reasonable starting point for the analysis of such quandaries is a consideration of whom, if anyone, has been harmed or injured in each case. In other words, an exploration of the actual or potential damage or injury is a good initial test of the morality of such activities. For example, if one is assessing a breach of security, a key issue must be the extent to which individuals or organizations have been harmed by this breach. Obviously, an incisive analysis will go beyond this question, but it does serve as a logical, albeit sometimes neglected, starting point.

**Informed Consent**

The final normative principle to be considered is informed consent. "Consent" implies that someone has given agreement freely to something. But for such assent to have significance, it should be "informed," that is, based on accurate information and an understanding about the issue at hand. If someone consents to accept a hazardous assignment, for example, that person must be given as much information as possible about the risks of undertaking such an activity. If this information is deliberately withheld or is incomplete because of carelessness, then the consent is given under false pretenses and is invalid.

The principle of informed consent can play an important role in the evaluation of moral issues relating to informational privacy. A case can surely be made that if personal privacy is to be protected, information acquired for one purpose cannot be used for other purposes without the free and informed consent of the subject. Thus, if a credit card company collects data about my various purchases and buying habits, those data

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cannot be sold to other vendors without my informed consent. I should be informed about who will be getting these data and how they will be used, and with this background information I can then choose to give or withhold my consent. The principle of informed consent, then, serves as a constraint in the treatment of information as a commodity and the free exchange of personal data across computer networks. How informed consent can be realistically implemented and balanced with other concerns is discussed in Chapter 5.

This normative guideline has played an especially critical role in medical ethics. An important issue in this discipline concerns individuals who volunteer for medical research projects. According to the principle of informed consent, individuals should decide whether or not to participate in such risky projects only after they have been provided with adequate information to make a sound decision. Some might insist that the role of informed consent in the area of medical research is far more legitimate than its role in protecting informational privacy, but Carol Gould rightly observes that these uses of this principle are definitely analogous and that the importance of this principle for computer ethics should not be underestimated:

in the case of personal information, the consent does not seem to concern an action done to one...or the use of a part of one's body or of something that belongs to one exclusively. Rather, it is consent to the obtaining and use of information about oneself. However, in this case too, the consent is required to preserve the right of privacy, not the privacy of one's body but of personal information, which, as in the case of the body, one has a right to control.25

Finally, one may also argue that some version of this principle may also serve as a guideline in the area of computer security. For example, when an organization collects and stores sensitive information about many individuals, those individuals have a real stake in that organization's security system, since they can be adversely affected by security breaches. In these cases it might be suitable for the organization to inform these individuals or their representatives of its security measures and to rely on at least their tacit consent regarding the adequacy of the security systems in place. We will consider this issue in more depth in Chapter 7.

A GENERAL FRAMEWORK FOR ETHICAL ANALYSIS

In addition to the normative principles just considered, we have presented here three ethical frameworks and noted the general polarity between teleological and deontological approaches to morality. The former is a pragmatic morality of ends while the latter stresses fidelity to principle in the form of rights or duties. Despite these differences, each approach repre-

sents a unique perspective from which one can deliberate over moral issues. All theories seek to elevate the level of moral discourse from preoccupation with “feelings” or gut reaction to a reasoned and thoughtful consideration of the right course of action.

As we attempt to apply these theoretical approaches to the case studies in this book, a good starting point would be the following questions, which enable us to put these various theories into action:

- **Consequentialism** or goal-based analysis: A manager must consider which action optimizes the consequences for all parties involved. Doing this often entails a cost-benefit analysis aimed at identifying the action that will yield a better proportion of benefits to costs than any other option.

- **Duty-based ethics**: A manager who follows this avenue should consider the following questions: Can I universalize the course of action I am considering? Does this course of action violate any basic ethical duties? Are there alternatives that better conform to these duties? If each alternative seems to violate one duty or another, which is the stronger duty?

- **Rights-based ethics**: A manager must carefully consider the rights of affected parties: Which action or policy best upholds the human rights of the individuals involved? Do any alternatives under consideration violate their fundamental human rights (liberty, privacy, etc.) or institutional or legal rights (e.g., rights derived from a contract or other institutional arrangement)?

Finally, how do we incorporate these ethical questions into a comprehensive analysis of cases in this book and elsewhere? Perhaps the best way to proceed is to outline a general approach to these case studies along the lines of the structure in Table 2.2. There are, of course, other questions that can be raised and many different methods of analyzing case studies. This broad framework, however, represents a plausible starting point which can certainly be embellished by the reader according to his or her interests and perspectives.

