

# Confronting Morality in Markets

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**ABSTRACT.** When an organization is pressured to respond to moral expressions in capital, consumer and labor markets, it faces a dilemma of how to respond. Should Shell have given in to Greenpeace in deciding how to dispose of the Brent Spar Oil Rig? Should Cracker Barrel give in to pressures to fire homosexual employees? Firms should consider the nature of the moral expressions pressuring them in deciding how to respond. Moral expressions can be divided into three descriptive categories: Benign, Disputed and Problematic. Each carries different implications for corporate action and in some cases will justify corporate resistance to moral expressions by stakeholders. In order to appropriately respond to moral pressures, firms should first engage in a process of discovery aimed at identifying moral pressures relevant to the firm's missions and objectives and then engage in a process of justification concerning their responses. Such a conclusion is consistent with important trends of contemporary thought in ethics and political philosophy and is strongly supported by Kantian analysis.

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## Introduction

Organizations often face moral pressures from key constituencies. These pressures result from the aggregate expressions of participants' moral desires in capital, consumer and labor markets as well as social and political fora. They may pertain to the organizations' environmental policies, treatment of animals, workplace benefits, policies about facilitating payments, and so on. When an organization is under pressure from the moral expressions of others, particularly stakeholders, it faces the dilemma of how to respond. Should an organization always be responsive to the moral expressions of stakeholders? Or should it pick and choose among expressions, acceding to some, eschewing others? If so, how should such judgments be made? In this article, we first describe the expressions of morality that may occur in markets, and then put forth a typology of expressed morality in markets to guide organizations in responding to expressed morality. The article closes with an explanation and justification of the typology and strategies presented.

## Expressions of morality within markets

Individuals hold moral beliefs concerning right and wrong. The beliefs may pertain to a wide number of economic behaviors: whether smokers should be discriminated against in hiring, whether restrictive rules about employees' use of frequent flyer tickets are fair, whether organizational philanthropy violates shareholder property rights, whether affirmative action hiring programs are just, or whether a seller of real estate may lie about her reservation price.



Individuals may act on their moral beliefs in many different ways, including modifying their own behavior, seeking to influence the behavior of others, invoking public sector interventions or trying to change the actions of organizations. Examples include ignoring "unfair" frequent flyer rules, refusing to work for organizations with objectionable values, using "shoppers" to identify landlords discriminating on the basis of racial preferences, or ostracizing colleagues who lie in real estate negotiations. Individuals may also act in groups to influence the behavior and preferences of others through concerted actions. For example, those who object to any smoking in the workplace may publicly condemn those who smoke in their own offices in hopes of shaming them into changing their behavior. Moreover, smoking opponents may seek legislation or other legal interventions that would prohibit smoking anywhere in a workplace building.

A common tactic for furthering one's moral preferences is to try to alter the behavior of target organizations. Students objecting to labor practices in developing countries may refuse to buy "sweatshop" products containing their university logo. Animal lovers may buy cosmetics, even more expensive ones, when assured that the products have not been tested on animals. In a recent case involving Huntingdon Labs, an activist organization, SHAC (Stop Huntingdon Animal Cruelty), pressured investors, banks and investment firms as a means of denying Huntingdon needed capital (Nalik, 2001). Investors may eschew the stocks of certain companies, e.g. tobacco or gambling stocks, or they may buy mutual funds that employ positive screens as a means of supporting companies that reflect good values. A survey of "ethical investors" who screened a portion of their personal portfolios found that their investment decisions were influenced by factors such as "economic injustice, fair play, conscience salving, keeping up appearances, the value of free-markets, and self respect" (Mackenzie and Lewis, 1999, p. 441). Similarly, individuals may accept less pay to work for public interest or advocacy firms than they could otherwise command in the labor market as a way to bring about societal

changes consistent with their moral desires. (Frank, 1996).

Those who hold very strong views may coordinate their personal behaviors into a portfolio of activities in support of their beliefs. That is, they may take steps to act consistently with their beliefs in their personal behaviors as consumers and investors while also lobbying and giving money to social and political organizations in support of their preferred causes. Certain forms of intervention may be viewed as more likely to produce results in given circumstances. A consumer boycott against a politically powerful firm which has a major retail presence, such as Shell or Exxon, may seem more likely to produce results than political activity or selling a few shares of the firm's large market cap stock. On the other hand, a legal intervention may seem more likely to bring about a change in a firm engaged in marketing unsafe or harmful products. Non-smokers are not in a position to boycott tobacco companies whose products they never purchase in the first place, so other strategies are employed.

