

BUSINESS ETHICS: A DIFFERENT LOOK *JUSTICE and FAIRNESS*

James M. Pappas, P.E., M.B.A.
VP-UDW Programs, RPSEA

SPE-GCS Drilling Study Group Meeting
Greenspoint Club, Houston, TX

14 May, 2014



Gulf Coast Section



BUSINESS ETHICS: A DIFFERENT LOOK

1. PART 1: ETHICS & MORAL REASONING
2. PART 2: ETHICAL PRINCIPLES IN BUSINESS
3. ***PART 3: JUSTICE & FAIRNESS***

PART 1: ETHICS & MORAL REASONING

- DESCRIBING ETHICS
- MORAL DILEMMAS
- “TEACHING” ETHICS
- ETHICS IN BUSINESS
- MORAL REASONING

PART 2: ETHICAL PRINCIPLES IN BUSINESS

- Utilitarianism
- Rights
- Libertarianism
- Distributive Justice

PART 3:

JUSTICE AND FAIRNESS

- Types of Justice

- Distributive
- Egalitarian
- Capitalistic
- Socialistic
- Libertarian

- Another View

- Justice:

- Retributive
- Compensatory

- Back to ...

- Moral Standards

PART 3: JUSTICE & FAIRNESS: DISTRIBUTIVE JUSTICE

- Types of Distributive Justice
- Comprehensive Theory
- Retributive Justice
- Compensatory Justice
- Ethics Conclusions
- Moral Standards

JUSTICE & FAIRNESS: DISTRIBUTIVE JUSTICE

Why Needed?

- Scarcity of Benefits (e.g., jobs, food, housing)
- Too Many Burdens (e.g., drudgery, unpleasant tasks)
- Principles of Allocation (exceeding adequate resources)

FUNDAMENTAL PRINCIPLE: *Equals should be treated equally and unequals, unequally*

BASIS: *Logic & consistent treatment in similar situations*

JUSTICE & FAIRNESS: DISTRIBUTIVE JUSTICE

Differing Views:

- Egalitarianism
- Capitalistic Justice
- Socialism
- Libertarianism

JUSTICE & FAIRNESS: DISTRIBUTIVE JUSTICE

Egalitarianism View

- Justice As Equality
 - Equal share of society's burdens & benefits
 - People are fundamentally equal

Criticism: *All people do not have the same qualities, abilities, & intelligence*

EGALITARIAN JUSTICE: EXAMPLE

College Entrance

Facts:

- All college entrants are based on standardized test scores
- Students from higher income school districts score better on their entrance tests
- Lower income level groups sue to change law

EGALITARIAN JUSTICE: EXAMPLE

Questions (page 2):

1. Is the standardized test rule ethical based on egalitarianism?
2. Does the standardized test rule offer unfair advantages for some?
3. Does the standardized test rule result in the strong getting stronger, etc?
4. The State Introduces the Top 10% Rule. Is it any any better? From an egalitarian viewpoint?
 - Top talent in some schools bypassed
 - State schools are losing some top quality students

JUSTICE & FAIRNESS: DISTRIBUTIVE JUSTICE

Capitalistic Justice View

- Justice Based on Contributions
 - More contributions = more entitlements
 - Puritan work ethic: People all have obligation to work at God's calling

Criticism: *Rewarding Effort vs. Productivity*

- Productivity ignores people's needs (sick, handicapped, untrained)
- Measurement of value
- Market ignores intrinsic value
- Market rewards luck & chance

CAPITALISTIC JUSTICE: EXAMPLE

Statewide teachers' pay

Facts:

- Statewide teachers' pay is not commensurate with their value to society
- There is a loss in teacher best talent
- Many educators are living on, or only slightly above, the poverty line

CAPITALISTIC JUSTICE: EXAMPLE

Questions (page 2):

1. From a capitalistic view, are teachers/ educators treated fairly?
2. Same question, but from an egalitarian justice view?
3. If teachers worked longer hours and/or school years, would society feel differently (consider from capitalistic justice standpoint)?
4. Should educators in higher risk schools receive more compensation? If so, should the school district or state pay the difference?