**Table 2.2 Steps for Ethical Analysis**

1. Identify and formulate the basic ethical issues in each case.
2. Consider your first impressions or reactions to these issues. In other words, what does your moral intuition say about the action or policy under consideration: Is it right or wrong?
3. Are any of the normative principles relevant? If so, what impact do they have on resolving the ethical problem(s)?
4. Consider the issues also from the viewpoint of one or more of the ethical theories and pose some of the questions raised above.
5. Do the normative principles and ethical theories point to one decision or course of action or do they bring you to different conclusions? If so, which avenue of reasoning should take precedence?
6. What is your normative conclusion about the case, that is, what should be the organization or individual’s course of action?
7. Finally, what are the public policy implications of this case and your normative conclusion? Should the recommended behavior be prescribed through legislation or regulations?
STAKEHOLDER ANALYSIS

One final word about theory. In discussing the various ethical themes, we often referred obliquely to the “parties involved.” We should be more precise about those affected by a manager’s actions and decisions. They are often referred to as “stakeholders.” A stakeholder is defined as any group or individual who can affect or is affected by the achievement of the organization’s objectives. Some examples of a corporation’s stakeholders are its employees, stockholders, customers, suppliers, communities, relevant government agencies, society at large, and even its competitors.26

Much has been written about the ethical relationship between management and stakeholders. A full treatment of this topic, however, is beyond the scope of this work. Suffice it to say that stakeholders are more than mere instrumental forces that can help or hinder a corporation as it tries to reach its objectives. Rather, the moral point of view would strongly suggest that each stakeholder group deserves respect in its own right; the corporation and its managers, in other words, have certain moral obligations to their diverse stakeholders that can be defined by the ethical theories outlined in the previous section.

Stakeholder analysis can probably best be accomplished when it is done in conjunction with one or more of these theories. Such analysis entails first identifying the key stakeholders, those who have a real interest or “stake” in the decision at hand. One must also consider the goals of each stakeholder group along with their preferred outcome and their leverage for affecting that outcome. Finally, managers must consider a moral position toward these stakeholders. If they follow consequentialism, they can decide to maximize stakeholder equity, that is, choose the alternative that optimizes consequences for all stakeholders. On the other hand, a pluralist or duty-based approach would require managers to consider its duties to stakeholders and, if there are conflicts, to identify the groups (such as stockholders) to whom the manager has the highest obligation. In these and other ways stakeholder analysis can be integrated with ethical analysis to reach some plausible and coherent resolution to intricate moral quandaries. Including this level of analysis will alert managers to the concerns of the many groups affected by their decisions.

26For more discussion on this see R. Edward Freeman, Strategic Management: A Stakeholder Approach (Boston: Pittman Publishing, 1984), pp. 31-49.
SUMMARY

We began this chapter by underlining the practical nature of ethics: We do ethics in order to be able to conduct our lives rightly and honorably. Normative ethics, the focus of this book, is a quest for the practical truth of how one's choices and actions can be good and worthwhile. We also considered important distinctions between law and morality and between individual and corporate responsibility.

There are various avenues of ethical reasoning. Essentially modern ethical theory can be divided into two broad categories: deontological and teleological, the ethics of duty and the ethics of ends (or consequences). The theory of utilitarianism developed by Bentham and Mill, is a teleological theory and a widely used form of consequentialism. The goal of the moral life, in this theory, is to maximize happiness or utility, so actions are right to the extent that they bring this about. A person should act to promote the maximum net expectable utility for all of those affected by that action.

Kant’s moral philosophy, on the other hand, is a prime example of a deontological theory, since it emphasizes fidelity to principle and duty. For Kant, our duty is to follow the moral law, which is summed up in the categorical imperative: Act according to a maxim that is at the same time valid as a universal moral law. In other words, our actions must pass the test of universalization. Kant’s moral philosophy can also be summed up in the word respect: The moral law requires that we respect humanity as an end in itself. We cannot treat our fellow human beings exclusively as a means for achieving our own purposes in life.

Another version of this duty-based approach to ethics is developed in the philosophy of W. D. Ross. He argues on behalf of prima facie duties—honesty, beneficence, justice, and so forth—those duties that can be superseded by a higher obligation, usually under exceptional circumstances. This philosophy allows for more flexibility and compromise than Kant’s more rigid approach to morality.