Some organizations recognize and respond to morally based behaviors of individuals. They may seek to provide a means by which individuals can act on their desires, as for example, when mutual fund companies develop and market socially screened funds. Others directly market to the moral expressions of their actual and potential customers, as happens when a retailer such as Ukrops (a Richmond, VA, supermarket chain) announces that it will give a certain percentage of customer purchases to a worthy cause.

Firms may take actions consistent with their own core values in a manner similar to individuals. A growing list of companies will not do business with suppliers unless the supplier certifies that it is in compliance with designated standards pertaining to child labor and workplace practices. Merck reflected the core values of the firm in their justly praised decision to invest substantial sums in the development and later distribution of Mectizan to deal with the plague of onchocerciasis (the cause of "river blindness") in Africa. British Petroleum provided solar-power refrigerators to doctors in Zambia to store anti-malaria vaccines, and United Parcel Service

helped to deliver supplies to refugees in Kosovo. Firms may also act to support what they presume to be their stakeholders' moral desires, as Ford Motor presumably did when it pulled its ads from the *New Yorker* when the magazine, without prior notice to Ford, placed sexually explicit lyrics from the singing group Nine Inch Nails on a page adjacent to a Ford ad (Knecht, 1997).

The strategic aligning of a firm's values with the moral beliefs and preferences of potential customers has earned its own name: social cause marketing (Drumwright, 1996). A prototypical example is The Body Shop supporting environmental and animal rights causes in the hopes that customers who share those beliefs will buy their products.

The result is that firms constantly confront an eclectic mix of revealed moral preferences, which in the aggregate often encompasses directly competing moral viewpoints, changes constantly, and is influenced by social trends and norms, competitor actions, governmental interventions, and the nature and form of basic background economic and legal institutions. Ultimately, the belief that morality is revealed in markets is consistent with the familiar concept of a marketplace of ideas. As expressed by Justice Holmes, "(T)he ultimate good desired is better reached by free trade in ideas – that the best test of truth is the power of the thought to get itself accepted in the competition of the market . . ." (*Abrams v. United States*, 250 U.S. 616,630 (1919))

### **Pressures on firms to respond to expressions of morality**

That firms do respond to moral pressures in markets and change their behavior and even basic business strategy as a result is well known. Consider, for example, the situation Shell Oil faced in deciding what to do with a decommissioned oilrig, called the Brent Spar, in the North Sea. Shell, which at that time followed a practice of consulting with relevant stakeholders, talked to a number of parties, performed an environmental impact study, consulted leading scientists, and ultimately decided that the best course of action would be to sink the rig. Shell then

obtained the necessary approvals from the British government who presumably represented extant morality on this issue. That turned out to not necessarily be the case, as the environmentalist organization Greenpeace challenged the action and engaged in strategies designed to influence public opinion, such as encouraging consumer boycotts and surrounding the rig with small boats which resulted in widely publicized confrontations with Shell. Ultimately, Shell was forced to abandon its plans and tow the rig to a Norwegian fiord. The effect of the interventions by Greenpeace imposed substantial costs on Shell, its shareholders, and perhaps, on the reputation of the scientific community as a whole (Dunfee, 1998).

The case demonstrates the enormous pressure that a firm may face in the context of morality-driven issues. The Brent Spar case took a famously long time to resolve. Shell had spent several years trying to assess and relate to the relevant morality in the market. The subsequent battle with Greenpeace dragged on for several more years. Greenpeace was admittedly wrong on the scientific facts and it seems likely that neither consumers, science, nor the environment were served by their interventions. Had environmentalists been fully informed they might not have believed that Greenpeace acted properly. But in ambiguous cases, people generally, and environmentalists particularly, may tend to believe an independent organization such as Greenpeace and trust its advocates to be careful in their attempts to identify environmental wrongdoing. Many people might view it as relatively Benign for Shell to have given in to the coercive moral pressures asserted by Greenpeace, even when Shell was right about the scientific implications.

