

# **ETHICS AT WORK:**

**TWO ESSAYS ON THE FIRM'S MORAL RESPONSIBILITIES  
TOWARDS ITS EMPLOYEES**

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## Abstract

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The overall aim of this thesis is to investigate the firm's moral responsibilities to its employees. This is done in two particular contexts and by asking two questions: First, how should management design the firm's code of ethics so that it does not risk harming the employees or generating legitimate complaints? Second, what kind of demands or working conditions is it morally justified to offer employees in the contract situation? The ethical frameworks in the two essays overlap, not least in spirit, but are not identical.

Essay I analyses a sample of corporate codes in the Swedish banking sector. The purpose is to investigate the codes' ethical status. Are they consistent with the values of fairness or are they instead at a risk of harming the employees? With regard to employees, eight of the nine codes in the material were found to (a) focus one-sidedly on their duties and responsibilities, (b) lack statements regarding their value to the firm, while carefully stating the importance of several other stakeholders, (c) have an anonymous or authoritarian tone, (d) say little regarding the substantial reasons why certain behaviour is forbidden or expected; some of the codes also (e) contained problematic freedom restrictions. The empirical investigation of code content and design leads us to the normative issue of whether such a design can be unfair and risks harming the employees. Departing from the values of equality, reciprocity, care and respect, eight of the nine codes are found to be at risk of being in conflict with these values. The socially responsible firm, which avoids risking employees' welfare and self-respect, must consider rewriting such corporate codes.

Essay II seeks to provide a richer moral assessment of the transactions, offers and working conditions in the labour market. Some of the most influential accounts have focused on either the act of consent (Nozick), the background conditions (Peter) or the quality of the offers (Olsaretti). I argue that all these aspects are ethically relevant and necessary to make agreements morally justified. This leads me to the conclusion that (a) unreasonable offers remain ethically flawed regardless of employees' consent and adequate background conditions; (b) the mere act of consent is, nonetheless, ethically valuable; (c) there exist different *kinds* of demands, affected differently by whether they are properly consented to. Then, in a well-ordered liberal democracy (which constitute the necessary background conditions), to ascertain whether a firm's offers and working conditions are morally sound, we need to know both their quality (how reasonable they are) and whether they have been properly consented to. A firm ends up with three moral responsibilities: (i) not to exploit the workers' disadvantaged position in the labour market, which requires that they are offered only reasonable proposals, (ii) to inform employees in the contract situation of all the relevant aspects and working conditions associated with the job, thereby enabling proper consent, and (iii) once the worker is employed, to only implement working conditions of the kind that are possible to justify and consistent with treating the employees as persons.

*Keywords:* ethics, work, employees, contracts, consent, offers, labour market, working conditions, fairness, exploitation, reasonableness, wrong, harm, codes of ethics.

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Till Kata





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This is like the Oscars but where no music stops you from rambling. First, I am much grateful to my supervisors. Sven Ove has done a fantastic job of building this institution from ground up. Apart from the many readings of my papers, Sven Ove is one of those philosophers who do not use his talents to arrogantly bulldoze others. In my opinion, this virtue is a necessary part of being an excellent philosopher. Lars, I could have taken you for a Kantian, the way you have tackled your supervising duties. Despite working 70-hour weeks in a distant province, reading tons of books, having three kids and constantly tweeting about music, politics and philosophy, you have managed to be a fantastic supervisor. I would also like to thank Barbro, Linda, Patrik, Sara, and William for insightful comments and the many thorough readings of my papers and 'kappa', as well as those who contributed at the philosophy seminars. Jesper, I am so grateful for all your help those last days before printing.

The upshot with not being the go-getter type of PhD student is that I have made many good friends over the past years. I vividly remember the Ugglan sessions with Anna, Kalle and Madeleine; the heated PhD student meetings; the countless times standing for too long in the doorway to Sara's and Anna's room; the disputes with Lars about how to interpret Rawls; the permanent chess game with Kalle; all the fun with Linda, Marlene and Linda. These last years, I have had the privilege to be Linda's roommate, who has the best mix of cynicism and consideration. The ongoing discussion with Patrik and William about ... everything, I would not trade for anything. Lotta has had her fair share of stories about what any of these two guys did just say or do. I guess she is fairly fed-up with hearing about them by now. I however, hope to have made two friends for life.

Lotta, we are both pleased that I do not have to thank you for bearing with all my late work or for all those times where you alone took care of our children. But these last few weeks, when I actually needed to work a lot, you have been great. By the way, that goes for just about everything. Also, I could not have met anyone with better parents, who I love hanging out with, drinking whiskey and playing cards.

Talking of good mixes, my mother and father were one such good mix, with the biggest contrasts. The total relaxation of demands from one of them, while the other urged me to listen to P1 and to read the newspaper, and who also introduced me to the 'veil of ignorance' – an expression that had an enchanting ring to it, also at the age of 12. Thank you for that mix! I love you both very much.



# 1. Introduction

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## **Assumptions, perspectives and methods**

The overall aim of the two essays is to investigate some of the moral responsibilities of the firm to its employees. In other words, how should the firm treat this group to ensure it avoids justified blame? I ask two questions, one in each essay, respectively: First, how should management design the firm's code of ethics so that it does not risk harming the employees? Second, what kind of demands or working conditions is a firm morally justified to offer employees? The answer to the first question depends on how we define fairness, harm and when we consider the employees to have legitimate complaints on such a code. For the code to meet ethical requirements, it needs to avoid harmful practices (defined as unfair setbacks). Fairness is understood to incorporate the values of respect, equality, care and reciprocity, which are also contextually defined. The answer to the question in Essay II depends on fairly similar circumstances. According to this framework, the offers and working conditions must be consistent with the firm as a moral community, that is, one where employees experience being treated as persons rather than tools. In addition, we must consider the workers' situation in the labour market, the contract situation, the role of consent and what moral responsibilities we can reasonably put on a firm in a competitive market economy.

This thesis contains two stories of what makes corporate actions morally worrying. Essay I focuses on harm, fairness, legitimate complaints and employees' reasonable reactions. Essay II frames ethics in terms of moral responsibility, consent, exploitation and different kinds of wrongdoing. One reason for this difference is that Essay I focuses more on employees and their reasonable expectations, while Essay II investigates the firm's moral responsibilities in a more abstract manner. Nonetheless, there is a common theme or perspective; the assumed importance of employees' wellbeing. The consequence is that both frameworks set out to track poor treatments that give rise to justified indignation among employees and the surrounding society. I assume we should aim for a firm where all parties are fairly content with the distribution of burdens and benefits. We should then ask, which kind of codes, offers and working

conditions will be regarded reasonable and justified in such a context and which will be met by justified resentment.

If trying, somewhat loosely, to describe the kind of work-life I find attractive, it could go like this: work should not harm us physically or psychologically, nor expose us to risks or degrading tasks. It must be possible to live decently on one's salary, and the firm ought to design the workplace so that complaints and suggestions can be discussed jointly and on equal terms with management. The distribution of burdens and benefits should be in harmony with some fair and predictable principle, which employees are able to accept or even embrace. Even if a principle of meritocracy governs certain aspects of the firm, the distribution of respect, consideration and reciprocity must never be affected; instead, such social goods should be distributed equally to all those who contribute, regardless of their talents and abilities. However, the firm operates in a competitive market economy. This aspect must be acknowledged to avoid demanding too much of the firm. In the light of this, all policies affecting employees should be justifiable to them, and they should accept no less than reasonable treatment.

The function of this introduction is multiple: to elaborate on certain methodological aspects, to set the scene and provide context, to recap some adjacent discussions and to add some perspectives that I did not include in the research articles. I also discuss some of the premises of the two essays; occasionally justifying my choices, at other times finding reason to doubt them. As I have a curiosity for the process itself, how to find a reliable ethical criterion, able to assign blame and indicating the right course of action, this will be one theme in this introduction. My hope is also that the parties in the firm – e.g. unions, managements and owners – will appreciate the following discussion and that this thesis can contribute by indicating some ethically relevant aspects of work. Pushing things forward, as the song goes.