JUSTICE & FAIRNESS: DISTRIBUTIVE JUSTICE

Socialistic Justice View

- Justice Based on Need & Ability
 - Proposed by Louis Blanc & Marx
 - Work distributed to maximize productivity
 - Benefits used to promote happiness & well being

Criticism: *No Motivation: Lacks relationship between work effort & remuneration*

- Cannot model society like family
- Human nature IS competitive, not fraternal
- Lacks individual freedom of choice
- Substitutes paternalism for freedom

SOCIALISTIC JUSTICE: EXAMPLE

Americans With Disabilities Act

Facts:

- Federal intervention: Americans With Disabilities Act
- Handicapped were not sufficiently protected:
 - Had too small a voice
 - Could not compete on level field
 - Were falling behind

SOCIALISTIC JUSTICE: EXAMPLE

Questions (page 2):

1. From a Socialistic Justice viewpoint was the Federal intervention justifiable? How might you argue against the ADA from the Egalitarian and Capitalistic Justice standpoints?
2. How far should ADA go based on socialistic justice?
3. How would you defend costs associated with altering / improving public access?
4. From a socialistic viewpoint how should quotas be treated? What about disabilities not defined in the ADA: how would you ensure that they're not left behind?

JUSTICE & FAIRNESS: LIBERTARIAN JUSTICE

Libertarian Justice View

- Justice As Freedom
 - Proposed by Robert Nozick
 - Freedom of choice
 - Wrong to give welfare benefits to some & not others or to tax & redistribute
 - Distribution of benefits resulting from imposition on society is unjust

Criticism: *Sacrifices All Other Freedoms for Freedom From Coercion*

- Principle of distributive justice unjustly treats disadvantaged people (sick, handicapped, untrained)

LIBERTARIAN JUSTICE: EXAMPLE

Marketing Example

Facts:

- Infant formula marketing to 3rd world by several manufacturers
- Encouraged formula over breast milk, free samples
- Improved nutrition for many
- Problem: Contaminated water caused 10 million deaths/year
- Led to boycotts by groups of people (internal & external)
- ICIFI Code of Marketing Ethics adopted by some
- Others & many critics argued Code was too weak, vague, unenforceable

LIBERTARIAN JUSTICE: EXAMPLE

Questions (page 2):

1. Was infant formula marketing to 3rd world ethical based on libertarian justice standpoint? After deaths were discovered?
2. Same question, from a socialistic justice view?
3. Should the governments have intervened? From a libertarian view should they have a duty?
4. Noted that ICIFI Code of Marketing Ethics adopted by some companies, but other companies & many critics argued Code was too weak, vague, unenforceable. Should they force people to go back to using breast milk? Pay for clean water supplies?

JUSTICE AS FAIRNESS: ANOTHER VIEW

John Rawls – Society Needs A Comprehensive Theory for Distributive Justice

- Assumption: Conflicts involving justice should be settled first by
 - Fair method
 - Using established principles
 - Using established resolution practices

JUSTICE AS FAIRNESS: ANOTHER VIEW

Principles of Distributive Justice

- *Principle of Equal Liberty*
 - Priority: Protects Liberties
 - Equal rights to most extensive liberties compatible for all
- *Principle of Equal Opportunity*
 - Priority: Equal Access to Education & Job Qualifications = f (Abilities)
 - Social & economic inequalities attached to positions & open to all
- *Difference Principle*
 - Priority: Improve Least Advantaged Positions, Compete
 - Social & economic inequalities must benefit least advantaged the most

JUSTICE AS FAIRNESS: ANOTHER VIEW

Basic Liberties of Distributive Justice

- Right to Vote
- Freedom of Speech
- Freedom of Conscience
- Freedom to Hold Personal Property
- Freedom From Arbitrary Arrest

JUSTICE AS FAIRNESS: ANOTHER VIEW

Distributive Justice Original Position: Veil of Ignorance

- Principle Morally Justified If – Acceptable to rational, self-interested people who
 - Are members of society
 - Don't know their position in future
- Ensures No Protection of Special Interests
- Honors Kantian Concepts (universalizability, reversibility, treating others as ends)

JUSTICE AS FAIRNESS: ANOTHER VIEW

Distributive Justice Viewpoints

- Egalitarian: Veil of ignorance
 - Morally justified if acceptable to rational, self-interested people
- Capitalism: Principle of fair & equal opportunity
 - Advance w/ ability, effort & contribution
- Socialistic: Principle of difference
 - Protection against possibly ending up in worst social position
- Libertarian: Principle of equal liberty
 - Maximize freedom to choose personal interest, w/out interference