But would it be Benign to conform to moral pressures in the market in all cases? Consider another less well-known example. Cracker Barrel is a U.S. roadside chain of country style restaurants typically located along interstate highway exits. Cracker Barrel has expanded by opening new restaurants and has experienced substantial sales growth during its existence. Sales for the July 31, 1998 fiscal year totaled \$1.317 billion (Sheehy, 1998). Several years ago, Cracker Barrel

notified several homosexual employees that they were being dismissed because their sexual orientation violated company policy. Assume, solely for the sake of this analysis, that the implicit basis for Cracker Barrel's policy was factually correct, that is, their clientele preferred not to be served by homosexual employees and Cracker Barrel management could legitimately infer an "anti-homosexual" norm of morality among their relevant stakeholders. Further assume that Cracker Barrel stakeholders pressured the firm to terminate homosexual employees. Should Cracker Barrel give in to such pressures? Many of those who thought it Benign for Shell to respond to stakeholder pressure might object to Cracker Barrel following the same strategy.

Management of Shell and Cracker Barrel ultimately adjusted organizational behavior in response to expressions of morality external to the firm. In a sense, they adapted their policies to give vent to the moral winds swirling around their organizations. We step back and ask the broader questions of when is it appropriate to surrender to moral pressures in the firm's environments, and when is it appropriate to resist? Our ultimate objective is to provide a framework useful for managers in making these types of decisions.

### **A rejected solution: let the market decide**

The attempt to influence moral norms in the realm of public opinion is often part of what is meant by the marketplace of ideas. The concept of the marketplace of ideas finds its classic expression in John Stuart Mill's *On Liberty*. Mill argues that the most effective way to achieve truth is to allow competing ideas and theories to struggle in the court of public opinion. Allowing that struggle is also the best way to avoid error (Mill, 1859, 1975). Perhaps a firm should simply let the marketplace decide what is right. Even though Greenpeace was apparently wrong on the facts, Greenpeace won and Shell lost in the marketplace of ideas. And whatever ethicists think of homophobia, in Cracker Barrel's marketplace homophobia initially prevailed. Should the preferred strategy for man-

agement be one of allowing market forces to work themselves out?

After all, how can one justify ignoring even Problematic morality when it is strongly expressed in a market? Some will argue that if a clearly discernable strong moral consensus has emerged through the process of people acting on their moral preferences, then it is ethical imperialism to reject it. Under this view, rejection of a valid, widely expressed super-majoritarian morality is viewed as authoritarianism. Others disagree and argue that there are universal moral principles that can justify ignoring a strong moral consensus. Proponents of this view suggest that whenever manifest universal principles relevant to a decision can be identified, they should be followed even in the face of a contrary clearly expressed moral consensus (Donaldson and Dunfee, 1999). Supporters of market-based morality may counter that it is impossible to ascertain manifest universal principles with sufficient precision. They may express a fear of autocratic ethicists who wish to impose their version of "truth" on significant majorities who hold a different view. After all, such ethicists have lost, as it were, in the battle of the marketplace of ideas.

We think that the let-the-market-decide view is mistaken for several reasons. First, it is not practical. Business firms cannot wait for the market to decide on a winner in moral conflict. Shell needed to dispose of the oilrig platform and it could not stand idly by as a disinterested observer waiting for an outcome among competing moral views. Secondly, we think such a stand is not appropriate because it assumes a kind of ethical relativism we find unacceptable for business managers. We believe that managers are as entitled as any other player in the marketplace of ideas to have views on moral matters and to act on those views. Indeed those researchers who focus on the importance of corporate culture and its relation to profits would insist that a corporation with a strong corporate culture is more likely to be successful in the marketplace. An essential feature of a strong corporate culture is core moral values. See for example (Kotter and Heskett, 1992; Collins and Porras, 1994; Waddock and Graves, 1997). Thus a corporation

has a business reason to insert its moral beliefs into the marketplace of moral beliefs. It should not stand idly by and passively let the issue as to what it should do be decided by the strongest view winning out. A firm has a stake in how the battle in the marketplace of ideas turns out and is, itself, a key and interested participant.

But leaving matters there is not sufficient from our perspective either. We do not think that all corporate core values (or moral beliefs as we shall call them) are equally valid. We think that Cracker Barrel's decision with regard to the assumed homophobia of its customers was wrong and can be condemned on the basis of manifest universal norms pertaining to respect. On the other hand, we think there are some conflicts among moral beliefs that as yet have no correct answer. To borrow terms from Donaldson and Dunfee, we think there is a legitimate place for moral free space. Yet at the same time, there are universal norms (hypernorms) that no firm should violate whatever their strength in the marketplace of ideas. The practical questions remain. How does a company decide what to do when confronted with moral pressures. And when if ever should it not act on its core values?

