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Scholaris is a refereed accounting and finance e-journal supported by the Department of Accounting and Corporate Governance. This journal is an instrument for the dissemination and communication of submissions, from Macquarie University Students and other National and International University students, which are of excellent quality and originality. This journal welcomes submissions from undergraduate and postgraduate students within the disciplines of accounting and finance.

Students are taught to listen and observe, critically question concepts and theories, participate in the learning environment, engage in and learn the art of deep thinking and to enjoy the intellectual experience. Academic writing is a creative and dynamic process that assists students in demonstrating their intellectual accomplishment; it is also an invaluable method of discovery and inquiry. Scholaris provides an environment for students to express independent, critical and innovative thinking and promote their research to their peers, academic and commercial communities and industry.
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Foreword

In recent years, in the United States as well as Australia, numerous examples of unethical behaviour (e.g. Enron, HIH Insurance, James Hardie, the Visy group to mention a few), corporate misrepresentation, bribery, and corruption abound. We are therefore compelled to ask the question: “What happened to business or managerial ethics?”

Executives and Managers are dealing with a great deal of complexity and uncertainty in a workplace that is continuously changing at a rapid pace. Within this new complex business environment ethical dilemmas arise, requiring astute attention to regulatory commitment, morality, and social responsibility. To support executives and managers in striving to achieve continuous ethical behaviour embedded in decision-making and actions, organisations are assuming a greater active role therein. This role may encompass the provision of training programs focused on ethics, explicitly using codes of ethics, conducting social audits, recruiting ethics officers to provide support to employees in managing ethical dilemmas that may arise. In my humble opinion, the active role of embedding ethics into our professional values and everyday lives is not a job left solely to organisations. High Schools, Universities and other higher education institutions also need to embrace the need to emphasise business ethics in their curricula.

Macquarie University is one of the Australian Universities that does embrace this need for Business Ethics in our curricula. This is evidenced in the second special edition of Scholaris, which focuses exclusively on Business Ethics. This special edition represents an exciting collaboration between the Faculty of Business and Economics, specifically the Department of Accounting and Corporate Governance, and the Department of Philosophy at Macquarie University. This edition showcases five submissions from our undergraduate and postgraduate students which consider a range of interesting and topical ethical issues.

I am proud of our students for taking up this challenge and communicating their work to their peers, other scholars, practitioners and industry. Thank you to our contributory students, for an academic task well-done. You have contributed to our ongoing awareness of ethical issues that we face in our challenging global environment. I would like to extend my heartfelt thanks to Dr Dale Tweedie our guest editor for this special edition for his tireless work thereon. Dale has facilitated the creation of an exciting special edition covering a highly relevant range of ethical issues. Finally, I would like to thank Professor Philomena Leung for her ongoing support of this journal.

Dr Vicki Baard

Editor: Scholaris

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A Note from the Guest Editor

It is my pleasure to introduce this special issue of Scholaris on contemporary business ethics, which includes five original articles by emerging scholars from the Faculty of Business and Economics and the Faculty of Arts.

The need for ethical business practice is clear. The global financial crisis has renewed attention on the social consequences of unethical action, and climate change requires corporations to recognise environmental responsibilities.

Yet the study of ethics remains contested. While the natural sciences have developed with remarkable speed, many influential ethical theories have persisted for hundreds or even thousands of years. This has led some people to question whether it is possible to make progress in ethics through academic research.

Viewed differently though, it is a sign of the richness of ethical reflection that ancient theories are still relevant today. Of course, ethics researchers have also developed new approaches and ideas. But whether new or old, what keeps ethical theory vital is its application to contemporary problems. With the scale, complexity and urgency of modern ethical demands, it is especially pleasing to see the emerging scholars in this issue engaged in rigorous ethical analysis.

In our post-graduate articles, Erin Muldowney reflects on the courage that engineers at the Fukushima nuclear disaster showed in risking themselves to prevent an even worse disaster. Her analysis focuses attention on the particular ethical requirements that professionals face in their work. Isela Hernandez scrutinises the ethics of workplace surveillance. By weighing up arguments from both employer and worker view-points, she illustrates the importance of incorporating multiple perspectives when evaluating an ethical issue.

In our undergraduate articles, Sam Dobbie-Smith and Tarun Bhushan look back on the global financial crisis, and on the vexed issue of publically funded bail-outs of private companies. When, they ask, are bail-outs ethically justified, and on what grounds? Also on international ethics, Robert Hewetson assesses the ethics of multi-national companies. His article considers not only whether multi-national companies have ethical obligations to the countries in which they operate, but also how far these obligations extend. Finally, Alexandra Hennig and Shelby Rodricks review the ethics of unpaid internships. Unpaid internships are potentially a way for young workers to gain experience. But as their case study tragically illustrates, they can also put vulnerable young workers at risk.
By analysing contemporary issues through formal ethics theory, all these authors encourage us to think more rigorously about the ethical demands we face as individuals and collectively. If ethical standards are to meet today’s demands, then this kind of ethical reflection makes an important contribution to the task.

Dr Dale Tweedie

Macquarie University

Guest Editor: Special Issue on Business Ethics

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SCHOLARIS
Moral Obligations of Nuclear Engineers in Disaster Situations

Erin Muldowney
Macquarie University

Abstract

This essay attempts to clarify whether the physically dangerous work undertaken by nuclear engineers in disaster situations is morally required or whether it is supererogatory conduct that goes ‘above and beyond’ the call of duty. This essay uses the case of the engineers at the Fukushima Daiichi nuclear power plant - who risked their lives working in waist-high radioactive water to restart the generators - to critically examine the moral dilemmas associated with the concept of supererogation. The essay considers the Fukushima engineers as professionals, and develops the idea that professionals have particular moral obligations. As specialised professionals, nuclear engineers are expected to exhibit a higher level of moral courage in the course of their work to meet their obligations than the average person. This essay defends the Aristotelian view of courage, and argues that every individual is morally required to be as brave as possible within their particular circumstances. Ultimately, this essay concludes that the Fukushima engineers were simply fulfilling their moral duty as engineers and that having nuclear engineers who meet these moral obligations is vital for a secure and flourishing society.

Keywords: Supererogation; Fukushima; Professional ethics; Moral obligations; Nuclear Engineering Disaster.

Submission Classification: Other Assignment

1. Introduction

As one of the cardinal virtues, courage has been praised from the earliest of literary and philosophical writings...[T]hat being said, the courage of a hero presents a number of problems in terms of moral duty, most notably with respect to the issue of supererogation (Dueck, 2008).

On March 11, 2011 a series of natural events triggered a nuclear disaster in Japan that was eventually ranked Level Seven on the International Nuclear Event Scale. An earthquake measuring 9.0 on the Richter scale occurred off the northeast coast of Japan, triggering a tsunami which destroyed the emergency generators of the Fukushima Daiichi nuclear power plant. The actions of the Fukushima engineers who remained at the power plant
and worked in waist-high radioactive water to restart the generators have generally been praised by the international community. However, this case raises the question of whether nuclear engineers are morally required to risk their lives in disaster situations, or whether engaging in physically dangerous work is supererogatory conduct that goes ‘above and beyond’ the call of duty.

This essay critically examines the concept of supererogation in an attempt to clarify whether the physically dangerous work undertaken by nuclear engineers is morally required or whether it is supererogatory. The essay uses the behaviour of the Fukushima engineers, which was detrimental to their own health and indeed their very lives, as a case study that illustrates the moral dilemmas associated with the concept of supererogation. Although a full analysis of the behaviour of the Japanese engineers would need to include Japanese cultural values, this essay focuses more narrowly on the behaviour of the Fukushima engineers as professionals.

The article is organised as follows. Section Two outlines the uniqueness of the Fukushima disaster and the extraordinary behaviour that was required of the engineers in that situation. Section Three examines the concept of obligation. Section Four analyses the difficulties of applying moral theories to supererogation. Sections Five, Six and Seven develop the idea that professionals have moral obligations, and as specialised professionals, nuclear engineers are expected to exhibit a higher level of moral courage in the course of their work to meet these obligations than the average person. This essay adopts the Aristotelian-inspired view that human nature has universal elements, and argues that every individual is morally required to be as brave as possible within their particular circumstances. Finally, the essay concludes that the Fukushima engineers were simply fulfilling their moral duty as engineers because nuclear engineers who meet the moral obligations of their profession are critical for a secure and flourishing society.

2. Nuclear Engineering Disasters

Engineering disasters reveal the price engineers and society pay for failure. The technical work of engineers can affect public health and safety, and engineering failures - as well as their clean-up process - have far-reaching implications (Veach, 2006, p.100). Although no engineers died during the initial explosions of radiation at Fukushima, two workers were killed by the subsequent tsunami (Davis, 2012, p.2). As the nuclear disaster unfolded, engineers remained to monitor and repair machinery and prevent further disaster. Of the workforce at Fukushima, approximately ninety percent are assumed to have been engineers (Davis, 2012, p.9). As a result of the Fukushima disaster, at least six workers exceeded the lifetime legal radiation limit and more than three hundred workers received significant radiation doses (Davis, 2012, p.2). As the disaster repair process continues in Japan, the extent of the impact of the radiation on the health of the nuclear engineers remains unknown.
2.1 Fukushima - a complex engineering disaster

The nuclear disaster that occurred at Fukushima Daiichi power plant on March 11, 2011 is a unique example of an engineering disaster. The combination of earthquake and tsunami forced engineers to take drastic actions. Many Fukushima engineers remained at the power plant to rectify the situation, as engineers did after the nuclear disasters at Chernobyl and Three Mile Island. However, unlike Chernobyl and Three Mile Island, Fukushima was caused primarily by a natural disaster. The general consensus among analysts is that the Chernobyl disaster originated with an experiment that engineers often perform. Experiments introduce the unexpected; however the underlying causes here were ordinary engineering decisions and ordinary failures of equipment and practice that arose within a plant that was operating normally (Davis, 2012, p.3). Similarly, Three Mile Island originated from a routine clean of a blockage, and so was a product of the everyday work of engineers rather than incompetence, negligence or other unusual conduct (Davis, 2012, p.3). Thus the immediate and underlying causes of Chernobyl and Three Mile Island were ordinary engineering decisions (Davis, 2012, p.5).

By contrast, the Fukushima disaster was driven by the twin natural forces of an earthquake and tsunami. The tsunami, which struck the seawall protecting the power plant forty-one minutes after the earthquake hit, flooded the entire plant and broke the remaining connection with the national electrical grid, necessitating replacement batteries to be installed - a process further impeded by the devastation wrought by the earlier quake. The arrival of replacement batteries was delayed by collapsed bridges and roads filled with debris until six hours after the replacements were first ordered (Davis, 2012, p.5). Thus, the Fukushima disaster has been termed a compounded or cascading disaster (Kingston, 2012, p.127). As Davis notes,

In short, the Fukushima plant was overwhelmed by forces from outside well beyond what it was designed for. Without heroic efforts by plant staff, some of whom may die over the next few years because of exposure to radiation, the Fukushima disaster might have become at least as devastating as Chernobyl. Even with those heroic efforts, several weeks passed before the plant could be said to be more or less under control (Davis, 2012, pp.5-6).