Contractarianism, or a rights-based approach to morality, is another type of deontological theory. According to this viewpoint, morality is grounded in the social contract between government and its citizens, and this contract guarantees us certain inalienable moral rights such as the right to life, liberty, and property. Contractarianism emphasizes fairness, which is achieved when the participants in social arrangements have been accorded due respect. John Rawls’s theory of justice represents a rights-based, deontological approach to morality which highlights justice as fairness. According to Rawls, parties in the pre-political “original position” behind the veil of ignorance would choose two principles of justice: the
first involves an extensive system of liberties while the second deals with an equitable distribution of social goods. According to the second principle or the "difference principle," disparities in the distribution of wealth and other social goods would be tolerated only if they could be shown to benefit the least advantaged on the social scale.

We next turned to a cursory treatment of three important normative principles: autonomy, nonmaleficence, and informed consent. These principles, less abstract than ethical theories, can sometimes serve as a more practical way of reaching normative conclusions. Finally, we presented a general framework for case analysis that includes the following key elements: identify the moral issues, consider your intuitive or instinctual response, evaluate the issues from the vantage point of the normative principles and the ethical theories, determine if the principles and theories would point to one course of action and, if not, consider which principle or theory should take precedence, reach a normative conclusion about the case, and determine its public policy implications.

Finally, we emphasized that in making these moral decisions attention should be paid to the various stakeholders of a corporation or organization. A stakeholder is any group or individual that can affect or is affected by the achievement of the organization's objectives. Stakeholder analysis can best be accomplished when it is done in conjunction with one or more of the ethical theories elaborated upon in the chapter.

CASES FOR DISCUSSION

Introduction

The following case studies will serve as applications of the ethical paradigms or to concrete situations. The first case involves a manager who is concerned about the possible misuse of data that he is supplying to a new client. The key question in this case revolves around this employee's responsibility: Does he have a moral obligation to do something about this matter despite the company's wishes to the contrary? This case underscores the complexity of conflicting responsibilities and the difficulty of deciding which one takes priority.

The second case raises some provocative questions about an employee's rights in potential conflict with an employer's obligation to protect "vital" corporate information. Does an employee have the right not to be discriminated against because of external activities or because he or she is related to people who work at rival firms? This case is especially significant because it highlights the importance of safeguarding information in our society, an underlying theme of this book.
CASE 2.1

“*It’s Not Your Job to Be a Data Cop!*”

Robert Wessell works for a well-established and highly profitable corporation that has carved out a niche as an information broker. Mr. Wessell is currently the manager of the direct mail division in Chicago. This division rents out various mailing lists to direct marketers. Companies and other organizations purchase these data lists usually in order to target a marketing campaign for certain products or services. Most of the company’s customers are reputable organizations and use these data conscientiously for legitimate purposes. For example, some of Wessell’s best clients are major charities, which rent these lists to raise money for worthy causes.

But Mr. Wessell has just received a substantial request from a new customer, a West Coast mortgage company that specializes in second mortgages. He recognizes the company’s name because it recently gained some notoriety for targeting vulnerable segments of the population. It has allegedly “suckered in” some of these customers by obtaining some equity in their property in exchange for granting a second mortgage at exorbitant interest rates, sometimes exceeding 19 percent (the current market interest rate for a 30-year second mortgage is about 9 percent). Despite the negative publicity, the company has steadfastly denied any wrongdoing. Several states have initiated allegations of these accusations, but so far no charges have been filed.

This mortgage company has asked Wessell’s division to download a database that lists personal demographics by ZIP code in several major eastern cities. Given the company’s history, Wessell is convinced that it will use this database to target low-income areas for its direct mailing and telemarketing campaigns. Mr. Wessell is loath to respond to this request, and he decides to articulate his concerns to his boss, Ms. Jane Manning, who is the Vice President for Information Services. She listens attentively to Wessell’s reservations about this request, but for the most part she is unsympathetic. She advises Wessell not to worry about how the company’s customers will be using these data and she points out that the mortgage company is a new client and that this could be a lucrative account. “Further,” she tells Wessell, “this organization just can’t possibly control how data lists will be used. Besides the charge against the mortgage company is only an allegation and perhaps it isn’t even true. Also you have no proof that they will be targeting low-income families; your suspicions may be completely unfounded.” Wessell offers a mild protest and rebuttal of her arguments, but to no avail. Ms. Manning ends the meeting by exclaiming, “Look, Robert, it’s not your job to be a data cop!”