Business firms have four basic options when confronted by moral pressures. They can ignore the pressures and make decisions solely with reference to business criteria. This strategy has many disadvantages. Moral pressures may build until they directly constrain business options as has occurred with protests directed at the use of nuclear power to generate electricity or at tobacco advertising directed at young teenagers. A strategy of conscious disregard violates the basic tenets of stakeholder management by failing to incorporate the interests of relevant stakeholders into decision-making (Jones and Wicks, 1999).

A second, middle ground option is to seek to displace the decision into the political or legal sphere. This strategy has been tried, often with mixed results. The French pharmaceutical company, Groupe Roussel UCLAF, which faced the question of whether to continue the development and marketing of the morning after abortion pill, RU 486, displaced the decision to the French Government who obliged by threat-

ening costs if the research were to be abandoned. Later, Roussel UCLAF took the position that the French government had coerced them into continuing the research (RU 486 [A]). Currently, El Al, when faced with countervailing pressures from animal rights groups and scientists concerning the air transport of primates used in medical research, displaced the decision to the Israeli courts. The courts initially ordered El Al to continue to transport primates but are now being petitioned by animal rights groups to prohibit the practice. Displacement is not always successful. Nestle's libel suit, brought in response to moral pressure concerning its distribution of infant formula in developing countries has been characterized as a major mistake which worsened Nestle's position.

Third, firms may passively respond to whatever moral pressures become evident in the markets in which they operate. Following this strategy, a firm is primarily concerned with identifying any significant moral consensus that pertains to a contemplated decision. Once identified, the firm will just comply with the consensus subject only to legal constraints or compelling economic aspects.

Finally, firms may be proactive, selectively confronting and responding to moral pressures. We strongly endorse this fourth option and in the rest of this article discuss how firms might best employ this type of strategy. We begin by proposing a three-fold categorization of moral beliefs that will assist managers in answering these questions.

### **Categories of expressible moral beliefs**

Moral beliefs vary in how they square with widely accepted ethical principles. For purposes of our analysis, we will divide them into the following three categories: Benign, Disputed and Problematic. The division of types of moral beliefs is derived inductively by taking examples of moral beliefs commonly involved in ethical disputes and placing them into a framework based upon the extent of perceived compatibility with manifest universal principles and the degree of public controversy that surrounds their

expression. We rely upon Donaldson and Dunfee's conception of hypernorms in applying the test (Donaldson and Dunfee, 1999). The most compatible, least controversial we define as Benign. The Benign category encompasses moral desires such as those for a cleaner, healthier physical environment, which are unarguably consistent with most ethical principles and with which most people agree. Examples involve a firm expressing the desire to protect human well being by giving notice to employees concerning uncorrectable workplace hazards, or McDonald's operating the Ronald McDonald Houses. Even though a few people may object to these types of expressions, the vast majority of people applaud such actions.

The second category, Disputed, involves beliefs that are held in opposition across a broader social, political or business community and which cannot be validated by a general consensus of ethical analysis. The Disputed category involves moral desires that reflect one side of a hotly contested, contentious issue within a given society. Examples of Disputed moral desires are pro-choice v. pro-life, animal rights v. the use of animals in human medical research, whether coarse nude pictures in a magazine such as *Hustler* are appropriate, the prohibition of tobacco or alcohol, and restrictions on the sale of handguns. Beliefs may fall into the Disputed category because (1) ethicists disagree concerning how an ethical theory should apply to the belief, e.g.

dueling Kantians {both the proponents and the opponents of traditional affirmative action programs have appealed to the deontological concept of justice to justify their respective positions}, (2) respected ethical theories provide differing results when applied to the belief {-Utilitarians usually defend insider trading whereas Kantians usually criticize insider trading on the ground of justice.} and (3) the belief and related actions may be so idiosyncratic there is little guidance available from either general ethical theories or extant moral norms. Examples could include firm-specific travel policies, or technical issues of auditor independence (such as the likely impact on the objectivity of a firm auditing a mutual fund when audit partners not directly involved in the audit invest in the sister funds of the mutual fund audit client).