I begin by explaining why I have chosen not to use any of the classical frameworks in ethical and political theory. Thereafter, I elaborate on some methodological concerns that must be taken into account when designing ethical tools and criteria for wrongness. The frameworks in the two essays will hopefully find support in the essays themselves; thus, the following methodological discussion attempts to widen the perspective rather than recapping these accounts.

## The insufficiency of some well-established normative theories

There are several tools for ethical investigation that establish a criterion for rightness. Some refer to Immanuel Kant's categorical imperative (Arnold and Bowie 2003, Werhane 1985). Others prefer to frame ethics in terms of maximizing utility (Tännsjö, 1995) or to focus on flourishing and virtue (Shiffrin 2007, Solomon 2004). Still others depart from a libertarian perspective (Friedman 1982, Nozick 1974) or apply a Marxist-inspired framework (Cohen 1985, Zimmerman 1981). The list is far from exhaustive, but includes several of the most widespread normative theories.

All these theories have merits and I sympathize with all of them in certain respects. My intention here is only to say something about why they will not (regardless of their other insights and strengths) be part of the criteria of moral rightness in *this* thesis; not saying that it would have been impossible, but rather trying to explain why I have not felt drawn to any of them.

Utilitarianism (being the most widespread consequentialist theory) must be employed with caution.<sup>1</sup> The following characteristics, taken together, make it somewhat complicated to use utilitarianism as the appropriate criterion for justified corporate behaviour: (a) According to utilitarianism, what is the right thing to do will always, ultimately, be an empirical question. Thus, to breach a contract or refrain from fulfilling obligations does not have a distinct disvalue in itself. This is dissatisfying in a context where agreements and predictability play a central role. (b) In the context of work, most of us are rightly interested in other values than utility, such as obligations, moral responsibilities, rights and duties, converted into a set of fair and predictable rules that should govern a reciprocal employer-employee relationship. However, the consequentialist typically asks of us to be agent-neutral. Is this desirable (or even possible) in a complex web of very particular obligations, rights and responsibilities? (c) How do we measure utility? How would the consequentialist evaluate a situation where the shareholders gain much by an unreasonable demand on behalf of the employees, and how much should we rely on such an ethical evaluation? If management, for example, enjoys a luxurious lifestyle at the expense of the employees' wages, this might come out just fine in a utility calculation, or would profit rise due to a humiliating dress code, the utilitarian will have to take also such utility into consideration. However, a

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<sup>1</sup> As is well known, there are many versions of consequentialism. For example, *pluralistic* or *ideal* versions would allow us to take many values into account or assign intrinsic value to friendship, freedom or beauty. For an introduction to utilitarianism see Kymlicka (1990)

consequentialist framework can also generate very different recommendations. Since money tends to work better if distributed to those who have little, maybe management or the owners are blameworthy if they are not giving the surplus away to those who need it more. Thus, to maximize utility is too often either repugnant or supererogatory, and those aiming for predictability and legitimacy will not be attracted to such a criterion for rightness.

Turning instead to Immanuel Kant (2012), in his framework empirical circumstances and context become irrelevant to moral assessment. This differs much from the method used here, since I consider the context of market economy and the preferences and experiences of the workers. So, where I hope to construct a basis for a reasonably fair and trust-generating firm that does not harm its employees, Kant's objective is to identify universally valid principles of duty. Further on, as he puts focus on the pure intention of an act and disregards the importance of its consequences, I argue that the negative consequences of the firm's treatments are crucial, while the actors' intention is ethically irrelevant. Maybe one can describe the difference between the two perspectives (Kant's and mine) as the one between a natural scientist and an engineer. The latter uses some of the truth-seeking theories from natural science but with the purpose to design artefacts that are functional rather than true. So then, the purpose of this thesis is to construct tools that are capable of assigning blame and moral responsibility and also to indicate treatments that should possibly be mitigated, but not to seek the truth. This is not to say that we cannot be inspired by some of Kant's insights, even if one might want to liberate them from some of the Kantian metaphysics. One example is the idea that no one should be treated only as a means, a notion that I employ in the second paper.

What about the libertarian notion of rights, that is, the right of two informed adults to consent to whatever legal and non-coercive agreements they wish and, consequently, the right for the firm's owners to design whatever sort of legal business they prefer? (Friedman 1982, Nozick 1974). Such rights are fundamental, but not the issue here. Rather, what I investigate is when employees are treated poorly and therefore have legitimate complaints, which is a different question than what adults should be permitted to consent to. While I ask how we should treat each other to be decent persons, the libertarian typically asks whether the state should intervene and prevent such treatments. Further, as fairness and decency are not the only considerations, some of the treatments that I deem morally worrying should perhaps, on balance, be

permitted since they generate other types of benefits or values. When the libertarian restricts her theory to only regard what adults should be permitted to do (saying less about the ethical status of these agreements), our accounts can be consistent. That is, I can argue that a policy X is indecent and ethically flawed, while the libertarian can argue that (even if X is flawed) it should nonetheless be allowed due to the overriding considerations of liberty.

I turn now to the antipode of libertarianism, Marxism. A Marxist typically investigates the structures of capitalism and evaluates the inherent characteristics of market economy (cf. Kymlicka 1990). I however do not assume that transactions in the labour market are exploitive, wrongful or coercive *per se*. Such an assumption sweeps too many transactions with it and also labels morally justified agreements as wrongs. Therefore, a Marxist framework will not be the optimal tracker of relevant wrongs. Moreover, it remains an open question whether Marx analyzed capitalist transactions from an ethical viewpoint (Cohen 2001), which is the overriding concern this thesis. However, since I am concerned primarily with the welfare and interests of disadvantaged workers, I will be worried by similar working conditions that a Marxist will find objectionable.

Finally, virtue ethics typically focuses on questions regarding human character. Therefore, it directs its searchlight towards something other than the ethics of actions. However, I am indifferent to whether management has truly incorporated the values I promote. If those running the firm are in much inner conflict regarding these matters, forcing themselves to do the right thing, it would not affect the ethical analysis of their actions (Hursthouse 2012). In addition, when I frame ethics in terms of exploitation, moral responsibility, reasonableness and legitimate complaints, I therein ascribe value to other concepts than those associated with a virtue ethics approach. Had the analysis been conducted by a virtue ethicist, the question would have been how management can enable them to flourish, which I assume supererogatory rather than a ground for tracking wrongdoing.

I am rather sympathetic with Feinberg's (1984) methodological approach; however, I have not been able to apply it (stumbling over these passages too late). Feinberg expresses scepticism regarding using deep structure theories, such as utilitarianism and Kantianism. Instead of being absorbed by any such theory, Feinberg

appeal[s] at various places, quite unselfconsciously, to the kinds of reasons normally produced in practical discourse, from efficiency and utility to fairness, coherence, and human rights. My omission is not due to any principled objections to ‘deep structure’ theories (although I must confess to some sceptical inclinations). I do not believe that such an approach is precluded, but only that it is unnecessary. (p. 18)

Feinberg proposes another method, where he appeals directly to the reader, hoping to propose an alternative account that fits even better with her underlying convictions. The method requires a certain degree of common ground, but Feinberg hopes that the unconvinced reader will discover some unnoticed ‘costs’ with clinging on to her position, and also that ‘the “already convinced” may find a useful framework of reasons to render more clear and secure their prior convictions [...]’ (p. 19)

My point has not been that these theories or their advocates have made any particular errors, but rather that these tools are not optimal for the present context or purposes. Some of them I would regard much helpful in other contexts, albeit not the one here. For example, virtue ethics certainly carries many insights for how to become a wiser and more content person, while utilitarianism might be the best tool to direct foreign aid.

### **Designing ethical tools: some pitfalls and possibilities**

Having attempted to make sense of the choice to not side with any particular normative theory, I now move on and elaborate on what to consider and what pitfalls to avoid when designing ethical tools. As the following discussion operates on a more general and elaborate level than the two essays, there will be less of an elegant connection between the frameworks in the essays and the discussion that now follows. The intention is not primarily to justify the essays, but rather to complicate things and reveal some of those assumptions and notions that have possibly had an impact on my choices.