27This case study represents a hypothetical situation.
Wessell is still unsatisfied, and he now feels perplexed about the scope of his responsibility. Should he try to get more information about how the mortgage company will be using this list? Or are these concerns really not his responsibility? Maybe his boss is right: He can’t possibly be a watchdog for all of his customers. Nevertheless he feels quite uneasy about complying with this client’s request and wonders what he should do, especially in light of Ms. Manning’s indifference.

Questions

1. Identify and analyze the basic ethical issues in this case.
2. What is Wessell’s responsibility if the mortgage company does use this data list in an unscrupulous way?
3. What should Wessell do? Defend your answer by reference to one or more of the ethical theories in this chapter.

CASE 2.2

Vital Information at Complex

Thomas Donaldson

Martha Van Hussuen, Regional Director of sales at Complex Corporation, was feeling vaguely uneasy as she sipped her morning coffee and glanced again at the latest memo from corporate headquarters. The memo stressed once more the need to block absolutely any information leaks to competitors both about changes in Complex’s rapidly evolving line of computer software products and about its latest marketing strategies. Complex found itself in the middle of one of the hottest and most competitive markets in the world. The software it handled was sold primarily to banks, savings and loans, and brokerage firms, and although in the beginning Complex had been virtually alone in the market, in recent years a number of increasingly aggressive competitors had slowly whittled away at Complex’s market share. The difference between a sale and a lost sale was frequently only the difference between being able to boast or not of a minor software innovation. Martha reminded herself as she looked at the memo that great hopes were being attached to the company’s new “Data-File” line of products to be publicly announced in three months. Already salespeople in the division had been briefed on the new line in behind-closed doors sessions to prepare them for selling the new products effectively.

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What worried her was not so much that one of her salespeople would intentionally provide information to competitors, as that someone might allow an unintentional leak. It was true, she confessed to herself, two members of her twenty-member sales force had been disgruntled over recent salary decisions and had threatened to quit. But she doubted they would actually commit an act of outright sabotage. More problematic was the fact that one of her salespersons, Frank Wright, was married to an employee of one of Complex's major competitors. Because Frank's wife, Hillary, was a software designer, Martha knew she could interpret any relevant information, even off-hand information offered in casual remarks, decisively. Of course, Martha had no reason to question the conduct of either Frank or Hillary. Both seemed to be good, down-to-earth types, and she had especially enjoyed chatting with them at a recent dinner party. Frank, furthermore, had done well during his first three years with the company. To further complicate the overall problem, two other members of her staff had relatives working for competing firms. In one case the relative was an uncle, and in the other it was a cousin. She also knew that her sales staff met infrequently with other salespersons from rival firms at conferences and exhibits.

Martha reminded herself that she had already called her people together to emphasize the need to protect vital corporate information. She had also sent each employee a copy of a recent memo from corporate headquarters and had reminded them of the item in the Company's Code of Conduct stipulating that disclosure of vital information was a cause for dismissal.

The question nagging her now was: Is there something more I should do? Should I take specific actions in specific cases? If so, what? Was it fair to penalize a person simply because he or she had the misfortune to be related to a competitor's employee? As she pondered these issues, one fact stared her in the face with perfect clarity: Any leaks, either now or in the future, could seriously jeopardize the company's well-being; moreover, if any leaks were traced to her division, she would be held responsible.

Two days later Martha received a phone call from the vice president in charge of her division, Mr. John Sears. Mr. Sears informed her that evidence had emerged indicating that crucial product information had been leaked by a member of her department. Two things were known for certain: (1) Complex information had been obtained by a major competitor, and (2) some of the information leaked had been circulated only to Van Hussen's staff. Mr. Sears was reluctant to divulge more, but he did remark that he was doubtful that more information would be forthcoming to use in tracing the leak to a specific member of Van Hussen's department. He concluded the phone call by saying, "I want you to do whatever is necessary to stop this problem."
Questions

1. In your estimation, what is the key ethical problem or dilemma in this case?

2. Analyze this case from the rights-based ethical perspective. Do employees have the right not to be discriminated against in their accessibility to information (in other words, can Ms. Van Hussen declare certain information off limits for an employee like Frank Wright whose wife works for a competitor)?

3. What course of action would you recommend for Ms. Van Hussen?