The final category, Problematic, involves an expression of morality that is at odds with a strongly expressed global morality, or which is inconsistent with well established, widely recognized moral principles. The Problematic category is comprised of moral desires such as those for coarse racial discrimination that are unarguably inconsistent with manifest universal principles concerning right human behavior. We believe that these can be identified by the use of proxies and presumptions similar to those identified by Donaldson and Dunfee in Chapter 3 of *Ties That Bind* (1999). Table I summarizes the categories and examples.

TABLE I  
Categories of expressible moral beliefs

Type	Definition	Examples
Benign	Unarguably consistent with manifest universal principles.	Pressure on tobacco companies to provide clear, dramatic warnings about health effects.
Disputed	Hotly contested issues within relevant community, not resolved by manifest universal principles, sometimes idiosyncratic context-specific issues.	Shareholders or employees demanding that their firm stop giving corporate money to Planned Parenthood based on anti-abortion views; employees objecting that policy requiring employees to give frequent flyer miles earned on firm business to the firm is unfair.
Problematic	Unarguably inconsistent with manifest universal principles.	Employees, unions and customers demanding racial discrimination.

As with any categorization scheme, there can be disagreement as to whether a moral issue belongs in one category or another. As a descriptive matter, if the classification of an issue is hotly contested, then that is *prima facie* evidence<sup>1</sup> that the issue is Disputed. The justification of any classification scheme is pragmatic – does it accomplish what it is supposed to do? The function of these categories is to help managers make decisions when confronted by the pressures stemming from expressions of morality in the marketplace. We believe that this classification scheme is certainly a step in the right direction and is a vast improvement over the ad hoc judgments often used.<sup>2</sup>

### **Organizational response to morality in markets**

In this section we sketch out the basic parameters of how organizations should respond to expressions of morality within markets. At the outset, it should be noted that rules of corporate governance may limit or bound obligations to respond to expressions of morality within markets. In the United States and in other countries where organizations are privately owned by shareholders, organizational managers have an obligation to emphasize shareholder wealth. However, that obligation does not exclude paying attention to ethical considerations, particularly those reflected in discernible morality in markets relevant to the organizations' operations. The American Law Institute's *Principles on Corporate Governance* explicitly permits managerial actions "made on the basis of ethical considerations even when doing so would not enhance corporate profit or shareholder gain" (Sec. 2.01, cmt. h, 1994). Acting inconsistently with morality in the marketplace may result in consumer boycotts, liability suits, increased labor costs and even short term losses in market capitalization. Based on these potential costs (and lost benefits since marketplace responses can also be positive as in consumer preferences, more productive employees, etc.) one can argue that managers have a *duty* to shareholders to act consistently with clearly discernible

morality in their relevant markets (Dunfee, 1999).

We now need to show how this conceptual scheme can aid corporate decision-making in dealing with the market of morality. To deal with this problem, we suggest that firms and organizations follow three distinct steps in confrontations with morality in the marketplace. First, firms should constantly scan and be aware of expressions of morality in markets relevant to their operations. Second, firms should evaluate the moral expressions to determine whether the morality is Benign, Disputed or Problematic. If the morality is Problematic, firms should resist the pressures exerted upon them. Determining whether the morality is Problematic can be done in a manner similar to that suggested by Donaldson and Dunfee (1999) by relying upon a wide variety of evidence and looking for patterns of consistency across diverse proxies for manifest universal ethical principles. When the morality is Benign and demands action of the firm, then managers should act to bring their firms into conformity with the expression of morality. When the morality is Disputed, managers have a greater range of choice. In these cases, the relationship between the external morality and the internal morality/values of the firm is an important factor as are the views and interests of various stakeholders of the firm. These strategies are detailed in Table II.

### **Confronting expressions of morality in markets**

We argue that organizations have an obligation to pay attention to expressions of morality in markets. By morality we mean the discernible expression of the revealed beliefs of significant stakeholders. This obligation is based upon fundamental obligations to act in accordance with manifest universal ethical principles, an obligation to act in accordance with community morality in certain defined circumstances and, in the case of public corporations, upon the fiduciary duty owed to shareholders. There may also be circumstances when the senior managers of organizations need to recognize morality

TABLE II  
Strategies for responding to expressed morality

If the morality expressed is:	Then Firms should:
Problematic	Resist compliance.
Disputed	Act consistently with core values of firm.
Benign	If expressed as a mandatory duty, firm has an obligation to act in compliance.

generated internal to the firm, as for example, when employees develop expectations concerning their treatment in the workplace (Rousseau, 1995).