To make standard top management decisions, knowledge regarding such issues as logistics, customer preferences and advertising is crucial. To produce well-informed decisions, the management also must know which ethical values and costs it has to account for, what is ethically problematic, what is admissible and what to strive for. Some such values and costs concern employees, where certain treatments are desir-



able and others are flawed. To design an appealing ethical framework, it is important to identify appropriate normative concepts and investigate their precise meaning in the context at hand.<sup>2</sup> The question is where to place the ethical bar; avoiding both to demand too much by labelling fair acts as wrongs and neither doing the reverse mistake by labelling wrongful acts fair.

To ascribe a moral *carte blanche* to all corporate behaviour consistent with the law would be an ill-chosen strategy for me, since I make inquiries into what treatments are of such poor quality that the firm should consider terminating them, the employees should protest and the legislators should reconsider their legality. Thus, the intention is not to investigate what the firm could get away with. Rather, I am curious to identify what kind of corporate behaviour generates justified approval and genuine consent of the employees, however without demanding too much of the firm.

Moving on, what does it mean to demand too much of the firm? With regard to the context of this thesis, it is to stipulate a criterion for wrongness where employees too easily have justified complaints regarding their firm's (seemingly reasonable) treatment. If one chooses excessively controversial or out-of-context theories regarding the firm's moral responsibilities, one is at risk of not contributing to the context that one hopefully wants to shed some light upon, thereby making one's contribution irrelevant or obscure. To avoid this, we could formulate a rule of thumb for which types of theories could be adopted: they should typically be such that they can be acknowledged both by the enlightened employer (even if not, ultimately, acted upon) and by the employees (having only reasonable expectations). If the employer cannot grasp the criterion for wrongdoing, this is an indication that one should modify one's theory; it might need a more suitable criterion of wrongness.

The ethical framework must be able to distinguish between those treatments that are fair enough and those that constitute wrongdoing. That is, we need a tool with normative precision, not sweeping too many treatments with it, while (simultaneously) not letting flawed treatments off the hook. For this reason, I must say something regarding the difficult task of assigning justified blame when the firm actually follows

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<sup>2</sup> Some have called for better ethical tools to evaluate the firm's practices and treatments. For example, Fortin and Fellenz (2008, p. 416) claim, 'The unfolding of justice or injustice in organizations remains largely a black box.' Winstanley et al. (1996, p. 192) called for 'standards against which existing practices can be judged and new ones formulated', while Greenwood (2002, p. 265) argues that ethical theory is rarely used in the discussion of HRM: 'Questions such as "is this right or wrong" or "how should management behave" do not seem to be addressed by HRM researchers.'

the laws of a well-functioning democratic country. The type of society I have in mind when fleshing out an account of ethics in the firm, is the typical western democracy. To be regarded as a country of appropriate democratic standard, a certain level of non-arbitrariness, efficiency and transparency is required, that is, a certain standard with regard to the democratic virtues. This quality is believed to generate a corresponding level of well-earned legitimacy among its citizens, even when policy fails to be in harmony with our ethical criterion. In such a democracy, purchases of labour power will not be assumed wrong nor morally justified *per se*. A closer investigation is required to describe the ethical status and ascertain what the appropriate response of the society and its citizens should be.<sup>3</sup> Nevertheless, how should such an investigation be conducted, and what circumstances do we need to account for when assigning blame?

If a legislator in such a democratic society designs a market economy giving great freedom to firms and entrepreneurs to maximize values such as growth or full employment, how does this affect the ethical evaluation of the corporate sphere? On the one hand, even if the firm is given this wiggle room, it might still act in conflict with the employees' reasonable expectations and our criterion for rightness. A poor treatment, such as dangerous work tasks or very low salaries, can attract justified blame and resentment, despite such treatment being in harmony with a legislation generating other goods. If this is a fair description, the firm could be asked to refrain from the opportunity that the government has given it, and instead promote the values of ethics and the reasonable interests of its employees. Consequently, if the government permits firms to pay very low wages (otherwise they move their businesses to low-wage countries), firms should avoid exploiting this opportunity to the fullest and some firms who utilize this opportunity may be blameworthy.

On the other hand, the citizens of a well-functioning democracy have jointly (at least in some minimal sense) decided on the boundaries within which firms should be allowed to act freely.<sup>4</sup> Take again the example with minimum wages. If a firm pays a

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<sup>3</sup> Several countries will end up in the grey area, where it is uncertain whether the principles are applicable to firms operating within those countries. For example, is India or South Africa transparent and sufficiently well-functioning to generate the kind of legitimacy that I assume is generated by, for example, German institutions?

<sup>4</sup> It is important to bear in mind that the law does not regulate all kinds of corporate behaviours. Therefore, treatments, agreements and acts that fly under the policymakers' radar (e.g. adopting a disrespectful corporate code) cannot lean on this kind of legitimacy as easily. Thus, it is then more

minimum wage and the wage level is the result of political deliberation and public debate, this process is ethically relevant and appears to enhance the ethical status of also very low wages. This cannot be ethically irrelevant. One way to describe the relevance is to say that such poor wages, nonetheless, are procedurally justified and therefore legitimate. Taking a step back, it is evident that we are confronted with a delicate situation (relevant for the enquiry in my second essay). I have presented two ethical descriptions of a firm offering minimum wages; one where the firm's low wages attract justified blame and another where being an opportunist and paying poor wages is legitimate. To label corporate treatments seems to be a truly difficult task in a well-ordered democracy.

To sort this out, it may be helpful to distinguish between different kinds of wrongdoing, based on the difficulty and urgency to do the right thing. It is possible that to act in harmony with our ethical framework is occasionally morally mandatory (and blameworthy if we fail); while at other times it is unwarranted to blame those who fail due to the difficulty associated with such an action. We could relate this notion to the Kantian assertion that a morally guiding '*ought*' needs a plausible *can* (cf. Stern, 2004). In Kant's version, the *can* is of the kind where an action must be only logically possible to perform to be mandatory. According to Calder (2005), even if we cannot derive the notion of *degrees of wrongdoing* from his framework, Kant acknowledged 'that the easier it is to do what is right or the stronger are the grounds to do our duty, the more we should be blamed if we fail to live up to our obligation' (p. 230). Instead, I take the following tentative position: if doing the right thing is associated with high risks or costs (taking a bullet for an unknown child or to donate a very large part of my salary to charity), we should be less inclined to condemn or blame this inability to act in accordance with our framework. However, if doing what is right is easy or very urgent, blame will be an appropriate response since it is a more severe kind of wrongdoing, less easy to forgive.

If again transferring this notion to the labour market, when is it fair to say that a firm *can* abstain from certain kinds of legal but ethically worrying treatments, such as offering workers unreasonably low wages or exposing them to certain kinds of risks? Is there, for example, such a *can* if the consequence of raising wages is an overriding risk for bankruptcy? To blame the firm's owners for not risking the firm's existence (or

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difficult to argue that, since the citizens have not disallowed this treatment, it has thereby been deemed justified and sufficiently fair.

giving all surpluses to charity) appears to be a case of demanding too much. A plausible *can* is not in place and such acts would be supererogatory or foolish rather than deserving blame if not performed.<sup>5</sup> A distinction between degrees of wrongdoing might be fruitful: If arguing that a firm both *can* and *ought* to refrain from a certain morally worrying treatment, then such a treatment, once performed against the employees, can be labelled ‘blameworthy’ wrongdoing. In cases when the necessary *can* is not in place, but the treatment continues to be in conflict with our criterion for rightness, then such a treatment can be labelled as ‘admissible’ (or permissible) wrongdoing. Our impulse to condemn the firm should then be eased and in the case of admissible, but wrongful, minimum wages, we might instead urge legislators to consider raising such minimum wages.