The engineers who risked their lives at the power plant displayed a level of heroism that appears to be beyond what an ordinary person should be expected to display in the course of their work. Yet, if the engineers did not act in this way, the nuclear disaster would likely have been significantly more devastating for the wider Japanese community. The moral dilemma that emerges is whether this heroic behaviour is considered supererogatory, or whether the engineers were simply responding to a moral obligation. This moral dilemma may have implications for future engineering disasters and the expectations placed on the engineering profession.
3. Exploring Moral Obligations

One way to make sense of the types of demands that morality makes on us is to critically examine the concept of obligation. Moral obligation directs an individual to do or not do something. To feel obligated is a common human experience; however, a philosophical problem arises from the idea that many actions that are morally good are not necessarily obligatory. For instance, it may be morally praiseworthy for a person to give away their salary to charity, but it is not obligatory (Furrow, 2005, p.84). In order to better understand this dilemma we must determine what justifies obligations. Obligations are usually expressed through words that have an additional authority associated with them - like ‘should’, ‘ought’ or ‘must’ - that express the idea that an action is obligatory (Furrow, 2005, pp.84‑85). There are two key features of obligation. Firstly, obligations are difficult to escape. An obligation, by its very nature, binds our will and restricts our desires. Secondly, in regards to the inescapability of an obligation, if something binds our will, there must be some kind of authority commanding our obedience (Furrow, 2005, pp.85‑86).

4. The Problems of ‘Supererogatory’ Morals

The extant literature has stressed the difficulty of applying traditional moral theories to the issue of supererogation. Mellema (1991b, p.167) defines supererogation as an act that satisfies the following three criteria:

(i) the agent performing it has no duty or obligation to perform;

(ii) performance by the agent is praiseworthy; and

(iii) omission by the agent is neither blameworthy nor forbidden.

Thus, an act of supererogation is morally praiseworthy and usually requires courage. We generally recognise and praise expressions of outstanding courage, including people who take on heavy burdens or sacrifice themselves for the sake of many others; for instance, the life and work of Nelson Mandela or Martin Luther King (Dueck, 2008). However, if courage is considered to be an “appropriate response of engagement to a danger, a risk, or a challenge to one’s well-being”, then all situations require some form of courage, even if it is basic courage to make a simple decision (Dueck, 2008). Aristotle claims that the challenge lies in achieving the ‘golden mean’ of courage that exists somewhere between cowardly deficiency and foolhardy excess. For Aristotle, moral virtue is a mean between two vices, “the one involving excess, the other deficiency”. It is not easy to find the middle: “To [act to] the right extent, at the right time, with the right motive, and in the right way, that is not for everyone, nor is it easy; wherefore goodness is both rare and laudable and noble” (Ross, 2013). We generally praise figures like Mandela who display levels of courage that seem to extend beyond what an average person would display, which indicates that showing a greater level of courage is admirable and worthy of emulation.
Supererogation is more problematic for the contemporary utilitarian than for Aristotle. From a utilitarian perspective the moral good lies in maximising the overall happiness or good for society. One’s duty is to always act to maximise social benefits. In other words, there is no ‘above and beyond’ the call of duty; therefore, in utilitarian ethics there is no supererogation. A person who performs an act of extraordinary courage is merely doing the right thing that benefits the most people (Dueck, 2008). Utilitarianism also argues that what is morally good depends solely on the consequences of our actions. Since what our conscience tells us to do will vary in differing circumstances, the factors that bind our will and constrain our desires will change from circumstance to circumstance (Furrow, 2005, p.87).

5. Engineering Ethics

In addition to general moral theory, another way to assess the moral obligations of engineers at Fukushima to is to review ethical demands specific to engineering. Engineering ethics can be defined as “the rules and standards governing the conduct of engineers in their roles as professionals” (Veach, 2006, p.100). However, codified rules have limits. For instance, codes of ethics are not always enforceable and there may be certain situations in which conflicts can occur. Engineering involves the application of scientific principles in design, building and maintenance and consequently involves elements of problem solving. Veach (2006, p.100) asserts that there are no single correct solutions to most engineering problems, but rather a range of solutions that are “clearly right, some of which are better than others, and some that are clearly wrong”. The grey areas that exist in engineering situations create ambiguity and uncertainty regarding appropriate responses to engineering problems, particularly in dangerous engineering situations like nuclear disasters.

Since engineering requires specialised skills, engineers are generally considered to be professionals. The term ‘professional’ denotes obligation and a certain standard of behaviour. A professional is distinguished from a non-professional in specific ways. In particular, the professional does not view the job simply as a means for making money, but instead acknowledges the useful service that their job provides to society and the associated moral obligations. Bowie (1985, p.44) suggests that the term ‘professional’ should refer to the way a person thinks and their set of attitudes rather than a specific job. Defining ‘professional’ as a set of attitudes enables the public concern regarding professional ethics to be analysed (Bowie, 1985, p.44). Specifically, the study of ethics becomes more meaningful when we consider how the technical work of engineers can have an effect on public health and safety (Veach, 2006, p.100).

The practice of engineering also occurs within a complex social, cultural, legal, technological and organisational system. Within this context an engineer is expected to solve technical design problems and also to satisfy broader norms and expectations.
Unfortunately these expectations are not always consistent with each other and are not always explicitly expressed (Geistauts et al., 2008, p.21). This complex and morally ambiguous environment within which an engineer must work necessitates the development of a set of engineering ethics to guide behaviour. Engineers are more than simply problem-solvers. There are certain expectations on engineers for a variety of their decisions, particularly in the complex field of nuclear engineering. Davis (2012, p.7) suggests four types of engineering decisions for which engineers are responsible in a nuclear power plant:

1. **Planning**: engineers are necessary for vetoing certain options and suggesting alternatives. However, the decisions of engineers are especially complicated within a nuclear engineering situation. Planning a nuclear plant is a complex social decision that involves multiple stakeholders. This includes the government and financers, but also the public, which usually has an opinion on the presence of nuclear power in their community.

2. **Design**: this stage involves drafting specifications necessary to construct or modify the technological object in question. The planning process sets the limits within which the engineers must work. As in the planning stage, however, engineers will only possess power relative to other stakeholders.

3. **Management**: within a nuclear situation management decisions often require technical knowledge. Thus, managers in nuclear plants will typically be engineers who are required to be alert to possible technological improvements.

4. **Operations**: doing what is necessary for the nuclear plant to work. Given the complexity of operating a nuclear power plant, engineers typically constitute the majority of the operators in a nuclear power plant.

The complexity and variety of decisions that engineers are required to make within their professional capacity necessitates a broad philosophy to guide engineers' behaviour rather than a set of rigid rules (Veach, 2004, p.100). This is especially important within a nuclear engineering context, where the potential danger is multiplied by the potential for failure of multiple systems. Within a nuclear plant it is reasonable to expect that at least one system will fail, and that all of the independent systems will fail together sooner or later. For instance, in 2011 it was suggested that the ratio of four nuclear meltdowns (Chernobyl, Three Mile Island and two at Fukushima) out of the four hundred and fifty nuclear power plants in existence, represents approximately a one percent nuclear fail rate (Lewis, cited in Davis, 2012, p.8). The very real possibility of actual physical danger distinguishes nuclear engineers from other types of engineers as well as other professionals. Therefore, the expectations placed on nuclear engineers are greater than those placed on other professionals, particularly in the event of a nuclear disaster.
6. The Importance of Professional Moral Courage

Society requires the moral vigilance of practicing nuclear engineers. As Alpern et al. (1983, p.43) note, government regulations cannot be sufficiently detailed, flexible and up-to-date to cover every situation, and regulators cannot be present to evaluate each decision to ensure that regulations are followed. Thus, moral engineers are required for a safe and harmonious society (Alpern et al., 1983, p.43). If we agree that it is reasonable that a nuclear disaster will occur eventually, there is an element of real danger inherent in the work of nuclear engineers that distinguishes that particular profession from most other professions. It is useful therefore to determine some principles of what can be reasonably expected from nuclear engineers in the course of their work.

The practice of courage is an important trait for professionals because courage is an attribute that is necessary for ethical behaviour. Professional moral courage motivates and enables an individual to “…accomplish goals in the face of opposition, either external or internal”, to resolve ethical challenges and to confront barriers that may inhibit moral action (Sekerka and Bagozzi, cited in Sekerka et al., 2009, p.566). Sekerka et al. (2009, pp.565-566) argue that professional moral courage (PMC) is expected of professionals, particularly managers, yet the actual practice is left to the individual. Consequently, in order for managers to accomplish performance goals while making decisions with virtues in action, the ability of PMC must be explained, described, and measured. Morally courageous actions represent a range of behaviours that are features of an individual’s personal character and that can be developed.

6.1 An Aristotelian Perspective on Courage

Aristotle claimed that courage depends on a person’s social roles and moral maturity. Consequently, courage for one person is different to courage for another person. Dueck (2008) notes that:

Aristotle, and anyone who believes in human nature as something universal and capable of fulfilment, will argue that there is a basic courage required in order to thrive as a human being, but its instantiation in different ways of life will look different from person to person.

In other words, people should act courageously according to their own ability for their own sake as well as for a harmonious and thriving society. Moreover, in the case of nuclear engineers, when things go wrong, the social roles of the nuclear engineers are such that they alone possess the knowledge and skills to rectify the situation and must act on behalf of the greater community. From the Aristotelian perspective, then, engineers may be expected to display higher levels of courage in certain situations, but this is not necessarily supererogation.
In particular, Aristotle observed that it depends on the character trait in question whether the deficiency or the excess of a character trait is considered to be closer to the moral mean that we should strive towards. For instance, Aristotle claimed that cowardice (which is a deficiency of courage) is more dissimilar to courage than rashness (which is an excess of courage). However self-indulgence (which is an excess of temperance) is more dissimilar to temperance than insensibility (a deficiency of temperance). Aristotle believes that this occurs because one extreme is perceived as closer to the mean and extremes that are thought to be further from the mean are perceived as more contrary to it (Ross, 2013). For instance, rashness is thought to be nearer to courage than cowardice, and hence rashness is more praised than cowardice. Aristotle also believes that “we describe as contrary to the mean, then, rather the directions in which we more often go to great lengths” (Ross, 2013). In regards to courage then, in Aristotle’s view, a display of rashness will be praised more than cowardice. The danger inherent in a nuclear disaster would likely cause a strong desire to flee the site of the radiation in a reasonable person. Despite this natural inclination, the Fukushima engineers remained at the plant. Within the Aristotelian perspective then, the Fukushima engineers moved toward the moral mean in their behaviour.

The behaviour of the Fukushima engineers and their actions in a compounded disaster situation has generally been regarded by other engineers as heroic but morally required. In response, it might be argued that it is unjust to expect an engineer to risk their life (or to risk suffering a potentially slow and painful death from radiation poisoning in the case of the Fukushima engineers). However, this essay argues that nuclear engineering situations are likely to require ‘higher flights of morality’ than are recognised by other ethical perspectives or frameworks. For example, Von Herbert (cited in Baron, 1987, p.237) claimed that Kantian ethics requires only minimal ethics and ignores these higher flights of morality. Within Kant’s deontological approach, we should only act according to the maxims that could be universally accepted (DesJardins, 2014, p.38). Thus, Kant believes that the expression of moral duty is based on a universal moral law and does not consider ‘optional’ moral acts as in supererogation. Moreover, as a theory concerned with moral acts, Kantianism does not consider how dispositions and character traits may give rise to supererogatory effort (Dueck, 2008). Nonetheless, Alpern et al. (1983, p.41) suggest that there exists the ‘Corollary of Proportionate Care’ under which anyone in a position to contribute to greater harm in another person is subject to a higher standard of care than an ordinary citizen. Applying this principal, it can be argued that anyone who is in a position to affect public welfare must be willing to make greater sacrifices than others for the sake of public welfare. The implication for engineers is that because their practices greatly affect public welfare, the higher moral standard against which they are judged is simply the consequence of their social role, and is not supererogation. In choosing that occupation, an engineer should expect to have to exhibit moral courage in their everyday work, and it would be immoral to not accept that responsibility (Alpern et al., 1983, p.42).
To be sure, the engineers at Fukushima Daiichi plant worked within difficult circumstances. The Fukushima plant was not designed to withstand the natural disaster that occurred. A higher breakwater could have been built, the buildings housing the generators could have been waterproofed and the plant could have been located further from the sea (Davis, 2012, p.6). However, since these preparations were not made, the Fukushima engineers were forced to respond to a series of unforeseen events within the material limits of the plant and its resources. The Fukushima engineers risked their lives while they continued working to replace the batteries at the power plant. Davis (2012, p.10) states that fellow engineers believe that the Fukushima engineers who remained at the power plant “in the dark in cold waist-high radioactive water” exhibited courage. However, this courage was also required by their particular situation.