JUSTICE AS FAIRNESS: ANOTHER VIEW

Criticisms of Distributive Justice

- No Guarantee That Principle Is Morally Justified
- No Proof That All Parties in Original Position Would Choose Rawls' Principle
- Some Parties Believe Rawls' Position is Opposed to Conviction of Justice

JUSTICE AS FAIRNESS: ANOTHER VIEW

Advantages of Distributive Justice

- **Preserves** Basic Imbedded Values of Moral Beliefs (freedom, equal opportunity, concern for disadvantaged)
- Theory **Fits** Into Basic Economic Institutions (compensates for inequalities of labor & free markets)
- Theory **Incorporates** Both Communitarian (Difference Principle) & Individualistic (Principle of Equal Liberty) Strains
- **Accounts For** Need, Ability, Effort, & Contribution
- Original Position Provides **Moral Justification** Through Impartial Choices

JUSTICE & FAIRNESS: RETRIBUTIVE JUSTICE

Concerns Blame &/or Punishment for Wrongdoing

- Major Conditions – where no moral responsibility can be held (ignorance & inability)
 - If does not know what he is doing or
 - If cannot freely choose what he is doing
 - Then Cannot justly be blamed or punished
- Due Process
 - No doubt
 - Certitude that person actually did wrong
- Punishment Must Be Consistent & Proportional to the Wrong

JUSTICE & FAIRNESS: COMPENSATORY JUSTICE

Concerns Restoring What Was Lost When Wronged

- Wrongdoer has moral duty to provide
 - Restitution
 - Pay damages
- Conditions requiring moral obligation
 - Action was wrong or negligent
 - Action was real cause of injury
 - Person voluntarily inflicted the injury

BUSINESS ETHICS CONCLUSIONS

Often Competing Types of Moral Standards

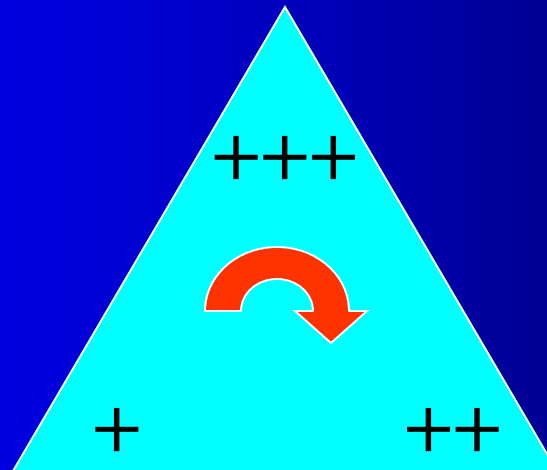
- **Respect Moral Rights:** Individual rights, welfare, freedom, consistency
- **Maximize Social Utility:** Consider social net benefits & costs when resources are inadequate to meet everyone's objectives
- **Just Distribution:** Of both benefits & burdens

BUSINESS ETHICS CONCLUSIONS

Often Competing Types of Moral Standards

Respect Moral Rights:

Individual rights, welfare, freedom, consistency



Maximize Social Utility:

Consider social net benefits & costs when resources are inadequate to meet everyone's objectives

Just Distribution:

Of both benefits & burdens

SUMMARY OF BELIEFS OF MORAL STANDARDS (1)

- *Eternal Law*
 - Standards revealed in scripture or nature
 - Interpreted by religious leaders or philosophers
- *Utilitarian Theory*
 - Standards applied to outcomes or decisions
 - Net benefits for most people
- *Universalist Theory*
 - Standards applied to intent of actions or decisions
 - Reflects goodness concept

SUMMARY OF BELIEFS OF MORAL STANDARDS (2)

- *Distributive Justice*

- Standards based on primacy of justice only
- Ensures equitable distribution of benefits & burdens
- Promotes self respect & cooperation

- *Personal Liability*

- Standards based on primacy of liberty only
- Ensures greater freedom of choice to promote market exchange & social productivity
- System of exchange is market derived, not centralized government

THANK YOU

QUESTIONS?