If one decides (as I do) to let such wrongdoing off the hook by ascribing to it certain admissibility, one must bite the bullet and allow for ethically flawed acts to escape blame. If we assume that well-functioning democracies are vaccines against repugnant corporate behaviour, this seems plausible. However, otherwise we are forced to regard certain repugnant treatments as non-blameworthy, which might make such a position less attractive.<sup>6</sup> The difficulty of detecting what kind of *can* we are dealing with is the reason why I use the terms ‘attracts blame’ and ‘morally worrying’ in Essay II. It is a way of saying ‘from the perspective of ethics, we have a problem; however unclear or how big a problem it is and whether we should assign blame’.<sup>7</sup>

To summarize, when designing a framework thought to track wrongdoing, we need to be careful not to demand too much of the firm. Demanding too much could lead to the construction of a framework that sweeps too many treatments with it by labelling sufficiently fair treatments as wrongs. Another way to demand too much is to blame the firm in cases where the firm’s treatment is admissible and can be excused

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<sup>5</sup> With regard to first article on corporate codes, there will be no threatening bankruptcies or structural excuses to write a demeaning or disrespectful code of ethics. Thus, the *can* will not stand in the way of the occurrence of an emerging *ought*.

<sup>6</sup> It seems plausible that the majority of the citizens of a country share a repugnant preference and vote for it. However, if we add the condition that a democracy is also *fair*, this might raise the bar so that this also places some requirements on content, that is, what kind of laws is implemented. Maybe, for example, such a fair democracy has a constitution restraining the citizens’ possibilities to vote for certain types of repugnant laws (e.g. such that discriminate or obviously harm the citizens). But then we would be limiting the number of countries that will live up to this higher standard.

<sup>7</sup> This taxonomy sums up some of my ideas on different kinds of wrongdoing: (a) X is a blameworthy if the firm can easily refrain from X or X’s consequences are very bad; (b) X is permissible if refraining from X is very difficult and X is not so bad for the employees; (c) X is legitimate if X is consistent with the laws of a well-ordered democracy. This is however just a tentative sketch.

and explained in other terms than greed. Moreover, if the enlightened employer does not at all grasp the ethical criterion and express disbelief, this is an indication that it needs to be rebuilt. One method to avoid these pitfalls is to construct a framework that is context-sensitive and takes into account how difficult it is to do the right thing. I now continue this investigation by discussing how to use moral language.

## Using moral language

If a firm demeans or exploits the employees, such treatments are typically wrongful. A demeaning mode of communication might be blameworthy due to the relative ease to terminate such a practice, while exploitive wages are admissible if the reverse condition holds. This would possibly make it mandatory to change the management's means of communication, but supererogatory to give a raise.<sup>8</sup> But, there are also other moral concepts and words that we need to get right. If the action has certain features, it might be an exploitative kind of wrong; if it includes others, what makes it wrong might be that it is deceptive, illegitimate or coercive. To properly define these nuances and use them to tag human interaction is a good way to conduct normative research.

In my view, when conducting an ethical investigation, we should avoid using moral concepts in contradiction (a) to how they are typically used in ordinary language and (b) to how most of us typically make moral assessment. This should not be interpreted as that all truth in ethical theory is uncovered and that it is futile to identify new ethical positions. Rather, my point is that philosophers should not typically utter 'B wrongs A by doing Y', if the proposition does not imply that A has legitimate complaints, Y attracts blame and B should, if possible, abstain from Y. If this is not the case, we should probably use some other moral concept than 'wrong' that more accurately mirrors what has just happened. For example, it would be confusing to say that Patrik wrongs the five misfortunate persons in a scenario where he can either save ten people in one sinking ship or five in another ship, where saving the ten is, *de facto*, regarded as the right, albeit difficult, choice. For similar reasons, we should avoid using words such as 'violation' or 'harm' if they are not intended to imply that someone has, without justified reasons, violated your rights or caused you an unfair setback. The reason is that these words (wrong, violation, harm) connote that we

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<sup>8</sup> Cf. Feinberg, 1961 with regard to supererogation.

have justified reasons to mitigate that kind of action and that someone has probably acted outside of her rights.<sup>9</sup>

Moving on to the second instance of problematic uses of moral concepts, is it unfortunate to say that B, by lying to a murderer with regard to the whereabouts of her hunted victim, has acted in conflict with the moral law (cf. Kant 1949), as it would be to blame the father for not leaving his family to save needy children in distant countries (a possible implication of utilitarianism). Here, the problem lies not in any obscurity in language but in the application of an ethical criterion, unable to detect relevant wrongs, therein also unable to produce normative insights with regard to wrongness and when to pass moralizing judgements and resentment.

Certain kinds of behaviours are blameworthy and should be forbidden; others praiseworthy but not mandatory, or admissible but not admirable. Later, some will argue that voluntary agreements can also constitute wrongs, just as regrettable and unfair offers can be morally permissible. At the end of the day, it is such expressions that normative ethics should help us to get right. A stringent usage enhances our ability to condemn, promote, blame, celebrate, forbid, tolerate and mitigate, thereby pushing society into a wiser state of affairs. It is therefore paramount to choose ethical criteria with the capacity to convincingly separate blameworthy acts from those that are admissible or even justified. If a treatment or behaviour is inconsistent with my criterion for rightness, but does not – in context and outside of discourse – seem morally worrying, nor do I see any reason for mitigation; what then would the purpose be with my ethical theory? What is it designed to explain or reveal?

Having discussed some methodological considerations when designing an ethical framework, I move on to elaborate on one of the key concepts in the two essays, the idea that the firm's actions should be measured against what is reasonable. Given the previous discussion, one hope is that this criterion for avoiding resentment will succeed to convince the reader that, when finding behaviour in conflict with it, we should be inclined to blame those responsible and investigate what measures can be taken to stop or mitigate such behaviour (even if, ultimately, realizing it is a necessary evil that generates other goods). However, I have no intention to give a full-blown

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<sup>9</sup> However, these are very sketchy thoughts that have not endured any kind of opposition, opening for the possibility that they are either trivial, false or part of a well-acknowledged theory that I am embarrassingly unaware of.

account of reasonableness, far from it. I will merely touch on some traits of the concept that I find attractive and briefly elaborate on its function in Essay I.<sup>10</sup>

## **Reasonableness, harm and legitimate complaints**

Most agree that we have more responsibilities to our family than to a stranger, other duties towards our employer than to a neighbour, different loyalties to colleagues than to dear friends, more obligations to those who always help us than to those who never help out and so forth.<sup>11</sup> In other words, we owe different things to different persons in different situations. Therefore, what people can reasonably expect from us will differ. If you are interested in these kinds of notions, then a concept like ‘reasonableness’ seems plausible. It has an elastic and context-sensitive quality, where different contexts and relations bring with them different responsibilities, obligations and duties. According to Scanlon (1998), relating the concept of reasonableness to rational justification is a possible method of constructing a criterion for wrongness. We might also extend such a framework by using an additional concept, that of legitimate or reasonable complaints, where: a complaint is legitimate if a treatment lacks adequate justification. Thus, when the management is unable to justify a policy to the employees it is not that their complaints stem from being overly sensitive or having too high expectations.

What then, should be regarded a legitimate ground for complaints in a community with moral ties binding the parties together and generating warranted expectations? What treatments should be regarded unreasonable and lacking adequate justification? To put it differently, what kind of moral responsibilities should we ascribe to the firm and its management within such a community? I think Greenwood (2002) is right when arguing that to demand the corporate sphere to ‘do good’ is less reasonable than to demand a mitigation of harm.<sup>12</sup> To investigate the firm’s treatment from the perspective of harm is different from Cornelius et al. (2008) and Kjonstad and Will-

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<sup>10</sup> I fear that the concept – as it now stands in the two essays – is underdeveloped. However, I think the concept has much going for it and it would be an interesting task to more thoroughly develop and apply this concept in the firm, and to thereby make it a better tracker of wrongdoing. As it now stands, it appeals to our intuitions rather than guiding us out of the fog. It would have been natural to apply or develop a Scanlonian (1998) framework in any of the two essays, but I felt that it would require a too extensive investigation and therefore left this (hopefully) for future work.