7. Other Factors in Professional Ethics

A key difficulty with professional ethics lies in the fact that professionals are subject to a variety of pressures from multiple relationships with various stakeholders. Engineers often work in teams (sometimes involving hundreds of other professionals) that share responsibility for risky technological projects (Martin, 1992, p.30). Nuclear engineers in particular not only face technical problem solving but are often also faced with choices that cannot be resolved on a purely technical basis (Geistauts et al., 2008, p.22). Geistauts et al. (2008, p.23) suggest a system dynamics approach when creating guidelines for engineering ethics, based on the proposition that obeying the law is a minimum standard or ‘floor’ for ethical behaviour and not the ‘ceiling’. However, morally reasonable people weigh factors differently and the manner in which the considerations are weighed depends on the situation (Martin, 1992, p.28). Additionally, engineers have personal obligations in addition to professional obligations. Martin (1992, p.28) asserts that these personal obligations are also moral obligations and that they legitimately interact with professional obligations, further complicating moral decisions.

Traditionally, professional responsibilities have been defined in terms of role responsibilities, or the minimal obligations which professionals take on when they enter a given profession. However, just as an individual’s personal life is morally relevant to professional responsibilities, so too are virtues that encourage higher aspirations than the minimum responsibilities (Martin, 1992, p.34). Given the likelihood that nuclear engineers must react to a nuclear disaster at some point, it may be useful to apply the ethics of disaster management to the nuclear engineering profession. Larkin and Arnold (cited in Dean & Payne, 2013, p.122) propose seven cardinal virtues that should be used in the disaster management decision-making process:

1. **Prudence**: practical wisdom

2. **Courage**: fortitude and acceptance of danger
3. **Justice**: fairness and equity, particularly in regard to the establishment of trust among stakeholders

4. **Stewardship**: appropriate management of someone else’s health and wellbeing

5. **Vigilance**: constant preparation and awareness of others and their needs

6. **Resiliency**: sustained competence under stress

7. **Charity**: generosity of self and self-sacrifice that exceeds what is expected within the social contract

Kingston (2012, p.2) notes that over the past two decades the increased frequency and intensity of natural disasters has heightened the need for disaster management planning. Clearly nuclear engineers should strive to develop the virtues of courage and charity because they are subject to a higher standard of care than other professions and it is reasonable to expect that they will be required to respond to a disaster at some point.

### 7.1 Implications for Society

Pybus (cited in Jacobs, 1987, p.96) argues that no action is ever too costly to be our duty, therefore there are no ‘cost-imposed limits’ on what can be morally required of us. Hence, no action can be truly described as ‘above and beyond’ an individual’s duty. Pybus further argues that since the saint and the hero are held up in contemporary society as exemplars of moral behaviour, and since heroic acts are perceived as praiseworthy, such acts are obligatory and ‘how man ought to be’. In other words, we are all “obligated to be as brave as it is possible for us to be” within our individual circumstances (Jacobs, 1987, p.96). Interestingly, Mellema (1991) claims that an individual who does not exercise this behaviour, which he terms ‘moral sensitivity’, can then be blamed for bringing about a bad state of affairs which could have been prevented, or for preventing a good state of affairs which could have been brought about. Ultimately, as Mellema (1991a, p.198) argues, everyone is capable of doing what is praiseworthy, and should be of service to society by living up to the expectations of a moral life.

### 8. Conclusion

This essay argues that while nuclear engineers may be forced to face risky or dangerous situations, this is not supererogation but what is morally required of a nuclear engineer within the social contract that they make with society when they enter the profession. Maintaining the welfare of society is a responsibility inherent in the nature of engineering. Thus, even though ordinary moral principles bind nuclear engineers, as they apply in a nuclear engineer’s risky circumstances these moral principles stipulate that engineers “nonetheless be ready to make greater personal sacrifices than can normally be
Moral Obligations of Nuclear Engineers in Disaster Situations

demanded of other individuals” (Alpern et al., 1983, p.39). While this behaviour may entail some personal sacrifice, this is not necessarily supererogation.

The nature of nuclear engineering work means that nuclear engineers’ professional obligations necessitate a readiness to exhibit professional moral courage, which this paper has elaborated in Aristotelian terms. The social contract to which nuclear engineers implicitly agree when entering the profession requires these people to be prepared to face dangerous and potentially life threatening situations. The Fukushima engineers behaved the way they did because it is likely that they felt a moral responsibility to fix the problems at the nuclear power plant to protect the residents of Fukushima prefecture from further harm. The increased frequency and intensity of natural disasters, particularly in the past two decades, highlights the importance of disaster management and managing responses to catastrophic events like those at Fukushima. Given the likelihood of some form of nuclear disaster situation eventually occurring, the nuclear engineering profession should make use of disaster management ethical principles to guide engineers’ actions in morally ambiguous situations. The case of Fukushima and its engineers who risked their lives illustrates the importance of engineers who are prepared to meet the moral obligations for a safe and harmonious society. Contemporary society praises courage and heroic acts, and it is the moral duty of individuals to be as brave as possible within their particular circumstances in order to create a morally thriving society.

References


About the Author

Erin Muldowney was inspired to write this essay because of her personal association with Japan and her concern about the impact of the Fukushima nuclear disaster on the Japanese people. Erin recently graduated from Macquarie University with a Master of International Business and Master of International Relations. Erin’s studies have focused on the role that Japan plays in the Asia-Pacific region, in particular the relationship between Japan and Australia. In her spare time she is involved in various cross-cultural events and programs that promote Australia-Japan relations. In the future Erin hopes to be involved in work which facilitates international trade and productive international relations between Australia and Japan.
Should Employers use E-surveillance as a Workplace Control Mechanism?

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Abstract

The paper discusses the ethical dilemmas that arise from employers using e-Surveillance to control their employees in the workplace. It attempts to assess both sides of this ethical conflict: on one hand, employers’ justifications for using e-Surveillance; and, on the other hand, employees’ reasons for resisting e-Surveillance. Both points of view will be supported by legal, ethical and philosophical frameworks and theories. The paper argues that whether e-Surveillance is ethical or unethical depends on the circumstances in which the employees are involved in the surveillance process. In particular, ethical surveillance requires justifications that are sufficient to over-rule employees’ right to privacy, and conditions that ensure surveillance practices do not extend beyond moral bounds.

Keywords: E-Surveillance; Ethical Frameworks; Privacy; Moral theory; Rights-based Approach.

Submission Classification: Research Paper

1. Introduction

Technology has shaped the contemporary era, including creating new methods for employers to monitor their employees. These methods raise several ethical dilemmas. One clear example that will be discussed in this essay is e-Surveillance. According to the Legislature of New South Wales (2005, p.3), e-Surveillance is “the act of using software or other equipment that monitors or records the information input or output, or other use, of a computer, including, but not limited to, the sending and receipt of emails and the accessing of Internet websites”. In the last few years, there has been a dramatic increase in e-Surveillance. Australia spends more money per capita on workplace surveillance equipment than most other industrialised nations (Cripps, 2004). According to the Electronic Workplace Survey (Cooper & Hecker, 2012), 36% of employers monitor the contents of employees’ email and 52% monitor website visits. What if applying e-Surveillance as a way of control is causing damage to employees’ privacy? Can organisations avoid creating this ethical dilemma? Although many reports, journals and news agencies have discussed this issue, in Australia there is no national privacy legislation.
Only New South Wales and Victoria have enacted workplace privacy laws. However, according to Sempill (2001, p.111):

Existing information privacy legislation is insufficient to address the concerns raised by e-Surveillance. In New South Wales, common law acts to both legitimise and limit the use of surveillance in the workplace. It does this through the express and implied terms of an employment contract, through property laws, the general duty of care and unfair dismissal laws.

From an organisational perspective, of the 52% organisations in the Electronic Workplace Survey (Cooper & Hecker, 2012) that monitored website visits, only 35% had a policy on internet use. Where a policy exists, just 33% of organisations provided training in implementing that policy. Only half (51%) of employees were aware of what the personal information held by their employer was used for, and just 53% knew who in the organisation had access to this information. Finally, only 57% of organisations had a privacy policy, and approximately 6 out of 10 employees had read the policy. These results show that while surveillance is widely used, there is little understanding by either employers or employees about how it should be used. As a result, there is an underlying conflict in contemporary workplaces between different points of view.

This paper attempts to assess both sides of the ethical conflict. The remainder of the paper is organised as follows. Section 2 will discuss employers’ justifications for using e-Surveillance, while Section 3 will outline employees’ arguments against e-Surveillance. Both points of view will be supported by legal, ethical and philosophical frameworks and theories. Section 4 will review both sets of arguments to determine when surveillance is justified. The objective of the paper is to analyse the ethical implications of new methods by which employers can control their employees. The paper will introduce a contractual perspective to explain when employee privacy is violated. Finally, the paper will provide recommendations to employers on when they can ethically use e-Surveillance as a means of control while incorporating the ethical perspective of their employees.

2. Employers’ arguments for surveillance

2.1 Liability: reducing exposure to risks

The primary reason cited by employers for conducting e-Surveillance is to minimise legal liability arising from employee misconduct, such as sending harassing e-mails and illegal downloading (Porter & Griffaton, 2003). E-Surveillance prevents the misconduct by identifying it before the employee or organisation becomes formally accountable. One example of how e-surveillance helps the organisation avoid legal liability is a case that appeared before the Australian Industrial Relations Commission (AIRC), which is an independent national tribunal dealing with employment issues. The AIRC upheld the
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The dismissal of an employee who was found to be sending pornographic e-mails to a female staff member. Moreover, the AIRC (2010) stated that without the implementation of e-surveillance in the workplace, the misconduct would not have been discovered. Another example is where the Canadian Imperial Bank of Commerce (CIBC) sued nine former executives after they defected to a brokerage called Genuity Capital Markets. The CIBC accused the executives of a conspiracy to solicit colleagues from the bank and to take confidential information with them to their new employer. The CIBC submitted numerous BlackBerry e-mails and PIN messages as evidence that confidential information was taken from the bank, and that solicitation of employees occurred while the executives were still employed by the bank (McHardy et al., 2005). Addressing legal liability arising from these kinds of employee misconduct will motivate the employer to use e-Surveillance within the workplace.

According to a consequentialist ethical theory called ethical egoism, using e-Surveillance to reduce risk can be seen as a moral action. In this theoretical framework, it is necessary and sufficient for an action to be morally right if it maximises one’s self interest. Hence, an employer can legitimately forget about employee privacy and look after their self-interest. In this case, self-interest refers to decreasing the legal implications of acts that can cost the employer a substantial amount of money. As Pierce and Henry (2000, p.307) note:

Unethical acts and the related discipline of them can consume enormous amounts of organizational human and financial resources (e.g. lawsuits, effects of employee morale, compromise of corporate information) and may lead to unfavourable public images of the organization.

Thus, E-Surveillance can ensure that the organisation complies with the law and avoids possible liabilities and associated costs that employees’ actions can create.