Decision-makers within organizations should be sensitive to expressions of morality in the capital, consumer and labor markets within which they operate. Traditional scanning techniques, such as surveying media and the Internet, should be supplemented by openness to stakeholder inputs and other similar strategies as a means of identifying changing moral sentiments relevant to the operation of the firm. Social reporting and social auditing techniques are an essential part of this process.

Once relevant morality has been identified, firms should categorize it as Problematic, Disputed or Benign. In order to determine the category of expressed morality managers need to employ both powers of reason and observation. Whether or not particular beliefs are controversial with significant opposition surrounding related corporate decisions will generally be easy to ascertain. Managers who are efficiently scanning their environment should rarely be surprised. Determining compatibility with manifest universal ethical principles may be more difficult. Reason can help to identify expressed Problematic morality contaminated by coercion or deception. Observation can help to identify what are widely believed to be totally inappropriate practices. Consideration of common core standards supported by prominent NGOs, or regional government organizations and global industry and professional groups, should help point toward manifest universal principles. These principles can then be tested against precepts of

major philosophies and religions. Norms that violate these core principles are Problematic. From the perspective of the firm, Problematic norms are immediately off the table. Firms must resist as best they can even coercive efforts to get them to comply with such norms.

If the morality expressed falls into the Disputed category, then the firm should act on the basis of its own core values. Here it is important that the firm develops through its own culture and experiences a clear sense of its own values. Firms such as Merck and Johnson & Johnson have received well deserved praise for their development of clear statements of values that have assisted senior managers make key decisions in times of crisis. Such values cannot be lifted off the shelf, or provided by outside consultants. Nor can they be effectively developed in the face of an immediate crisis.

AT&T got into trouble when it vacillated about its policy to use corporate funds to support Planned Parenthood. Under pressure from groups opposing Planned Parenthood's position on abortion, AT&T decided to cut off its support. This in turn provoked supporters of choice on abortion to pressure AT&T who, as a result, found itself facing shareholder resolutions on each side of the issue. In 1991, the resolution opposing support for Planned Parenthood received 5.1% of the votes while the resolution supporting Planned Parenthood received 8.5% (Storch, 1991). Commentators noted that AT&T's responses seem to have made everyone angry (Gillmor and Bremer, 1999). AT&T's actions signaled that the firm did not have a clear position concerning the core values that underlay their policy of corporate philanthropy. Instead,

without an anchor, they appeared to be responding to the pressure of the moment. It is readily apparent that this issue falls into the Disputed category. Here, firms that chose to respond to expressions of Disputed morality should do so only when such actions are clearly consistent with their core values. Most firms, however, may be unwilling participants in Disputed moral issues. Drug companies engaged in a science based search for new medical devices and products may find unavoidable a need to respond to pressures by animal rights groups protesting use of animals in medical research. Yet, they too should have clearly developed organizational values pertaining to moral issues essential to their organizational purposes.

Finally, it may be determined that the morality expressed is Benign. If the morality expressed creates an obligation on the firm, then the firm should comply and take steps to bring organizational practices and standards into compliance with the identified morality. For example, the Benign expressed morality may create an expectation that a firm give six weeks warning before layoffs even though not legally required. In such a case the firm should act consistently with the expressed morality. The obligation to act in conformity with expressed Benign morality is particularly compelling when compliance is necessary in order to align the firm's policies with manifest universal principles.

Before providing examples as to how our categorization scheme can be used and confronting some other theoretical issues, let us summarize our normative position. With respect to Benign beliefs, a corporation should not only yield to, but embrace, those beliefs when expressed in the market. Similarly they should reject pressures based on expressed moral beliefs that are Problematic. After all those beliefs are in violation of universally valid moral norms. Thus, we believe Cracker Barrel erred morally when it bowed to the homophobic pressures and terminated otherwise proven acceptable employees solely on the basis of their sexual preferences. With respect to Disputed moral beliefs, firms ought to act in accordance with their core values since in doing so they would violate no universal norms. Thus, we would also

conclude that Shell acted improperly in yielding to pressure to Greenpeace in a case of Disputed morality, assuming that Shell's actions were inconsistent with their core organizational values.