<sup>11</sup> With regard to special obligations, cf. Honohan (2001) and Arneson (2003)

<sup>12</sup> Of course, it does not follow that the firm should not strive towards establishing a workplace characterized by autonomy, meaningful work tasks and flourishing employees, as long as this is consistent with running a reasonably efficient firm.

mot (1995), who investigate how employees can flourish, develop and remain fully autonomous. In my framework, to not be able to flourish or remain autonomous is not to be harmed or wronged. To demand this is typically not reasonable, but instead to demand too much and a lack of these qualities will therefore not constitute legitimate ground for employee complaints. In light of the previous discussion on pitfalls, to use 'flourishing' as a criterion for rightness would strike the employer as rather strange.

If employees are treated poorly or worse than they deserve, they will naturally have legitimate complaints. They will resent such wrongful treatment and perceive management with warranted distrust. However, as said before, if an inappropriate ethical yardstick is used that demands too much, this is indicated by the suspicion that the employees did not really have any legitimate complaints against the treatment that our theory identified as morally worrying. This might be the case if using flourishing and autonomy as criteria for moral rightness. I suspect that a firm that omits providing these qualities does not cause employees to have such legitimate complaints.

However, why then, should not the employees expect to flourish, have meaningful work tasks or remain autonomous? Why is it not considered harmful or unjustified to not be able to flourish (it is definitely a setback for the employees), but unreasonable to be disrespected or demeaned? Part of the answer might be that many kinds of work tasks are dull and monotonous by their very nature. To regard such conditions as indications of wrongdoing would be to neglect one basic idea of what the employees owe to the firm: to be available to management during working hours and, typically, to do what the manager tells you to do in a fairly efficient manner. However, just because your work is dull, this does not mean that you should tolerate disrespectful or degrading treatments. Ethically, the latter is a very different story.

Finally then, to whom should employees direct their legitimate complaints? Is it the firm, which benefits from a corporate-friendly policy, or is it rather the legislators that make the unreasonable treatment legal in the first place? It is possible that there are several parameters involved: is it possible that the workers consented to the treatment, is the treatment of a kind that is covered by the law, how well-founded are the legislators' reasons for allowing such treatment, how difficult is it for the firm to do the right thing and terminate it, how much damage does the treatment generate with regard to the employees and their legitimate interests? The ethical framework in this



thesis should, in its weakest interpretation, be handled as a bundle of values and dis-values of the kind that we should, *pro tanto*, strive for or mitigate. Interpreted in this manner, most of the responsibilities fall on the policymakers rather than on the management, even if this might be a shared responsibility.

### **Employees: their position in the firm**

When I sell my labour power, I put myself at the disposal of another (...) That is why some people call wage labor wage slavery, and that is why John Stuart Mill said that ‘to work at the bidding and for the profit of another ... is not ... a satisfactory state to human beings of educated intelligence, who have ceased to think themselves naturally inferior to those whom they serve. (Cohen 1983, p. 20)

What kind of workers do I have in mind and how is this significant for the conclusions in this thesis? In one respect this is not significant at all. Highly skilled and attractive on the labour market or with low skills and easy to replace, the management should not treat the firm’s lawyer with disrespect any more than the generally worse-off employee. Thus, the firm should not treat those in a privileged position in any way unreasonable, and it is also worrisome when those in this group are wronged. The highly skilled workers are not immune against morally worrying treatment, and it is easy to imagine such workers applying for a job and (in wanting it so badly) being vulnerable to exploitative or unreasonable treatments. However, those in this group are less easy to exploit and typically they receive an economic compensation that is considered adequate. They work hard but are also rewarded accordingly (or more), a symmetry which makes some kinds of demands reasonable. It is also reasonable to assume that those in this group can more easily opt out from their current work and are generally less harmed by their employer (e.g. less negative stress, more influence over their work tasks and less disrespectful treatment) than those with a weaker position in the labour market.

If your image of the worker is that of a resourceful person with good chances of getting a well-paid job, this image might lead you to ask different questions than if you perceive her as the weaker part, always at risk of being exploited or unemployed. What I have had in mind in this thesis is not the highly skilled worker at a privileged position in the labour market, but rather those with average or low working skills, those who are not in a position to say, ‘Either you stop demanding all these things of

me or you compensate me with a raise'. It is someone who has reasons to fear losing her job since she may be unable to find other work opportunities. Consequently, if such an employee actually chooses to remain employed in the firm, it is not a strong indication that she has good reasons to be content with the way she is being treated and her consent is no guarantee that no relevant wrongs exist.

### **The nature of worker vulnerability**

Many of the workers with average or low productive skills are precariously placed in the labour market, particularly in countries with a weak employee rights legislation and employment at-will policies. Their position in the firm is weakened by both the conflict between the interests of the employees and those of the firm and also the interests of the customers. When we prioritize the interests of one party, another is likely to suffer a setback. If the firm reduces the surveillance of employees, this might affect the customers negatively and it is typically not in the interests of the employees to work at maximum pace, expose themselves to risks, refrain from using Facebook during working hours or to adapt their private lifestyle to suit their firm. Thus, their interests are at risk since they easily collide with those of two other important stakeholders.

Employees are also more dependent and exposed in relation to the firm than other stakeholders. If treated unfairly, it is typically easier and less pressing to sell your stocks or choose not to buy the firm's products, than to quit work. Only the employees have the kind of inferior power-standing where they are occasionally told to conform to instructions or dictates that are not in their own interest or contrary to their own judgments. In sum, employees are more vulnerable to arbitrary corporate judgment than any other group. One could argue that employees are also the only ones to actually get paid, which makes these relationships fairly symmetric. As much as this is true, most of us are less dependent and exposed to arbitrary actions when going to the shopping mall than when going to work. It is when going to work that we are at most risk of being harmed, wronged and exposed to unreasonable corporate treatments. Therefore, if I must choose one setting where I would like someone looking after my interests, it is when I enter the doors of the workplace.

In addition to this, our work experiences might also have an increasing impact on our overall mental condition, at least in the following respect: In a society with low social mobility, where a son did what his father did and where most people did not take it

too personally if not treated as an equal by someone with a higher social and economic rank, the nuances of fairness and workplace ethics were probably not as important for employees' self-esteem, dignity and enjoyment of respect among her peers. Subordination was more naturally built into the relation and both parties had their roles to play, roles which were not interpreted as being causally related to the parties' talents or previous decisions. The employee could – indeed with a sting of bitterness – look at the less talented manager, knowing herself to be the clever one, but also understanding the realities of society at the time. This should be contrasted to most Western societies today, where many believe that they get what they deserve due to fairly equal opportunities, public education and meritocracy. The more of an actual choice one is thought to have – this being a psychological speculation on my part – the more it is significant for one's self image and one's peers' image what kind of position one holds; consequently, this affects one's self-esteem and overall wellbeing.

If this speculation is true, this circumstance contributes to make employees vulnerable and emotionally exposed to various types of treatments and modes of communication. Many are likely to have issues with being in a subordinate position, being instructed what to do, taking orders and occasionally having to perform tasks that she dislikes or opposes. This might remind her of potential failure, lack of talent, lack of luck or other misfortunes, seemingly responsible for her not to acquire a better position in the firm. Therefore, the experience of belonging to the corporate underclass might hurt more now than ever. Even when this experience is due to employees having too high expectations, it should (if possible) be mitigated, assuming that the firm cares for their wellbeing. Therefore, the management needs to be perceptive of the employees' reactions, experiences and expectations. For example, if William – due to a mental disorder or because of a very demanding father – has difficulties handling situations where the manager bluntly gives him orders, this provides good reasons to consider another management strategy, even if William has unreasonable expectations and his reaction seems unwarranted.