2.2 Productivity: control & performance

A second justification for e-Surveillance is to reduce non-business use of the Internet (Turri et al., 2008), and thereby increase an organisation’s productivity. According to the Electronic Workplace Survey (Cooper & Hecker, 2012), 31% of employees used social networking sites during work hours, with 94% of employees indicating that Facebook was the main social network they used. Moreover, 42% employees stated that they used social media only for personal activities, while just 14% used it for work-related activities.

According to utilitarian ethical theory, whether an action is ethical depends on the consequences of the act. In particular, an ethical action will maximise overall happiness; or, produce the greatest good for the greatest number. Utilitarianism is considered a form of consequentialist ethics. Acts that accomplish or have as a result the greatest good are ethically and morally acceptable; those that do not accomplish this aim are not acceptable.
E-Surveillance in workplaces could contribute to the overall good by maximising efficiency. By having control over what their employees are spending their time on at work, organisations might achieve more of their tasks and strategies, and consequently better meet the organisation's overall objectives. It might then be argued that employees should support e-Surveillance insofar as it improves the organisation's performance, since being loyal to an organisation entails wanting it to be as productive as possible.

Based on a utilitarianism perspective then, the intrusion by the employer into employees’ privacy could be justified if this ‘invasion’ maximised the productivity of everyone in the organisation, and if the incursion is carried on in order to guarantee that the employees are performing the daily tasks and responsibilities that the employer adjudicates. Increasing efficiency at work could also benefit society more broadly by producing more goods, lowering costs and increasing a country’s economic growth.

2.3 Security: protecting the organisation

The third potential justification for e-Surveillance is protecting the organisation as a whole. Most security breaches come from knowledgeable insiders, not random hackers from the outside (Wakefield, 2004). E-surveillance might work as a control to prevent frauds from occurring. Warfield & Associates (2012) present the findings of a 2012 Australia-wide study into fraud perpetrated by employees. In their report, 89 cases were identified involving 93 employees, who stole a total of $383 million. One implication of E-surveillance is that employers will have a greater capacity to detect employees’ frauds. From a utilitarian perspective, it can be argued that e-Surveillance is a successful and ethical way to protect the organisation from such threats. In particular, e-Surveillance will help the employer secure important, proprietary and confidential information from unauthorised employees’ access that can have profitability and illegal implications.

3. Employees’ arguments against surveillance

3.1 Unethical Surveillance: An invasion of privacy

3.1.1 The Concept of Privacy in the Workplace

Privacy in the business environment can be broadly understood in two different ways: Privacy as a right to be “let alone” within a personal zone of solitude, and privacy as the right to control information about oneself (DesJardins, 2014). In addition to these understandings, it is possible to draw from Cho (1999) and Peslak (2005) five different types of privacy that can clarify how e-Surveillance affects the rights of employees’ privacy.
These are as follows:

- **Physical privacy:** is the state of privacy in which persons are free from unwanted intrusion or observation;

- **Information privacy:** is the desire to have control over the conditions under which personal data is released;

- **Interactional privacy:** which Cho (1999) describes as “relevant to relationships in social units as it preserves meaningful communication between individuals and among group members. It protects communication between individuals and group members are at risk when companies practice employee surveillance”;

- **Personal privacy:** a person has the “right to be left alone, freedom to do what we want on our own time”; and

- **Mental privacy:** the idea that we have the freedom of speech, and we should not be subject to self-incrimination, to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Although not all the forms of privacy listed above are relevant to work, they confirm that people’s different understandings of what privacy is all tend to conclude by referring to an invasion of a person’s freedom. Therefore, e-Surveillance can be viewed as a threat to the right to privacy that employees have. In addition, surveillance might also decrease employees’ productivity and well-being. For example, Hartman (1998, p.16) reports that “studies have demonstrated a link between surveillance, monitoring and psychological and physical health problems, increased boredom, high tension, extreme anxiety, depression, anger, severe fatigue, and musculoskeletal problems”.

### 3.2 The Application of Theory to Privacy

#### 3.2.1 Moral theory: Is privacy an essential component of morality?

In Australia, e-Surveillance is a legal method that can be used in the workplace to monitor employees. However, the fact that something is legal does not automatically make it ethical. Schulman (2010) cites Michael Meyer’s explanation of employees as autonomous moral agents. As an employee, you have rights that can be applied in the workplace. Meyer argues that one of the most important rights is not to be used by the employers only as a means to increase overall profits. From this perspective, acts like e-Surveillance can be viewed as unethical. Employees are more than just ‘things’ that can be used to maximise wealth in an organisation. People have autonomy and the capacity to make ethical decisions. E-Surveillance used to monitor employees will treat them as a means, taking away their privacy and changing the workplace to an environment more like a prison.
3.2.2 A Rights-based Approach: To what extent can employers take the right of privacy from employees by applying e-surveillance?

To what extent employees have the right to privacy in the workplace is a matter of considerable debate (Lasprogata et al., 2004; Persson & Hansson, 2003). The rights-based approach is another method of assessing the extent to which employers can apply e-Surveillance to their employees without violating their right to privacy. Valesquez (1998, p.1) suggests that an “ethical action is the one that best protects and respects the moral rights of those affected”. Miller and Weckert (2000, p.256) state that privacy is a “moral right that a person has in relation to other persons and with respect to the possession of information by other persons about him/herself”. On these approaches, e-Surveillance is unethical because it tends to undermine the moral right of privacy. Viewed within the rights-based approach, e-Surveillance will undermine the right of employees to make their own choices and so is not the right way to control employees’ behaviour in the workplace even if it has other benefits. As Miller & Weckert (2000, pp.257-258) explain:

There are other important things in life besides efficiency and profitability. In particular, there is the right to privacy. The existence of the right to privacy, and related rights such as confidentiality and autonomy, is sufficient to undermine extreme views such as the view that employees ought to be under surveillance every minute of the day.

But, what will happen if employees are informed of the application of e-Surveillance in their workplace? Can the employers legitimately ask employees to submit to e-Surveillance, and is it moral for employees to consent to e-Surveillance? According to the Legislature of New South Wales, e-Surveillance is legal if the employer advises the employee at least 14 days before e-Surveillance commences. The notice must indicate the kind of e-Surveillance to be carried out, how the e-Surveillance will be carried out, when the e-Surveillance will start, whether the surveillance will be continuous or intermittent and whether the e-Surveillance will be for a specified limited period or ongoing (2005).

However, according to a rights-based approach, even e-Surveillance to which employees’ consent will be considered unethical and immoral. As DesJardins (2014) states, the moral right of an employee will be affected in circumstances in which central human interests are jeopardised by the actions of the employer. From this perspective, employers need to recognise that the application of e-Surveillance in their workplace - even with the consent of the employee - will threaten their employees' interests and rights. Moreover, even employees that accept e-Surveillance may be forced to act against their moral rights because of the fear of losing their job if they do not.
4. Discussion and Conclusion

Using e-Surveillance to control employees during work hours creates multiple ethical and moral dilemmas. Therefore, employers need to have an ethical as well as legal justification for applying this method in the workplace. This paper has provided a structured account of the debate over e-Surveillance as a means of controlling employees at work. The paper has presented the two sides of the problematic: employers’ rationale for surveillance and employees’ reasons for opposition. Providing ethical, legal and philosophical perspectives on both sides provides an opportunity to review the manner and the extent of e-Surveillance that a company can legitimately employ in order to address the issues raised by employees in a way that is productive, cost effective, legal and ethical.

One way to reconcile the arguments described above is to argue that E-Surveillance will be acceptable in the workplace only if a justification can be provided that is sufficient to outweigh the individual’s claim to privacy, and if certain conditions are put in place that ensure surveillance does not go beyond moral grounds. The justification needs to ensure that, by intruding in employee’s privacy, the employers’ objective is to ensure that employees perform the daily activities and responsibilities they owe to their employer. Moreover, these responsibilities will need to be made explicit in the employment contract.

Another potential justification is that the invasion of privacy must have the purpose of protecting the employee’s own interests as well as the organisations. The interest in matters mentioned above is the moral responsibility of the employer. Finally, the intrusion is justified if it uses the least means to achieve its intention. Using the ‘least means’ refers to using the least amount of e-Surveillance that can be applied to employees in the workplace to achieve productivity and efficiency whilst trying to cause the smallest invasion of privacy. In dealing with the managerial and ethical concerns set by the application of e-Surveillance, care must be taken by employers to balance the objectives of boosting productivity and profitability, protecting the organisation and maintaining employees’ morale. On the other hand, e-Surveillance applied by the employer will be immoral and unethical if employers infringe upon personal decisions that are irrelevant to the employment contract, or if employers collect, store or use personal information that is irrelevant to that contract without the consent of the employees.

One possible way to avoid employers acting unethically is to create valid contracts that rely on ethical principles, and which establish the limits of e-Surveillance and privacy within the workplace. In a valid contact, both parties - employers and employees - must be informed, must understand and agree on the conditions and must freely enter into it, without a party forcing the other party. As a consequence, employees will consent to what methods of collecting personal information employers use, and be aware of who knows about this information and has access to it.
However, a difficulty with a legalistic model is that an appropriate national regulation that protects employees’ privacy rights does not exist. For example, current legislative and other measures in Australia do not sufficiently address the privacy concerns raised by the increased use of sophisticated monitoring technologies in the workplace (Watt, 2009). Watt (2009) argues that analysing existing and proposed initiatives in both state jurisdictions will assist the development of a comprehensive national legislative strategy to regulate e-Surveillance in Australia workplaces. The legislation will protect employees’ privacy rights whilst providing employers with the opportunity to conduct a reasonable level of e-Surveillance.

This article has shown that while there are arguments for and against e-Surveillance, there is not one agreement that is morally right for all people in all situations. Consequently, an important feature of employment surveillance is what the parties agree to. If the employer gives a promise of privacy, then that should be respected. If, on the other hand, the employer reserves the right to read e-mail or monitor internet browsing, the worker can either accept those terms or look for employment elsewhere.

References


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Should Governments Bailout Failing Companies?

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ABSTRACT

In the wake of the Global Financial Crisis (GFC) there remains much ethical debate about whether it is ethical for governments to bail out failing companies. This paper will examine the issue from three separate ethical standpoints. The paper finds that bailouts are largely unjustifiable from both Kantian and virtue ethics perspectives. However, a more practical utilitarian perspective provides potential justifications due to the broader economic and social benefits bailouts can deliver. The paper reviews the potential ethics criticisms and justifications using case studies of two major companies - General Motors (GM) and American International Group (AIG) - to support the analysis.

Keywords: Bailout; Global Financial Crisis (GFC); Utilitarianism; Kantianism; Virtue Ethics.

Submission Classification: Research Paper

1. Introduction

The Global Financial Crisis (GFC) that occurred between 2007 and 2008 has been described as the biggest economic crisis in 80 years. Its effects and consequences were felt throughout the world, and indeed, still influence contemporary economies and societies. One of the most controversial actions of the crisis and its immediate aftermath was the United States (US) government’s decision to bail out companies such as AIG, Enron and General Motors (GM), whose business practices are often considered responsible for the crisis itself. Overall, the US government provided $700 billion dollars to its failing companies. The economics of this decision have been highly debated. Some argue that governments are ill-equipped to make such significant investments effectively. Others point to the high economic growth in countries such as China whose governments tend to play a more active role in industry.