One of the most difficult decisions that a firm may face is to be pressured to conform to Problematic morality where the cost of resisting may be high. Problematic morality may be supported by powerful economic pressures, such as strikes by unions or by the threat of loss of business to competitors who embrace the Problematic behaviors. Standing in the face of Problematic norms may bring the risk of substantial financial loss. Problematic morality in markets pressured business organizations to practice racial discrimination in the South in the late 1940s. Even in the supposedly enlightened North, organized labor supported racial segregation. During the Second World War, unions struck the transportation authority in Philadelphia when it announced that it would hire African-Americans as trolley drivers (Moore, 1999).

Corruption is an important current example where competitive pressures operate in support of Problematic morality. One of the more Problematic desires in actual markets is the desire to win a contract through bribery. Almost everyone agrees that bribery is wrong and there are laws against bribery in almost every country. Yet, in many countries bribery has been widely practiced, if not tacitly condoned, a phenomenon that has been described as the "paradox of corruption" whereby bribery is "universally disapproved and universally prevalent" (Vincke, 1997). Firms that fail to pay bribes may be precluded from profitable markets.

Even in cases such as these we would advocate resisting Problematic morality. The very act of refusing to conform may help to bring about desirable changes. When a number of firms act in consort, expressed Problematic beliefs can even be driven out of markets. Evidence exists for a decrease in discrimination in certain markets. Epstein (1995) cites the example of racial discrimination subsiding in the trucking industry, not because of extensive civil rights legislation, but because of deregulation in 1979 that opened the industry to market punishment of invidious

discrimination (Epstein, 1995, pp. 176–177). Discrimination on the basis of sex has allegedly been widespread in the Middle East, Asia and South America. But recently discrimination has been under challenge in all those areas with particular progress noted in Japan (Thornton, 1999).

Perhaps there is hope for even the seemingly intractable problem of bribery. Recently, regional economic codes have explicitly condemned bribery and the industrialized countries have been more aggressive in seeking to end bribery within their borders. They have been assisted in that regard by such international organizations as Transparency International which periodically rates countries on a comparative scale depending upon how corrupt business transactions are within the country and which also publishes a Bribe Payers index. This reflects greatly changed expectations in the moral marketplace and is likely to result in significant pressures on organizations to stop allowing corrupt payments on their behalf.

We should note that we are not relativists here. We are not saying that bribery or discrimination were ever morally permissible. Coarse bribery and discrimination on the basis of race, religion, and sex have always been wrong under manifest universal ethical principles. However, we are realists in recognizing that community morality evolves and that it often takes time for a morally superior practice to prevail. This recognition has practical payoffs. Given the high value that moral philosophers have placed on autonomy, care must be taken before a moral view can be forced on another. Thus we should not be too hasty to take a moral view off the table, especially when passionate advocates can use boycotts and other economic and political means to get their views accepted. This is especially true when the reference point is the international business arena rather than the U.S. national arena that is the focus of this paper.

### **Justifications for the proposed framework**

We now identify justifications for an approach, which requires that firms resist Problematic

norms while at the same time it allows freedom for firms to choose among alternative Disputed norms. As a starting point we ask: What norms and values are necessary if there are to be markets at all? Norms inconsistent with the fundamental requirements for markets would be Problematic.

Using a version of Kant's transcendental argument we show norms resulting from expressed beliefs that are incompatible with the norms and values that make a market possible are Problematic. A transcendental argument has the form, if  $x$  is given, what must be true to account for  $x$ ? The next move in a practical transcendental argument is, if  $y$  must be the case to account for  $x$  and  $x$  is desired (or accepted) then one must desire  $y$  as well. If not- $y$  is the contradictory of  $y$  and  $y$  is desired, then it seems reasonable to conclude that not- $y$  cannot be desired. We are simply asserting that if one desires a certain end, it is contradictory and hence irrational to use a means that would make the attainment of the end impossible. If a student desires a good academic record and studying is a necessary means to attain that record (while not studying would prevent one from attaining a good academic record), it would be irrational not to study.

The basic point can be illustrated rather simply. In a market economy, transactions must be voluntary. Thus freedom is a value that is presupposed by efficient markets: hence, if freedom is necessary for efficient markets and efficient markets are desired, then freedom must be desired. And if coercion is the contradiction of freedom, then coercion must be considered Problematic. Those who would entertain a norm that involves the legitimacy of coercion would be contradicting themselves. They would be arguing for a coercion norm in an institution that presupposed that there ought not be coercion. An appeal to freedom or autonomy is even more robust in terms of what ought to be considered Problematic. One's autonomy can be violated by deception as well as by coercion. Kant scholar Christine Korsgaard puts this point exactly:

According to the Formula of Humanity, coercion and deception are the most fundamental forms of wrongdoing to others – the roots of all evil.