This is relevant, not least with regard to the ethical analysis in Essay I. In the essay, since his reaction is due to being overly sensitive, the firm dispensing this practice treats William benevolently, which might be supererogatory rather than demanded by the ethical framework. However, other aspects of our ethical framework in this thesis are those of care, reciprocity and being treated as a person. In the light of these values,

maybe the manager's blunt and straightforward way of giving William instructions is inconsistent with treating him as the specific person he is – with all his preferences and shortcomings? Nonetheless, I still find it difficult to accept that William should expect and take for granted this kind of treatment. Could it be that he should be somewhat grateful and humble in all this, despite it also being the management's moral responsibility to satisfy William's preferences?<sup>13</sup>

Lastly then, what relevance does this description and assumption of the workers' precarious situation have for my ethical framework or criterion for wrongness? This is of great significance in Essay I, but not as much in the second essay. In Essay I, this perception of employees will be relevant in a fundamental manner. It is possible that the low skilled worker is more exposed and sensitive to the nuances of the management's means of communication than the firm's lawyer regarding herself as part of top management. Thus, the communication of the corporate code from the management to the employee lower down in the hierarchy will be relevant for my analysis of what codes risk being harmful and thus should be rewritten. With regard to Essay II, since low-skilled workers are typically the ones facing a grim labour market (but typically without a viable exit option), it is important to consider under what conditions they consent to employment; these are conditions that affect the firm's moral responsibilities. Thus, even if all employees should be treated reasonably and equally well, the firm will also have an additional moral responsibility to not exploit those workers that have a disadvantaged situation in the labour market. However, as we have seen, it is far from obvious what kind of wrongdoing we should assign to the firm, if failing to match those responsibilities.

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<sup>13</sup> See the appendix for a fictional character (Vincent Vega in *Pulp Fiction*) who does not handle subordination, or bluntly being told what to do, very well.

## 2. Notes on Essay I

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### Extended abstract

Nine codes of ethics were collected to make an ethical analysis of their content and design. They were collected from the Swedish financial industry. This context will however have little relevance since these codes are fairly typical for how codes tend to be designed, regardless of sector or country. Therefore, I have chosen to investigate a broader question: What ethical status should we assign to a code that (i) uses a demanding or authoritarian tone, (ii) risks to obscure the possibilities to debate the content of the code, (iii) demands seemingly unreasonable things from employees, (iv) fails to provide reasons for the variety of policies, (v) does not encourage the employees to take initiatives but rather treats them with distrust, (vi) extensively discusses misconduct, however (vii) without expressing that employees have rightful expectations, legitimate interests and are valuable to the firm, while simultaneously expressing much care for other stakeholders? So then, how should such traits be ethically evaluated and why do they appear ethically worrying? In the essay, I provide support for my intuitions that this kind of communication design is flawed.

Assuming such a code to be a dictate from top management, it needs to be extra perceptive. Assuming also assign significant importance to employees' wellbeing and the urgency to avoid its opposite, such a code will appear problematic. More specifically, if framing ethics in terms of fairness, harm and employees' legitimate complaints, the result is a code that is at risk of harming employees by treating them worse than they deserve and should expect. If expecting to be treated as a resourceful person – maybe competing with dozens of others for the position – you will possibly expect more than mere dictates of what is allowed and disallowed, not the least if the code seems to stipulate how much the firm values the environment, the customers and the surrounding society. To then experience being foremost a tool for corporate success, is not an entirely unwarranted reaction. Therefore, the firm caring for its employees' wellbeing should consider rewriting such a code.<sup>14</sup>

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<sup>14</sup> The ethical tool will be fairly easy to evaluate. If you, for good reasons, find it very difficult to see how employees could have any reasonable objections to such a code design or doubting that they –

In the following subsections, I provide some background and aspects of the codes in the material, with the objective of benefitting the reader when reading the essay itself. I also recap those accounts that my ethical framework is built on, and finally present some other management practices in the firm that might be affected by the results of this study.

## **What is a code of ethics?**

Corporate codes of ethics became common in Northern America in the second half of the 1970s. A wave of corporate scandals forced companies to take action to improve their behaviour and credibility from an ethical viewpoint (Cressey and Moore 1983, Stevens 1994). The adoption of a code of ethics was one of the means to achieve this. In the 1980s, intensified debates on white-collar crime contributed to the promotion of such codes as a method to reduce corporate misconduct (Benson 1989). In 1987, the influential Treadway Commission released several recommendations on the prevention of fraudulent behaviour in business. One of these was the adoption and enforcement of written codes of corporate conduct (Farrell et al. 2002).

Eventually, it has become *comme il faut* to have a code of ethics, at least in larger corporations. Not having one could signal a disinterest in issues such as ethics, the environment and social responsibility. It is possibly a bad idea to not communicate that the firm cares about such issues. The consequence can be negative media and a brand that signals predatory profit seeking. Instead, it is important to be perceived as a firm that seeks profit but never at the expense of ethics, the environment or the customers. Not so strange then, that the codes seldom say anything negative about these values or interests. Now, the question that arises is whether the codes are as caring of the employees and their interests? They are not, but the more relevant issue here is under what circumstances the employees will have legitimate complaints regarding such a corporate code. This is the question that I hope to answer in Essay I.

Coughlan (2005, p. 45) states, ‘A code of ethics represents an explicit agreement among relevant parties that their behaviour will adhere to stated ethical principles’. Several scholars have described what they believe to be a code’s function or purpose. Kaptein (2004, p. 13) provides the following description: ‘A code aims to reduce the

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in any way – could be harmed by such a means of communication, the essay’s criterion for wrongness might be in danger. Instead, it might be I who should do some rewriting.

occurrence of incidents, to improve the extent to which stakeholder expectations are realized, to boost stakeholder confidence in the company and to encourage the authorities to relax regulations and controls'. Further, Farrell and Farrell (1998, p. 588) say, '[t]he function of codes is to influence the decisions which individuals make so that the resulting behaviour is acceptable to the organization'. Molander (1987, p. 623), discusses three broad objectives:

First, a code is designed to eliminate or preempt practices which are clearly unethical and inimical to the best interest of the firm. Second, a code establishes the legitimacy of disciplinary action if the code is violated. Third, a code helps individual employees relieve 'ethical dilemmas'—situations in which there are conflicts between the apparent interests of the organization and the ethical beliefs of the individual managers, or between one of these factors and the ethical beliefs of the manager's peers, important corporate client groups, or the society at large.

Thus, a code of ethics is often believed to have several purposes. Many argue that it is intended to both protect the firm (by decreasing employee misconduct, relax regulations and increase stakeholder confidence) and to set down corporate principles with regard to several aspects of the firm and its surrounding society. In the essay, I also include the perspectives of some authors who are critical of codes of ethics, arguing that its primary purpose is to control employees.

## **Two aspects of the codes**

The essay investigates two aspects of the codes. One regards such codes as tools of communication, while the other regards the demands and freedom restrictions found in the codes. If management uses an authoritarian mode of communication (such as an authoritarian code), it is always ethically worrying. It is always better to use a less authoritarian means of communication, one that does not risk being perceived as threatening or demeaning. However, this is not the case with the firm's demands and freedom restrictions. It would not be better if the firm abstained from restricting employees' freedom to engage in insider trading, and it might be morally irresponsible not to forbid them to speculate in a manner that endangers their private finances and, ultimately, the security of the firm. Instead, the question is which demands are reasonable and which are not and one should not regard any relaxation of demands as an ethical improvement. Therefore, one kind of finding in these codes is always mor-

ally worrying, while the other kind might be justified, even if constituting a setback for employees.

## **Soft and hard human recourse management**

In the code material, eight of the nine codes might – due to their content and design – be regarded as ‘hard’ tools for corporate defence rather than as ‘soft’ empowering documents stating the firm’s obligations and commitments to its employees. Proponents of hard human recourse management (HRM) regard employees as a corporate resource, getting paid for efficiently performing certain tasks; on the other hand, proponents of soft HRM emphasize the importance of commitment and trust (also as instrumental values, though not exclusively). There is no consensus on whether soft HRM really is that soft or ought to be preferred to hard HRM. For example, Greenwood (2002) suspects that it might be a wolf in sheep’s clothing. However, Guest (1999) argues that soft HRM is more appreciated by employees. Therefore, Guest predicts that employees working in the one firm with the ‘softest’ code will, *ceteris paribus*, be more content.

## **Ethical framework**

Some theorists have taken employees’ subordinate position in the firm as their starting point when analysing the firm’s moral responsibilities. The following contributions (apart from the one from O’Neill, which is included subsequently) lay the ground for the framework in Essay I. I hope this recap provides a good background.