However, whilst economic debates are important, it is equally necessary to consider this issue from an ethical perspective. The primary question this article seeks to address is whether governments can ethically justify financially intervening to support failing business enterprises. These bailouts are considered in the context of three ethical frameworks: (i) Utilitarian/consequentialist; (ii) Kantian/deontological; and (iii) Virtue ethics.
By analysing bailouts in light of these theories, a conclusion will be reached regarding the adequacy of different ethical justifications for, or criticisms of, this practice.

The paper is organised as follows. Section 1 briefly outlines the details of our two primary case studies, the US government bailouts of AIG and GM. Section 2 examines the ethics of these bailouts within each of the three frameworks noted above. The paper concludes by comparing each analysis. It finds that whilst utilitarianism may appreciate some of the practical benefits that bailouts provide, they are nonetheless significantly flawed from both Kantian and virtue ethics perspectives.

2. An Overview of Major US government Bailouts

As a whole, the bailouts that followed the GFC largely arose from that fear that if certain corporations were to collapse, it would have a catastrophic effect on employees, as well as other businesses which rely on or contract with these companies. Given the scale of the crisis, drastic action was considered necessary to prevent further economic downturn. These motivations are reflected in the case studies outlined below, which cover two of the largest US bailouts.

2.1 The AIG Bailout

AIG is a company that provides a wide range of financial, asset and insurance related services. Prior to its collapse, AIG held a market capitalisation of $150.7 billion in 2007 (Sjostrom, 2009, p. 946), and had extensively grown its financial services. Among the services it offered was one known as a ‘credit default swap’ (CDS), a financial instrument which essentially provides insurance for large investments (Sjostrom, 2009, p. 948). As the investments that CDSs cover are unlikely to fail under usual circumstances, AIG was able to make a large amount of profit selling these policies whilst rarely having to provide payouts. This all changed after the sub-prime mortgage crisis of 2006, when many of the investments that failed in this unprecedented crisis were covered by AIG’s CDS contracts. Suddenly, AIG was expected to provide insurance payouts worth billions more than they actually had available (Sjostrom, 2009, pp.959-963). This created a major problem: if AIG could not pay back the money they owed, many of the companies who had taken out insurance with them would likely also face bankruptcy. Fearing widespread economic disaster, the US government expended a total of $160 billion to prevent AIG’s collapse (Arnold and Harris, 2012, p. 83).

2.2 The GM Bailout

GM is a company that designs, manufactures, distributes and finances motor vehicles. GM was a global leader in these areas for much of the 20th century, owning a number of highly recognisable brands (e.g. Pontiac, Chevrolet and Saab), and selling nearly
450 million vehicles throughout their history (Estrada, 2011, p. 1111). However, despite its global recognition and large distribution network, GM’s profitability gradually declined over the last few decades. This is due to numerous factors, which include: high legacy costs; a failure to innovate in the face of growing international competition; and, a focus on heavy, inefficient and expensive vehicles despite growing environmental concerns and economic downturn (Estrada, 2011, p. 1128). Although GM was able to rely on loans to support itself for a period, restricted credit availability following the GFC forced it into bankruptcy (Estrada, 2011, p. 1129). Given the high number of Americans employed by GM, and the large number of suppliers which relied on its business, the US government again feared that if GM were allowed to fail, the flow on effects to other sectors of the economy would be catastrophic. As such, the US government provided funds to prevent such a collapse from occurring, with the condition that certain elements of GM’s organisation and practices were altered for greater stability (Estrada, 2011, p. 1132).


Having outlined significant case studies, the ethical aspects of corporate bailouts are now analysed using three mainstream ethical frameworks.

3.1 Utilitarian Ethics

As a ‘consequentialist’ ethical theory, utilitarianism judges the ethical merit of an action or decision according to its effects. More specifically, ethical decisions are those that bring the greatest aggregate happiness to the greatest number of people. To effectively determine aggregate happiness, the effect of an action on all affected stakeholders must be considered, and then aggregate pleasure or pain calculated.

One recent example which may be used to consider bailouts under utilitarianism is that of GM. First we must identify the stakeholders. Here these include the government (providing the bailout), the company (including shareholders), the workers, other companies, customers, the taxpayer, and to an extent the market. Now we must consider the consequences of the action and the happiness subsequently generated to each stakeholder group. One complication in the utilitarian school of thought is that there are different notions of what constitutes happiness. For example, Jeremy Bentham found pleasure to merely exist as a quantitative concept (Quincey, 1980, p. 461); believing all types of pleasure to be equal. By contrast, John Stuart Mill found pleasure as having the ability to be distinguished in a qualitative sense into categories of higher and lower orders (Quincey, 1980, p. 467). Mill’s view is most relevant to the GFC, because his approach provides a justification for ranking the quality of the happiness in determining the overall ethical merit of the action. Although not Mill’s own position, if the ranking of happiness can include a qualitative assessment of the value of different types of happiness (Quincey, 1980, p. 467), it can be argued that the happiness of the company and its
shareholders is the least valuable, since they generated the risk leading the company to failure. Therefore, it is unethical for their happiness to be given priority over other stakeholders. This was a significant issue following the GFC, as companies such as AIG diverted millions from their bailouts to bonuses for the executives that caused the failure.

Nonetheless, even excluding the market and the taxpayers, bailouts are generally considered positive for most stakeholders (Painter, 2010, p. 132). In terms of the GM bailout, there were positive effects for the government and their constituents, as the bail‑outs arguably prevented a rise in unemployment and the discontent and welfare costs that follow. There was also a positive effect on the company as it did not go bankrupt and could continue operating. This also benefited the workers who do not lose their jobs. Customers wishing to purchase GM products were positively affected as they are able to do so without the difficulties associated with discontinued goods. Furthermore, many companies that are reliant on GM’s existence at other points in the supply chain, such as suppliers of parts and metal, car dealerships and associated services, were positively affected through the continuation of this custom. Thus, overall, a large amount of aggregate happiness is provided ‑ or suffering avoiding ‑ for parties that were not directly responsible for the corporate failure, but nonetheless were likely to feel its impact.

Yet corporate bailouts do not positively impact all stakeholders. Taxpayers suffer in the sense that their taxes are being placed into private enterprise rather than publically beneficial ventures. This, however, is less direct and thus less damaging than the possible adverse effects on other stakeholders. A further negative impact of corporate bailouts is on the market. Painter notes that bailouts lead to a lack of predictability in the market and thus lower stability, potentially hindering investment through lack of confidence (Painter, 2010, p. 134). However, this would be difficult to demonstrate, given all of the economic factors present.

In summary, a utilitarian approach suggests that successful corporate bailouts provide significant aggregate benefits in comparison to letting large companies fail. Furthermore, the negative effects are both relatively minimal and indirect. Thus, from a utilitarian perspective bailouts in dire circumstances hold ethical merit.

### 3.2 Virtue Ethics

Another ethical approach to consider is that of virtue ethics. Virtue ethics is typically derived from Aristotle's ethical philosophy, which suggests that rather than applying ethical judgements to individual decisions and actions, one should focus on the characteristics that individuals possess and that are reflected in their actions (Desjardins, 2014, p. 42). Aristotle argued that the individual’s ultimate goal was to achieve ‘eudemonia,’ or ‘the good life’. To do so, one must seek to foster characteristics which are virtuous, whilst rejecting those which embody vice (Desjardins, 2014, p. 43).
Obviously, one concern in applying virtue ethics to corporate bailouts is the degree to which it may be applied to interactions between corporate and government bodies. Concepts such as ‘individual characteristics’ and ‘eudemonia’ seem difficult to apply to abstract entities like institutions rather than people. One response to these concerns is Marcia Kurzynski’s analysis of the role of virtue ethics in modern business practice (Kurzynski, 2009, p. 357). Kurzynski focuses on business managers and corporate executives, and the characteristics that these leaders of institutions embody in determining company policy and direction. Rather than adopting the particular and arguably archaic list of ‘virtues’ favoured by Aristotle, Kurzynski formulates a set of characteristics that are - in her view - more applicable to modern business management. These include foresight and high standards of workmanship and consistency, which she argues are important for effective and successful corporate management. In turn, the goal of effective management serves to replace Aristotle’s emphasis on eudemonia in a corporate context (Kurzynski, 2009, p. 370). Kurzynski’s approach provides one template that could be used to consider the ethics of corporate bailouts; namely: whether bailouts reflect or realise some or all of these virtues in the leaders of the institutions involved.

In assessing the effects of bailouts on business virtues, one key economic argument - from Milton Friedman for example - is that the failure of businesses which pursue unsustainable practices is an inherent element of market regulation (Lothian, 2009, p.1092). The consequences of failure mould the characteristics of executives, driving them to be more careful and considerate when making business decisions. If these consequences are removed, as in the case of a government providing a financial ‘safety net,’ so too is the positive influence they provide on executives’ character. The idea that business failure provides a form of moral discipline is also central to Cornelia Woll’s (2013, p.610) criticism of US bailouts of large financial institutions following the GFC, where she asserts that ‘capitalism without financial failure is not capitalism at all, but a kind of socialism for the rich.’ Hence, she argues, by saving failing companies from collapse, the governments are merely encouraging the managers of these businesses to continue to operate in the same manner as before. Of course, whilst the actual executives present during bailouts may be removed from their positions, these severances are generally accompanied by ‘golden parachute’ retirement packages, which provide successors with little reason to change their personalities or practices (Yahanpath, 2011, p.71).

What characteristics, then, were embodied in the practices that lead up the Global Financial Crisis of 2007 and 2008? Kurzynski (2009) is highly critical of the characteristics displayed by those managing the failed companies. She asserts that ‘business executives have become so focused on managing the bottom-line that they have lost a sense of responsibility for the well-being of the industry, the employee and society in general’ (Kurzynski, 2009, p. 358). This is reflected through the collapse and bailout of GM, which Freedman and Blair (2010, pp. 105-109) claim was largely the result of poor executive practices and characteristics. These features include: a lack of innovative thought; unwillingness to cease relying on unstable business environments; inability to learn from
mistakes; and, over-confidence. Excluding over-confidence, it is difficult to discern how these would be judged from an Aristotelian conception of virtue and vice. However, in the context of successful and effective business management, these would certainly constitute a vice; and moreover, a vice for which there is no ‘natural’ or market corrective.

In summary, as the failures of corporations are largely the result of the ‘vices’ of their executives and managers, the negation of consequences for these failures caused by bailouts means they will inevitably encourage the continuation of the characteristics that caused them. As such, it is likely that government bailouts of corporations would be deemed unethical under a modern virtue ethics model.

3.3 Kantian Ethics

The final approach to consider is Kantian ethics. This approach is principle-based, focusing on the intentions of an action rather than its results (Desjardins, 2014, pp.37-38). Within this ‘deontological’ approach, Kant provides three formulations of the overarching rule or ‘categorical imperative’ that all must follow if they are ethical. It might be argued that the distribution of bailout money to executives following the Global Financial Crisis was highly unethical; for example, Steiner (2011, p. 605) asserts that this distribution reflected ‘disproportion, disconnection and inequality’. However, following the Kantian approach, this analysis will focus on the ethical quality of the principles behind the bailout itself, rather than these consequences.

The first formulation of Kant’s law of ethical action states that one must only perform actions whose ‘maxim’ (intention) could be universally undertaken. In other words, one must not make exceptions for one’s own actions that one would not make for others. Evidently, it would be highly impractical for the government to support every failing company: it would create an astronomical cost to taxpayers, and remove all need for caution or consideration on the part of investors and business managers. The impossibility of bailing out all companies is reinforced by the degree to which ‘chosen’ companies were financially protected. For example Arnold and Harris (2012, p.83) note that Goldman Sachs received ‘100 cents on the dollar’ for money lost in the 2008 AIG collapse, with AIG itself receiving $160 Billion in total. Such intervention is unsustainable on a universal level, and thus could not form a general rule. Hence, it could be argued that these actions are unethical under Kant’s first formulation.