Coercion and deception violate the condition of possible assent, and all actions which depend for their nature and efficiency on their coercive or deceptive character are ones that others cannot assent to. . . . Physical coercion treats someone's person as a tool; lying treats someone's reason as a tool. That is why Kant finds it so horrifying; it is a direct violation of autonomy (Korsgaard, 1996, pp. 40–141).

What Korsgaard thinks Kant means is that in the act of deception, one interferes with the reasoning process of the one deceived. The deceived person thinks that he or she is making a rational decision and thus acting autonomously when in reality the person is being manipulated and their autonomy is being interfered with. Kantian moral philosophy and advocates of the market all agree that violations of freedom (autonomy) are a great wrong. Thus norms justifying deception in the market of morality are Problematic. It is no argument against our position that in actual markets there are ample cases of coercion and especially deception. We do not claim that markets are free of the desires to coerce and deceive.<sup>3</sup> We only argue that general norms based on such desires are Problematic and that companies ought to resist such norms. The presence of coercion and deception limits the obligation of organizations to respond to discernable morality in markets.

A similar argument appealing to the norms and values of democracy illustrates how other forms of expressed morality can be classified as Problematic. A norm supporting slavery is Problematic because slavery is a paradigm example of coercion and coercion in democratic practice (except for justified state action) is a violation of the norms of democracy. Democratic theorists are in virtual agreement that a necessary condition for a democracy is that there be regular periodic elections. Coercing, i.e., forcing a person to vote a certain way or preventing him or her from voting, is thus a violation of a necessary condition of democracy. An even stronger argument rests on the fact that just as in markets, individual autonomy is a presupposition of a democracy. The institution of democracy makes no sense if people are without autonomy. It should also be noted that because

democracy is the political institution most supportive of autonomy, this provides a justification for concluding that violation of democratic norms is Problematic. Thus one ought not to recognize positions that undermine the presuppositions of democracy. Any expressed morality in the market that would undermine the presuppositions of democracy is Problematic and a company is right in resisting them.

Using a Kantian based analysis, we have shown that certain forms of expressed morality, e.g. those incorporating coercion or deception, are Problematic and should not be considered to create any form of obligation for organizations. Instead, organizations have an obligation to resist, as best they can, compliance with such Problematic Morality. We believe that nearly all religious traditions and ethical theories reject coercion and deception as at least *prima facie* wrong.

Corporations can engage in cooperative strategies to attempt to move expressions of morality from the Disputed category to the Benign category. Corporations and representatives from various stakeholder groups can meet together to agree on the interpretation of principles and the implications for behavior. An example of how this would work can be seen in the way manufacturers have handled the issue of sweatshops. Significant efforts and resources have been devoted to achieving an agreement on international standards and means for auditing those standards. Many of the industries involved such as Nike and Liz Claiborne Inc, have joined with some human rights groups in the Fair Labor Association, which has developed an industry wide code and hired competent auditors. Others have joined the Workers Rights Consortium, which stresses independence from the manufacturers. Some universities have joined both organizations. In addition the large accounting firms audit suppliers on behalf of the manufacturers (Lee and Bernstein, 2000). As a result of these converging efforts, universal norms of good practice are emerging. By engaging in the process by which Disputed morality is ultimately resolved, firms help the process by which Benign morality is supported.

## Conclusion

Morality is expressed within markets and may result in pressures on organizations to respond. The morality may vary greatly in its character and impact, particularly when viewed through the lens of manifest universal ethical principles. How organizations should respond to this morality should be determined by the firm's own values and the particular nature of the morality expressed. In this article we provide a model by which firms can evaluate expressed morality in order to make appropriate and effective responses.

## Acknowledgements

Both authors thank the London Business School and the Zicklin Center for Business Ethics Research for support contributing significantly to this article.

## Notes

<sup>1</sup> Prima facie evidence is subject to refutation. There may be cases where, within a sufficiently small community, beliefs consistent with hypernorms are hotly contested.

<sup>2</sup> Indeed we think that we have made a contribution by emphasizing how moral beliefs can be expressed in markets, a topic that is certainly not emphasized in either the economic or business ethics literature.

<sup>3</sup> We also do not deny that some instances of coercion and deception can be morally justified – to prevent harm to an innocent person or persons.

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