According to Maguire (1999), work characterized by ‘the discourse of control’ objectifies employees and risks hurting their self-esteem. Controlling conditions are those where there is an absence of choice and a lack of opportunity to provide meaningful input. Maguire argues, ‘workers ought to be given reasons to act and the power to criticize, modify and accept those reasons’ (p. 112). He continues, ‘If we concede the importance of reciprocity in fostering moral community then why not adopt a discourse of accountability? To be accountable means to be responsible for one’s actions and to be willing to engage in dialogue to explain and defend them’ (p. 113).

In his article *Managerial Authority* (1989), McMahon describes subordination as when an employee must do X even if it conflicts with her judgment regarding what is the right thing to do in a particular situation. One conclusion is, ‘where there is subordi-



nation, it is necessary that there be at least some reason capable of justifying it to the subordinates' (p. 53).

Warren (1999) is critical of authoritative and paternalistic management in that it has problems in maintaining a just balance between the interests of the employer and employee. He is worried that such an authoritative management distributes moral respect unequally and that the employees risk losing their dignity and self-respect. According to Warren, material inequality can be endured if 'moral freedom and equality are still preserved and the inner self is felt to be dignified and authentic' (p. 55). He continues, on the same page, 'To lose respect or be shown disrespect is to be ignored or to be demeaned in the sight of others, and is a shameful experience for the individual and can result in loss of self respect or dignity'. Because firms typically restrict employees' freedom, this makes it all the more important that management combines its power with social responsibility for the sake of the employees.

Werhane (1999) defines a fair treatment of the employees as being 'treated as an equal, and to enjoy basic rights such as those of freedom, self-development, and control over one's life' (p. 238). She also emphasizes the importance of trust, which typically can be found in an atmosphere of respect and a free exchange of ideas. According to Maclagan (2007), managements' control system needs to be justified from the societal perspective and must not be too intrusive into employees' moral rights. (p. 373). Maclagan supports the view that the firm should nurture the entire person. He also says that caring for the employees is a *prima facie* duty, which can only be overridden if sufficiently strong reasons are given.

According to O'Neill (1985), if the employers' tone or manners show indifference or distance, such a treatment risks not treating the employees as the particular persons they are. She suggests that those working in a firm, not least those lacking a splendid career should be treated with mutual respect and solidarity. Employees will have rightful expectations regarding their firm's treatment:

We are concerned not only to be treated as a person—any person—but to some extent as the particular persons we are. We are not merely possibly consenting adults, but particular friends, colleagues, clients, rivals, lovers, neighbours; we have each of us a particular history, character, set of abilities and weaknesses, interests and desires. (p. 260)

In Essay I these accounts constitute my contextual definition of fairness. The fairest description is that I have borrowed from them, without necessarily agreeing with all of what I have just portrayed.

### **Implications for other corporate practices**

Analyzing these codes has also invoked the following question: what other modes of top-down communication attract justified blame and are of such nature that the management with reciprocal ambitions should terminate them? The ethical investigation here will possibly have implications for several types of management practices: how to handle a staff meeting, how to communicate with the employees regarding their work effort, how to instruct and delegate work tasks and so on. However, also those with a higher 'rank' in the organisation need to be extra sensitive. For example should a doctor, when instructing a nurse, be sensitive regarding how such instructions might be received?

### 3. Notes on Essay II

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#### **Extended abstract**

Many of those who set out to make a moral assessment in the labour market do this by using ethical criteria and concepts such as coercion, consent or rights. What is common is also to bake everything of value into either of these concepts. My analysis begins by assuming that the immensely difficult question of what makes transaction voluntary or coercive might not be the most fruitful one. Instead, other concepts must be used to describe and depict what happens when firms purchase labour power and workers are forced to accept the conditions that are offered to them. Importantly, this is not an all-or-nothing issue, which is easily the case if a transaction is either regarded coercive or voluntary. There are certain nuances that need to be accounted for, which are also important for how much resentment must be expressed.

Therefore, if a firm makes a potential employee an offer she cannot refuse, what must be done to evaluate this transaction's ethical status? According to some libertarians (Nozick 1974, Friedman 1982), informed workers should typically be permitted to consent to whatever job offers they find worth consenting to. As long as those making the offer do not coerce anyone into an agreement, which in such a framework will barely ever be the case, neither of the parties have been wronged and the employer has acted within her rights. Some of those who reject this description emphasize the importance of background conditions and a more genuine kind of consent (Peter 2004) or the quality of offers and employees' alternatives (Olsaretti 1998). I take an intermediate position, arguing that the libertarian act of consent is ethically relevant and brings a kind of legitimacy to such offers. However, it is not sufficient to make these offers morally justified; Peter's (2004) background conditions and Olsaretti's (1998) focus on the quality of offers are also relevant. These three aspects together constitute a convincing framework for how to assess transaction in the labour market. In sum, these three qualities are necessary for the purchasing of labour power to be morally justified and not constitute wrongdoing. Due to the workers' precarious situation in the labour market, the firm is assumed to have a moral responsibility not to exploit this vulnerability. This is done by (a) providing only reasonable offers or working conditions and by also (b) informing them of all circum-

stances and working conditions that are not obviously reasonable, thereby enabling appropriate consent.

In the following, I present the central concepts in Essay II – that is, consent, coercion, exploitation, moral responsibility and the moral standing of markets. The purpose is to provide the reader with a better understanding of the variety of positions that surround my investigation, however from covering all relevant aspects with regard to these concepts. Much of what follows are therefore mere clarifications or summaries of previous thoughts, concepts and discussions, not always with an obvious connection to or bearing on the essay itself.

### **Consent, information and the contract situation**

Miller and Wertheimer (2009) assume that the purpose of consent is to ‘serve to protect and promote the consenter’s wellbeing (or interests) as well as autonomy [...] by facilitating mutually beneficial and altruistic interactions with others’ (p. 1). Even if they do not foremost discuss consent in the labour market, their perspective is akin to mine. They describe the ethical core of consent as under what circumstances does A’s consent to X make it morally permissible for B to proceed with X? If X is morally permissible, B doing X does not violate A’s rights. The authors assume that for A’s consent to be morally transformative, B must have acted fairly. They provide the following example: Assume B charges too much for towing A’s car out of a ditch – in that using A’s desperate situation to B’s own favour – will A’s consent nonetheless be morally transformative? They hold that consent might be morally transformative, but also that A might not be obliged to honour the contract by paying the sum to the exploitive rescuer. This appears strange, which the authors also admit, but let us move on.

In Essay II, I use the concept of consent in a manner that is (in one way) similar to the libertarians, that is, as the informed and sufficiently voluntary act to agree to an employment contract. To separate this usage from other notions, I express such consent as ‘the act of consent’. I argue that consent can occasionally make contracts morally justified, which would otherwise have been flawed, while at other times consent cannot – as Miller and Wertheimer (2009) put it – be morally transformative. Whether consent is morally transformative depends on the quality of the offers in the proposed contract; whether they are reasonable.

In my framework, workers in the contract situation can be wronged in two ways: either by not being provided with relevant information (thereby hindering proper consent) or by the firm offering them unreasonable working conditions. Thus, if employees receive adequate information and face only reasonable working conditions, they are not wronged. This brings me to the question of what is adequate information. Hansson (2006) and Lindblom (2009) have some suggestions. With regard to informed consent, Hansson argues

A company recruiting new employees typically has information about the position that the prospective employee does not have, including information about occupational health and safety. A strong case can be made that the company has a moral obligation to provide the job applicant with full and truthful information so that she can make a well-informed decision on whether or not to accept the job offer. There is an obvious analogy between information about occupational risks and about the risk associated for instance with participation in a medical experiment. (p. 153–154)

I agree with Hansson. In the essay, I also pinpoint what constitutes sufficient corporate information. That is, information regarding all reasonable working conditions that may not initially be obvious. In other words, it is essential that all information that is not obviously reasonable is revealed to the job applicant, thereby enabling proper consent. Lindblom suggests the following criterion for informedness, which is not alien to Hansson's position: 'In order for agents to be informed they must have access to those facts or descriptions that such agents usually consider material in deciding whether to refuse or consent to the proposed act'. (p. 111) Lindblom investigates how we should deal with the fact that workers must agree to incomplete contracts, not living up to the standard for appropriate consent. In his framework, employer authority can be justified even if consent is spurious. Such justification is present when a firm provides its employees with the possibility of adequately contesting these practices subsequently, even if they did not have the possibility of consenting to them in the contract situation. I have not included this idea in Essay II. In the framework of this essay, an offer or contract can only be morally justified if it is both appropriately consented to and reasonable.