In response, it might be argued that the US government’s actions during the bailouts have a more limited and precise justification. Specifically, it might be more accurate to define the government’s maxim as one of only bailing out companies who are ‘too big to fail’ (Kellerman, 2011, p. 331). This refers to companies whose commercial presence is so large that if they were to collapse, the ‘domino effect’ on suppliers, customers and employees would likely cause wider economic disaster. The principle of just bailing out those companies whose collapse would have potentially catastrophic results is one that
could arguably be universalised, given its relatively limited scope, and seems reasonable to endorse in light of the disastrous consequences that may arise if these businesses are allowed to fail. Nonetheless, given the magnitude of the costs involved in these bailouts, even this more limited rule could be ‘universalised’ only if a small number of companies required financial support at any given time. Given the aforementioned ‘domino effect’ that has occurred in times of economic crisis, this will not necessarily be the case (Markose, 2012, p.632). Furthermore, even if bailouts are reserved for extremely large companies, it still creates a situation in which the need for caution and consideration is seemingly removed, especially for creditors, who see their return as guaranteed by the government (Kellerman, 2011, p. 333). Thus, it could potentially be argued that even this narrow definition of the maxim would be deemed unethical under Kantian ethics as it would not be endorsed by the fully rational agent.

The second Kantian formulation asserts that one must not treat others as a means to an end, but always as ends in themselves (Desjardins, 2014, p. 38). Hence, each person is to be treated as an equal, autonomous individual, with no person’s rights superior to any other. Once again, significant ethical issues arise in the context of corporate bailouts on this formulation. Here, executives and managers have made autonomous decisions which have led to the collapse of their companies; this, whilst unfortunate, is ethically acceptable. However, this ceases to be the case when public funds rectify the consequences of these decisions. Arnold and Harris (2012, p.86) emphasise this point by noting that bailouts drain money away from other public benefits or services, such as ‘health care, education, environmental protection [and] funding of the arts’. Furthermore, they argue that widespread loss of wealth and employment resulting from the corporate decisions that necessitated the bailouts further infringes autonomy (Arnold and Harris, 2012, p. 88). Thus, by using public money to support risky executive and managerial behaviour, governments are using the public as a ‘means’ to the ‘end’ of preventing subsequent corporate collapse. Therefore, it is unethical under Kant’s second formulation.

Kant’s third formulation asserts that one should act as if his or her decisions created law in a ‘universal kingdom of ends;’ thus treating others as subjects rather than mere objects. (Desjardins, 2014, p. 38) This is readily applicable to government bailouts, as the subject is already in a law-making position in practice as well as theory. One issue regarding government financial intervention is that of ‘moral hazard’. As noted by Surowiecki (2009, p. 40), this refers to the idea that if the government intervenes to prevent corporate failure, businesses will take more risks, considering themselves immune from financial consequence. Consider this in terms of GM: why would GM implement significant policy changes when they could continue to pursue risky and unstable practices, knowing the government would not allow them to fail? Furthermore, the role of the public must again be considered: following the GFC, bailouts were given to AIG and associated companies without congressional approval or disclosure regarding the amounts and recipients involved. Essentially, the public was treated as ‘objects,’ whose purpose was
merely to fund bailouts, rather than ‘subjects’, whose opinions and requirements deserve consideration by being included in the deliberative and policy-development process. Thus, bailouts of failing corporations are unethical under Kant’s third formulation.

In summary, there are no avenues within Kantian ethical theory through which government bailouts may be justified. Hence, such intervention is unacceptable under this approach.

4. Conclusion

This paper has shown the complexity of ethically evaluating government bailouts of failing companies by drawing out the varying judgements that different ethical approaches provide. Utilitarianism focuses on practical effects rather than principles, and thus finds ethical justifications for corporate bailouts on these grounds. However, virtue ethics and Kantian ethics favour more theoretical conceptions of ethics, thus finding bailouts largely unjustifiable on grounds of precept or principle rather than practice. These are all potentially legitimate ethical viewpoints. However, the sheer volume of criticisms levelled against bailouts, combined with the negative impacts on the market and taxpayers seen even from a utilitarian perspective outweigh the potential benefits they provide in all but the most drastic of circumstances. Bailouts allow companies to act in a careless and risky manner, encourage managers to place the ‘bottom line’ above all other considerations, and prevent executives who cause their companies to collapse from facing consequences for their actions. Furthermore, they are unsustainable at a universal level, exploit the public as a means to an end, and also tend to treat the public as objects whose only purpose is to fund such intervention, rather than as part of the deliberative process. As such, bailouts should only be sought in circumstances in which a failure to do so will lead to catastrophic economic consequences. Subject to inherent time restraints, the determination of whether or not this is likely to be the case is one which should involve extensive consideration of submissions by economists, industry experts, and representatives of all affected stakeholders.

References


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Evaluating Businesses’ Obligation to Promote Global Justice

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ABSTRACT

This paper uses alternative ethical theories to evaluate the ethical obligations of global businesses. The paper will analyse the employment practices of multinational enterprises (MNEs), particularly in developing economies, and assess whether the managers of these MNEs have broader obligations to maintain or improve global justice and global economic equality. MNEs have typically operated on the libertarian shareholder view of business ethics, which prioritises profit for individual shareholders or companies over collective social goals or responsibilities. However, this paper argues that appealing to the Kantian duty to respect human rationality and human rights is a more consistent and defendable moral stance, and calls for business to actively participate as leaders of societies’ best interests.

Keywords: Alternative Ethical Theories; Global Justice; Multinational Enterprises.

Submission Classification: Research Paper

1. Introduction

Multinational enterprises (MNEs) have greater economic and cultural influence than some nations, but seldom hold equivalent obligations and responsibilities. For example, a global comparison of countries’ gross domestic products (GDP) against companies’ revenues indicates that 45 of the largest 100 economies are companies (The World Bank, 2012; Fortune Magazine, 2012). Although the term globalisation is arguably over-used, the processes attributed to globalisation have amplified calls for more ethical business conduct. The accelerating growth of mass communication is making global injustice and economic inequality more visible. In turn, greater visibility of injustices increases stakeholders’ expectation that international businesses are operating on sound moral principles. This paper will investigate two particular ethical concerns that have risen in global business practice: (i) whether the employment practices of MNEs in developing economies are ethical; and (ii) the stronger claim that managers of MNEs have ethical obligations to ensure global justice and moderate global economic inequality. To investigate these areas, the paper will begin by outlining two competing theories of duty-based ethics: Immanuel Kant’s doctrine of respect for persons and a Libertarian
alternative (Section 2). These theories will then be used to address MNEs' obligation to the two ethical issues outlined above (Sections 3 and 4). The paper concludes by appealing to Kantian morality to argue that MNEs have an obligation to treat all their workers, including those in outsourced production, with dignity and respect, and an additional obligation to uphold and promote justice on a global scale.

2. Two theories of duty-based ethics

The two main ethical theories used in this paper are deontological, or duty-based. For these theories, what makes an action ethical is the principle by which it is motivated rather than its consequences, irrespective of whether these consequences are good or bad. By contrast, consequentialist ethical theories judge the morality of an action according to the outcome that it produces, independent of the actions taken to get to the outcome. For a philosophical argument to be sound and morally reasonable, it must harmonise multiple judgements with overriding principles that we hold in every relatable situation (Cohen, 2004). In turn, for an action or consequence to be considered good, it must be so in every situation otherwise the argument is inconsistent and therefore not sound. Deontological theories are more consistent with these criteria of soundness. Deontological theories are also simpler to consistently apply than consequentialist theories, as future outcome are often difficult to predict. The scale and complexity of global business provides one reason to use deontological theories for sound moral decision making in this context, and are therefore applied in this paper.

2.1 Kantian Morality

Immanuel Kant’s ethical theories are one standard approach to moral theory in modern philosophy, and have been widely analysed and applied. Kant argued that rational beings - those capable of independent decisions - have particular obligations in their actions towards other rational beings. This respect towards other’s rationality helps to support autonomy, value and the treatment of others as ends in themselves rather than merely a means to another’s end. (Kant, 1971). As discussed in Arnold and Bowie's *Sweatshops and Respect for Persons* (2003), Kantian morality can provide a strong case for MNEs having a moral responsibility to ensure decent working conditions in outsourced manufacturing, including when run by third parties. As section 4 will discuss, these types of analyses raise the question of whether Kant’s principles also support the claim that MNEs have a broader obligation to ensure global justice as a whole, in addition to acting justly in their own employment practices.

2.2 Libertarian Morality

By contrast to Kant, libertarian theory views individual liberty, or freedom, as the prime moral value. An action is permitted as long as it does not interfere with another person's
ability to live autonomously, where autonomy primarily denotes freedom from direct external control. Libertarian ethics - especially Nozick’s (1974) theory of entitlement - imply that MNEs do not have extensive obligations outside of serving the company’s fundamental goals (Shaw and Barry, 1995). The libertarian focus on freedom from control helps minimise violation of property rights and general interference with communities. More generally, libertarian ethical theories support private property ownership and the generation of wealth, as long as wealth is obtained without the violation of any negative rights (i.e. rights to non-interference), such as through coercion and deception.

3. Applying Deontology to Employment Practices

The use of outsourced manufacturing activities, typically within developing countries, has become commonplace as MNEs seek to reduce cost, maximise efficiency, free up their internal resources and make their production practices more flexible (Kakumanu and Portanova, 2006; Sourcing Line Computer Economies, 2014). Asia is an attractive location for outsourced production, with India, the Philippines and China the top outsourced locations globally due to their large, cheap labour force (Tholons, 2013a). Malaysia and Colombia have also seen recent strong growth within the region (Tholons, 2013b). However these five countries have been globally ranked as some of the worst countries in regards to workers’ rights. With no reliable enforcement mechanisms or recourse to workers’ rights legislation, workers in these nations are especially exposed to unfair labour practices and exploitation by their employers (International Trade Union Confederation, 2014). As the use of outsourced manufacturing operations has increased, the ability of national and global institutions to consistently uphold the rights of employees has fallen. This has resulted in instances of worker exploitation including - but not limited to - child labour and forced unpaid overtime. In the absence of appropriate regulatory systems protecting the interests of workers, it can be argued that MNEs themselves should voluntarily accept an obligation to ensure appropriate working conditions, pay and treatment for their employees. This section analyses the use of outsourcing and this argument in light of the two moral theories distinguished above.

3.1 Kantian Ethics and Outsourcing

Businesses have often been influenced by a broadly libertarian shareholder view of business and social responsibility, such as Milton Freidman’s (1970) influential view that business should act solely for the shareholders’ interests, which is presumed to be profit. By contrast, Evan and Freeman (1988) see business as a vehicle for co-ordinating stakeholder interests. The stakeholder view extends Kant’s principle that people are morally required to respect human rationality, and to treat all rational agents as ends in themselves rather than merely a means to another’s end. From this perspective, all stakeholders of a business - such as suppliers, employees, and local communities - ought to be respected and treated with dignity as autonomous beings capable of moral decisions (Evan and
The United Nations (UN) also frequently explains its view on human rights in broadly Kantian terms; and contends that persons - once employed - have additional rights that must be respected in their workplaces. Most notably, the 2000 UN Human Development Report claims that all people have a right to obtain work that can be considered ‘decent’. In particular, employees have a right to productive and satisfying work that develops their social standing through the enhancement of their dignity and self-esteem (United Nations, 2000).

The Kantian approach to workers’ rights as the basis of rational human dignity also underpins Arnold and Bowie’s (2003) argument that MNEs have obligations to workers in its manufacturing operations in developing countries, even if they are not legally obligated to do so. Arnold and Bowie (2003) claim that - in addition to following minimum safety standards and local laws - MNEs must ensure that they and their outsourced operations abstain from coercion and provide a liveable wage for employees. These companies are managed by individuals who ought to be making moral decisions within their power to respect the company’s stakeholders - including employees - who are in themselves individuals capable of free moral decisions. In particular, MNE managers have an ethical obligation to ensure their employees have decent working conditions as long as these decisions are within the manager’s reach, control or influence through their company. At the organisation level, it is well within most MNEs’ ability to ensure that decent standards of respect and morality are being maintained for its employees in its outsourced operations. It can also be argued on similar grounds that a relationship exists between MNEs and their agents overseas as they conduct business, which requires an extension of responsibility over each other’s actions and a shared and full liability for any moral wrongs (Santoro, 2000). That is, the appointment of an agent does not exempt the appointer of that agent of any of the moral obligations they previously had, and must continue to appeal to legal and moral requirements. By appointing agents and gaining mutual benefits from the relationship, MNE managers maintain their duty to treat associated third party’s stakeholders as their own.

### 3.2 A Libertarian Alternative

A libertarian model of justice contrasts with Kantian theory by arguing that managers have no special responsibility towards their employees to better their livelihoods, regardless of if they come from disadvantaged communities. Whilst libertarian theory does entail that any clear legal violations and exploitations should be dealt with within a proper judicial framework, larger issues of global justice - such as economic inequality, poverty and unsafe workplaces - are not the responsibility of MNEs or their managers to address in the absence of legal compulsion to do so. What underpins this position is what libertarians term the principle of liberty, in which individuals should be allowed to live and act out their life free from interference from others (Shaw and Barry, 1995). Coercion from all levels of society is thus morally subordinate to the promotion of individual rights and
freedom. Shaw and Barry (1995) highlight how in Robert Nozick’s paradigmatic libertarian theory of entitlement, there is no requirement to use holdings and property acquired by fair means for the benefit of others. Friedman’s (1970) narrow view of the obligation of businesses as solely to maximise profit is also partly driven by libertarianism. Applying this idea to MNEs entails that MNE managers are only required to make decisions that are in the best interests of company profit and growth, allowing managers to disregard stakeholder’s interests from moral deliberation. The managers, acting on behalf of the owners or shareholders, have no obligations to improve global justice with their capital, provided that this capital was fairly acquired and is used within the law.

However, despite the influence of Nozick’s theory, there are aspects of his theory of entitlement which do not fit well with the use of manufacturing in developing communities. Much of the manufacturing that is outsourced involves manual labour, and libertarian ethics teaches that the worker acquires moral entitlements over the products they create (Shaw and Barry, 1995). Yet within an MNE’s use of manual labour, the company retains ownership and control of all input and output. Thus, regardless of the level of input by an employee, employees do not obtain any moral entitlements over the products of their work. To be sure, within the libertarian model the transfer of goods from the labourer to the MNE must still be considered fair - i.e. without overt coercion - for the MNE to be entitled to the produced good and its profit. Therefore it may appear that MNEs retain a moral requirement to keep the relationship between themselves and the labourer fair and just in this sense. However how far this requirement reaches, and what constitutes a fair transaction for the employee, is contestable. For example, it appears neither fair nor just that MNEs are able to outsource their operations to take advantage of other countries’ relatively lax labour laws. Moreover, enough instances of negative rights violation have occurred globally to show that a laissez-faire approach will lead to increased cases of exploitation of employees and communities in practice, and that transparency and active responsibility of outsourced operations in MNEs is a more effective approach (Nisen, 2013). Against this background, an appeal to Kantian ethics provides a more consistent overriding principle on how to view MNEs’ obligations to manufacturing in disadvantaged communities.

4. Do MNE’s Have Broader Ethical Obligations to Global Justice?

Whilst there is a strong case that MNEs have moral obligations to employees in offshore manufacturing, the extent to which managers should actively participate in promoting global justice more broadly is a more difficult to determine. John Rawls (1971) and Thomas Pogge (2010) are two influential advocates of social justice that reject a libertarian model of society, although for substantially different reasons.
4.1 Pogge on Global Justice

Historically speaking the concept of *global* justice is relatively new, having emerged as the world becomes more connected and interdependent due to globalisation processes. In moral and ethical theory, global justice is mainly concerned with distributive inequality, or global poverty, rather than other human rights concerns. Pogge (2010) views global poverty as especially morally significant because it is an *unnecessary* catastrophe of human suffering and death. He provides three main reasons for this view. First, it would be relatively easy to eliminate life threatening poverty with an increase of 2% in the average global household income. Second, global inequality is worsening rather than improving despite global economic growth. Third, the international activity of MNEs - including through treaties and conventions - contribute to this global inequality (Pogge, 2010).

In Pogge's view, the shift of global power towards MNE’s should result in these organisations exercising greater moral responsibility, but in practice has not. The power of independent states is slowly decreasing as a national sovereignty is challenged by more influential non-sovereign institutions such as MNEs. Corporations are able to transcend across now meaningless national boarders; and have an increasing and unavoidable impact on the private lives of individuals. As governments of smaller nations have progressively less choice over their involvement with MNEs as they attempt to grow their economies, MNEs should begin to take on some of the roles of the government by representing the best interests of the communities in which they operate. Pogge (2002) calls this condition the democratic requirement, because it implies that for an economic system to be just it cannot be controlled by a powerful minority - even if this minority purports to act in the interest of the majority population.

Do contemporary societies, and MNE’s in contemporary societies, satisfy the democratic requirement? It is safe to argue that these communities seek - among other things - fair, satisfying and meaningful work that helps improve their stance and autonomy in society. Hence, a more democratic system of corporate power should incorporate improved working conditions and greater access to resources. This stance also upholds Kant’s obligation to respect individuals’ attempts to improve socio-economic standing through seeking fair work. Pogge (2010) also argues that the importance of global justice reaches beyond philosophy, because a clear concept of global justice can enable citizens globally to understand and articulate their own moral rights and responsibilities. Narrower theories of social responsibility may argue that businesses have no responsibility beyond compensating any violations of negative rights. However this is not a convincing argument to maintain while MNEs gain a competitive business advantage through the use of cheaper operating costs provided in developing countries, exploiting the liberty of the local community by limiting their rightful access to fair and decent work.
4.2 Local Justice on a Global Scale

Pogge uses a strong concept of moral universalism to defend his view that businesses have an obligation to promote global justice. Rawls, despite being a strong advocate of the principle of distributive and social justice within national boundaries, is remarkably conservative on the issue of global distributive justice. Rawls (1993) argues that different moral principles are necessary for guiding actions on the national level and on a global scale. Moreover, Rawls claims that the principles he applies to internal, domestic justice are incompatible on a global scale, and are not sustainable throughout an MNE’s operations (Rawls, 1993). For example, Rawls claims that the nation state is better prepared to internally implement the principle of justice without a potential burden being placed on other actors (Rawls, 1993, see also Stoian, 2012). Thus, it appears that despite Rawls’ support for local justice, he places a right of non-interference - an essentially libertarian view - above a duty to respect human rights on a global scale.

Pogge refutes Rawls' inconsistent treatment of local and national justice based on the principle of moral universalism. According to Pogge, we have no lesser obligation to citizens in foreign countries than we do to our own citizens with which we share stronger or more direct cultural and social connections (Stoian, 2012). Although complicated arguments, Pogge's approach to global justice is more logical than the Rawlsian model. Not only does Pogge's framework provide a simpler, more principled approach (Pogge, 1989; see also Stoian, 2012), it is also more consistent with both his and Rawls' own model of local justice. Furthermore as globalisation continues to accelerate, the power of national governments and economic systems will continue to decrease. As MNEs’ influence grows, a just distribution of resources and opportunities requires a new set of global institutions to realise an equivalent role in global morality.

5. Conclusion

MNEs have an obligation towards all their stakeholders, and this obligation is strengthened rather than lessened when operating in disadvantaged communities. Applying Kant’s principle of human rationality as requiring a basic level of respect, this paper has argued that MNE’s have an obligation to treat workers as an end in themselves rather than a means to greater profit. As institutionalised in the UN’s declaration on the requirements of ‘Decent Work’, employees’ right to be treated with respect and dignity extends into a right to work that is deemed productive and satisfying. In turn, this requires that MNEs implement active measures to ensure all employees are not being exploited, including within their outsourced operations. The libertarian principle of non-interference is commonly used to refute extensive ethical obligations. However, this paper has highlighted how MNEs by nature directly influence the livelihoods of individuals globally, including those within developing countries. Since MMEs are gaining a competitive business advantage from these countries, it is wrong to simply not take a moral position
on the significant issues of global injustice and inequality. Rather, as beneficiaries of
global injustice, MNEs have an obligation to increase their association and influence in
disadvantaged communities to alleviate global poverty - the most significant moral
issue of our time - and at the same time foster economic and social development in
these communities.

References


**About the Author**

**Robert Hewetson** is currently studying a Bachelor of Commerce with a Bachelor of Science, majoring in International Business and Biomolecular Sciences. He intends to combine this unusual combination with a strong love of travel during his career and currently works as an assistant store manager with KFC. Broadening his university experience through studying applied business ethics and bioethics has given him a new perspective on issues such as global justice, and this provided him with a strong motivation for this paper. 🌸
An Ethical Analysis of Unpaid Internships in Australia

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ABSTRACT

The purpose of this paper is to analyse whether unpaid internships are ethical or unethical. Providing internships is a common practice in many organisations internationally, including in Australia. The question of whether an internship is ethical or unethical arises when the term ‘unpaid’ is linked with a job description, and where the power inequality between intern and employer in this job becomes imbalanced. Using the example of one intern - Moritz Erhardt - we draw on four different ethical theories to argue that unpaid internships are unethical. On this basis, we argue that there should be further regulation on unpaid internships in Australia.

Keywords: Unpaid Internships; Utilitarianism; Kantian Ethics; Ethical Relativism; Virtue Ethics

Submission Classification: Other Assignment

1. Introduction

Internships, whether paid or unpaid, are common in Australia and abroad. An internship can be defined as supervised and practical training that is undertaken by a student or recent graduate that relates to their field of study and interest. Internships can provide people with an opportunity to take a practical approach to their education, and allow them to ‘engage in authentic learning’ (Burke, 2013). It can also be a stepping stone into full time work, or can simply provide an individual with the necessary skills and experiences to forge a career in their chosen industry. According to The Fair Work Ombudsman (2013), in Australia an internship must follow certain rules to be classified as an internship and not an employment agreement. Whether or not the activity can be classified as an internship depends on a range of factors, such as the purpose of the arrangement, the duration of the activity, the intern’s duties and responsibilities in the workplace, the benefiting party and the avenue through which the internship was sought.
One difficulty in determining whether unpaid internships are ethical or unethical is the number of people and perspectives involved in the process. In particular, it is important to analyse this issue from the perspective of both the employee and employer, and thereby to draw out differences in the ethical perspectives of each party. This paper will analyse whether internships are ethical or unethical, and so whether there should be an increase in regulation of unpaid internships in Australia, using four ethical theories: ethical relativism, utilitarianism, Kantian ethics and virtue ethics.

The remainder of this paper is organised as follows. Section 2 will introduce the case study of Moritz Erhardt and what we consider the unethical practice of his experience as an unpaid intern. Section 3 will analyse the case study using the four ethical perspectives noted above: Relativism, Utilitarianism, Kantian and Virtue Ethics. The paper will conclude that the rights of interns and the potential for power imbalances in the workplace provide a case for stronger regulation than is currently in place.

2. Case Study

Before applying ethical theories to unpaid internships, it is firstly important to understand what issues in this practice may be viewed as unethical. The type of ethical issues raised by unpaid internship are illustrated by a case at the Bank of America Corporation in London, where Moritz Erhardt was working in the investment banking division as an unpaid intern in the summer of 2013. He was described by his colleagues as a dedicated, focused and determined intern, with bright prospects of a future career. However, Erhardt suffered from epilepsy, which was worsened by exhaustion from eight all-nights at the office in only two weeks (Kessler, 2013). This resulted in his death, and subsequently forced the bank to review their workplace practices, principally among the young.

Although an extreme case, Moritz Erhardt’s death raises broader issues associated with the culture of unpaid internships, and questions whether the purported benefits of unpaid internships outweigh their potential costs. Smith (1996) outlines potential benefits of unpaid internships for the professional and ethical development of interns. He argues that internships can help learners attain capabilities, skills and information from immersion in a work environment. The opportunities and experiences they obtain can help interns achieve their goals in future employment, and also to develop ethical awareness and capabilities. The cases Smith (1996) studied involved young students working as unpaid interns where by practical discovery they were tested with ethical questions at work. These included questions about the nature and extent of their responsibility, especially with regard to disobeying older colleagues, sharing information or keeping confidentiality and dealing with managerial actions. For Smith (1996, 63), it is by teaching students prior to their internship the ethical concepts of loyalty, intent, fairness and responsibility, that these concepts could prove their worth in practice.
3. Ethical Critiques of Unpaid Internships

However, despite the potential benefits of internships, it is also possible to critique unpaid internships from several ethical perspectives. This section analyses the ethical value of internships using four different ethical frameworks.

3.1 Relativist

One underlying issue with unpaid internships is the unequal bargaining power between the two parties involved. While this may not be true for all employers hiring interns, it is difficult to argue that power relations are equal if an employment relationship is being created between an employer and his or her interns. However, one common contemporary view of ethics - ethical relativism - suggests that ethical issues are based on one's emotions and personal feelings, which are in turn contingent on a nation's or culture's accepted practice. Ethical relativism is the belief that one's own sense, society or culture determines a person's ethical judgments. Thus, relativism can simply be defined as the view that a person's ethics are subjective according to the individual or culture. As unpaid internships are practiced globally, whether or not unpaid internships are ethical may be contingent on the relativist's particular culture, time and place. From the perspective of relativists, all the ethics of all cultures are viewed as equally valid.

Applied to internships, relativist ethics implies that there is no way to objectively adjudicate the differences in opinion between an employee and employer, or to ethically evaluate how they may feel about the work ethics of unpaid internships. For example, a relativist may view the concept of young workers willing to work for free with little regulation as an accepted cultural practice. They will then see no reason to increase regulation, as the ethics of internships are fundamentally a personal opinion that cannot be objectively resolved. What may challenge this relativist notion however are cases like Moritz Erhardt's - and many more similar to his - where the view that all opinions are equal is be compromised by the power imbalance between intern and employer. That is, the relativist perspective that all views are subjective and all cultural perspectives equal needs to factor in the power imbalances that make some views more influential in practice. Specifically, the intern is not able to make decisions based on his or her own ethical view, but rather can face significant pressure to conform to the ethical perspective of the employer.

3.2 Utilitarian

Utilitarianism is a common form of ethical reasoning where decisions are based on the weight of the consequences of either choice, and in particular, on which action maximises aggregate happiness. This ethical perspective has greatly influenced contemporary business practices, such as through Milton Friedman's (1970) influential argument that businesses operating purely to increase their own profits will also maximise social benefits. Friedman also argued that there was no moral obligation for businesses to be
accountable to stakeholders outside of legal requirements. Utilitarians are considered to be pragmatic thinkers, with the belief that the greatest happiness for the greatest number should be the guiding principle.

However, similar to most business interactions, the practice of unpaid internships involves at least two parties. A utilitarian perspective therefore implies that an ethical internship must offer an educational or other benefit to the intern as well as a utilitarian benefit to the company (McDonough, 2013). Given the different perspectives involved however, the measurement of ‘overall good’ is difficult to precisely interpret and define. Determining what maximises overall benefits is especially problematic in the case of unpaid internships because internships can distribute very different benefits to the two parties involved. As Smith (1996) also acknowledges, students who undertake unpaid work experience may be unable to challenge authoritative figures in the workplace, again raising the ethical problem of power imbalances.

Moritz Erhardt’s case was a one-sided situation in which his willingness to work long hours was used to benefit the company and its shareholders without returning enough benefits to their intern to compensate for the suffering the work caused. From a utilitarian perspective then, the ethical question is whether the organisation’s actions created the greatest aggregate happiness for all parties involved? Again, the answer depends in part on how happiness is defined and measured. Jeremy Bentham argued that all happiness was equal. Alternatively, John Stuart Mill believed that quantity of pleasure was not the only consideration, but what maximised the highest kind of pleasure also needed to be considered. Mill’s qualitative view may consider an intern’s intellectual development as a special and more valuable kind of pleasure, to be weighed against the more direct pleasures and pains an employee may experience in their work. By contrast, Bentham’s quantitative view on unpaid internships would consider simply how many people were happy with their work experience and to what degree. From the perspective of a utilitarian then, an increase in regulation of unpaid internships is ethically justified if it maximises overall happiness. One way overall happiness might be increased is by regulation that redresses power imbalances between interns and employers, and thereby encourages a better distribution of the benefits of internships between the different parties. For unpaid interns, this would include providing them with a better learning experience, and providing employers with more concrete guidelines in managing interns through their assigned tasks.

### 3.3 Kantian Ethics

Kantian ethics stems from the German philosopher Immanuel Kant, who argued that ethical action requires acting according to the ‘categorical imperative’. A categorical imperative is a duty that must be obeyed without exception. For Kant, our primary duty is to “...act only in those ways in which the maxim of our acts could be made a universal law”. He believed, for example, that telling the truth could be made a universal law, but that lying could not. From a Kantian perspective, an alternative formulation of the same principle is that all people
must always be treated as ends and never only as means. This reflects the idea that humans are distinct in virtue of having a self-determined purpose in life, rather than simply being a resource for another person. A series of practical ethical precepts follow from Kant’s position, which include: respect and fairness for all people, equality for humans and that everyone has the capacity to live an independent or ‘autonomous’ life. Kantian ethical ideas have been influential in the world of human rights, including in the development of the UN’s concept of ‘decent’ working conditions as a basic right.

Kantian ethics are directly applicable to the ethics of internships, and to the question of whether increased regulation of internships is required or ethically justified. Moritz Erhardt died after being over-worked at his internship at the Bank of America: Spending excessive hours at the workplace and pushing himself to accomplish more led to extreme exhaustion and ultimately his death (Kessler, 2013). This case of an intern dying due to exhaustion from an internship could certainly be considered an issue of human rights, and one to which Kantian principles strongly apply. At no point should a human being be treated simply as a means to a businesses’ end, which is why Kantian ethics are particularly relevant to internships in a business context.

Although an extreme case, Moritz Erhardt’s death raises two further and broader ethical questions from a Kantian perspective. First, the incident conflicts with the Kantian principle that there should be a base level of respect and fairness for all people, which for Kant is a requirement that people share as rational agents irrespective of their employment status. An intern’s role is mainly to observe and learn from the people around them. Yet this particular intern was under high pressure to perform financially in his sector. Requiring an unpaid intern to work hard and consistently to produce financial results does not fit the Kantian model, as the business simply uses the intern as a means to an end without recognising or valuing a human life as having any greater purpose. In particular, the intern’s progress and improvements are not measured or valued; instead, it is the end product for the business that matters. A Kantian approach views this approach to other humans as unethical, since all humans should be valued and treated with dignity.

Second, a Kantian approach to cases of interns being treated as a ‘means rather than an end’ have implications for whether there should be more regulation and monitoring of this practice. Interns can be manipulated or utilised to replace what would have otherwise been a paid employee. This raises additional ethical issues, because the employer could be using an intern at the expense of a permanent employee to save costs and reduce their responsibility for their workforce, rather than to provide an opportunity for the intern. A permanent employee has stricter regulations and expectations, and ones that may not necessarily be expected from an unpaid intern. In these cases, the employer may be taking advance of the system for a financial advantage and for a decrease in responsibility resulting from a gap in employment regulation. Such an approach is inconsistent with the Kantian principles of respect for human life, which is why Kantian principles would provide a basis for a greater regulation of unpaid internships in Australia.
3.4 Virtue Ethics

Virtue ethics seeks to provide “a full and detailed description of character traits that would constitute a good and full human life” (DeJardins, 2012). Virtue ethics call on human beings to develop the capabilities that lead to both an ethical and happy human life, and which also - as a consequence - contribute to the well-being of those around us. In *Nicomachean Ethics* (1976), Aristotle famously stated that we can achieve the ‘good life’ (*eudemonia*) by living a life of virtue. For example, displaying the appropriate amount of generosity is not only the right thing to do, but also contributes to the full life for the person who cultivates a generous disposition.

Upon examining the case of Moritz Erhardt, it is clear that there was a lack of virtuous practices in the workplace. Virtue ethics aim to offer a comprehensive understanding of the type of character traits that should inform human life, including operations within a business. For example, are individual employees treating their employees and interns with respect and dignity? Do employers act with pride, gentleness, liberality or truthfulness? Moritz Erhardt worked eight ‘all-nighters’, including three before his untimely death. Not only were these practices a threat to his life and well-being, from a virtue ethics perspective these workplace practices can also be criticised for failing to cultivate and develop his capacities rather than exploit them for a profit.

In a broad sense, the focus on the conditions of a full - and fully lived - human life in virtue ethics raises the question of whether unpaid internships are ultimately worth the stress and anxiety they can cause to interns. In particular, do internships develop virtues and capabilities in interns that justify their harms and risks? In Moritz Erhardt’s case, it seemed that the employers had no interest in developing the capacities of their intern; rather, they only focused on almost exploiting them to the point of no return. The contribution of virtue ethics to this issue is to encourage employers to not only possess the correct attitude towards interns themselves, but also to consider whether their internship is able to cultivate and pass on the right dispositions to their interns as well.

4. Conclusion

Moritz Erhardt’s death might have been avoided if the Bank of America had put into place work practices that provided a better work-life balance for employees and interns. Although by no means typical, an ethical analysis of this case illustrates how easily interns can slip under the radar in employment practice, and also provides a case for increased regulation of internships in countries like Australia. Whilst the power ultimately is in the hands of the employer, ethical theories foreground the importance of the individual, and of a balance of interests between the two parties. In Kantian theory the rights of the individual are fundamental, and cannot be violated by the employer to achieve financial
or other goals. Rather, both employer and employee must adhere to similar structures and guidelines, which would ensure the tragic experience of Moritz Erhardt does not happen again.

To be sure, the different ethical theories reviewed above - Kantian, virtuous, relativism and utilitarianism - can lead to opposing opinions on precisely what actions or regulations are ethical. Each view raises different ethical questions, and uses a different moral compass to guide their decisions. For the majority of these theories however, the potential for unethical use of unpaid internships supports a gradual increase in regulation to prevent even occasional unethical practices. It is through the observation of each individual ethical perspective - and each case of ethical failure - that the argument to increase regulation for unpaid internships in Australia becomes clearer and more substantial. Specifically, a greater focus on young people’s capacities and characters in the workplace, combined with stronger regulation and guidelines, would see a structured and comprehensive management plan in place so that all interns have the ability to work with dignity, and perhaps even develop virtues, in their field.

References


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