I conclude with a reflection on our moral intuitions and the libertarian notion of consent. The media regularly reports on seemingly flawed working conditions. When contemplating the ethical status of these conditions – considering whether they are morally sound or if they wrong the employees – we of course wonder whether they were displayed to the employees when the contract was negotiated. Or, do we? Whether the employees were wronged is a question many, I believe, find possible to answer without information on workers' consent. If the working conditions stand in obvious conflict with our ethical convictions, they are typically regarded flawed regardless of what kind of permission that the employer was given by the act of consent. Thus, the libertarian notion of informed consent as the criterion for moral rightness appears to lack support among many of us. If this intuition is sound, it speaks in favour of rejecting the libertarian account, as far as such an account claims to also describe the ethical status of such working conditions and when resentment is an appropriate response.

### **Coercion: baselines, hard choices and acceptability**

In the essay itself, I try to avoid the issue of coercion by assuming the transactions in the labour market to be sufficiently voluntary (thus assuming coercion not to be the main ethical concern). One reason is the labour market context. This market has some unfortunate characteristics that affect workers negatively. For example, occasionally, employees lack alternatives of a certain quality and might really dislike the work they perform. At other times, they might be forced to accept toilsome job offers since the alternatives are even worse. However, such unfortunate circumstances do not necessarily make the firm's offers or working conditions blameworthy or wrong. Thus, since coercion (on most accounts anyway) appear unable to track only relevant wrongs (sweeping too many transactions with it), I do not use this concept as my criterion for wrongness.<sup>15</sup> However, I now recap a few accounts, since this debate borders some of the issues addressed in Essay II.

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<sup>15</sup> Another reason for not framing ethics in terms of coercion is this: possibly every philosopher has his own distinct disposition, affecting what moral concepts leave us unmoved, seemingly unable to provide a sufficiently solid ground from which we can conduct an ethical investigation. I simply lack strong intuitions regarding how coercion should be used to be a good tracker of relevant wrongs. Thus, it is unable to further my own normative understanding, which must be a virtue with a concept.

The most debated account of coercion is probably that from Nozick (1969). Nozick uses a baseline to determine what constitutes wrongful coercion. I am only coerced if forced or threatened into a choice with options worse than those prior to the uttering of the threat. Nozick's baseline is something like 'the natural course of events', where, for example, to be robbed at gunpoint is not regarded as such a natural course of events. In this case, the best option (to live but with considerably less money) is worse than before the threat. According to this criterion for wrongdoing, it would be legitimate and non-coercive to offer someone help in a precarious situation – for example, offering help to Sara who is drowning or towing Lars' car out of a ditch – albeit in return for a considerable amount of money (as long as I did not myself cause this precarious situation). In such situations, both Sara's and Lars' choice sets are improved by my offer and I have thus acted within my rights. In Nozick's taxonomy, threats by definition worsen the choice set while offers cannot, which make them non-coercive *per se*.

Zimmerman's (1981) suggestion is very different. When investigating whether capitalist wage offers are coercive, he sets the scene in the following manner: 'These workers have a choice between taking a well-paid (but still relatively unsatisfying) job and going on welfare (which is usually somewhat worse)' (p. 121). It is however not enough that the proposal is unattractive and the employee is unable to turn it down. It is also important to consider *how* the worker came to be in such a vulnerable position: 'Whether capitalist wage offers are coercive or not depends on whether an alternative pre-proposal situation is feasible *which is sufficiently better* than the terms of the actual wage offer *and* which capitalists prevent workers from having' (p. 140). This is Zimmerman's baseline. In the following quote, he suggests some conditions that would contribute to a coercive state of affairs:

For example, capitalists might attempt to depress wage levels by (...) threatening to move their plants to neighboring regions, or even overseas, where unions are already weak or non-existent. They might oppose an improvement of working conditions by resisting anti-pollution or safety-device regulations. (p. 143)

According to Zimmerman, if these conditions do not hold, then, capitalist wage offers are (at most) exploitative: 'The intuitive idea underlying coercion is that the person who does the coercing undermines, or limits the freedom of the person who is

coerced, so coercion goes beyond exploiting, however morally objectionable the latter may be' (p. 134). In a similar spirit, Cohen (1983) questions the notion that workers are free to sell their labour, if this implies that they are not forced to sell their labour. Instead, to be forced to do A means that I had no reasonable option worth considering – that I was forced to choose an unacceptable option. He provides the following suggestion for an option's acceptability: 'B is not an acceptable alternative to A iff EITHER A is particularly bad and B is worse than A OR A is not particularly bad, but B is' (p. 30).

Murphy (1981, p. 82) takes yet another position. According to him, we should separate those actions where the alternatives' poor quality is the mere result of 'sad facts about the human condition' or 'legitimate inequalities of fortune' from those involving wrongdoing; thus, the only condition cannot be the absence of attractive alternatives.<sup>16</sup> Murphy identifies that coercion is misconceived as being primarily regarded as a psychological concept, beginning with some notion of pressure. Concepts such as 'duress' or 'coercion' must only be used when our rights are violated, which is not the case whenever we find ourselves in a tight spot. He provides the following definition, you are coerced when 'unfairly placed in a situation where one's only choice is to do what is demanded or to avoid doing what is demanded by paying a price that is, morally, too high [...]' (p. 87).

Murphy stipulates two conditions that indicate that an agreement is not sufficiently free and that the content might be unfair, the consent tainted and the agreement not binding. 1. Radically unequal bargaining positions. 2. The contract contains information in 'fine print' that the job applicant cannot be expected to discover or have, and this information would have led her to not sign the contract. My framework deals with Murphy's second concern (also mentioned by Hansson and Lindblom), as I demand of the firm to disclose all those working conditions that are not obviously reasonable in the contract situation, thereby enabling proper consent. I also agree with Murphy that the radically unequal bargaining position is a reason to be extra observant and – as we have seen – this induces more responsibilities on the firm. However,

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<sup>16</sup> Does it really matter why I am not free to choose a better alternative? Murphy provides one reason. If I am wronged or a victim of crude, but legitimate, circumstances, this affects what kind of obligations that I can justifiably put on others. If wronged and my rights have been violated it is a question of justice and I can demand more, while I otherwise (to larger extent) need to appeal to the charity and benevolence of others. Murphy is worried that if we allow too many agreements to fall under the coerciveness category, 'the currency of moral discourse is thereby cheapened'. (p. 88)



such bargaining positions do not affect what kind of agreements that attract blame.<sup>17</sup> The firm should offer its employees reasonable terms independently of the workers' unfortunate position in the labour market.

In Essay II, I use Murphy's notion of hard choices as ammunition against Olsaretti's (1998) account on coercion. As I interpret Olsaretti, if the job applicant has no other job offer to consider and where this offer is not one she likes very much, she is exposed to a morally worrying situation since she might be coerced to accept the terms of this job. This sounds like a case of – as Murphy puts it – wrongly translating all difficult choices in life into the moral responsibilities of others, where no such responsibilities typically exist and where no wrongs have been committed.

### **The moral standing of the market**

The market is often justified by reference either to good consequences or to fundamental rights and liberties (Sen 1985, Herzog 2013). If you own your body and your property, it is feasible to deduce that you should also be at liberty to trade with these as you please. Even if many today have limited faith in the *invisible hand*, few would dispute that markets generate incentives and are efficient in coordinating certain types of human interaction. For example, the price mechanism is assumed to be a good indicator of peoples' preferences. If you love Bruce Springsteen, you will be inclined to pay much for a ticket to a Springsteen concert and hopefully you will attend it. If the tickets were instead handed out for free or distributed by a lottery, this could have the unfortunate consequence that people without a strong liking for Springsteen attend the concert (at the cost of some of those with a strong liking) since such a concert is still better than sitting home watching the fifth season of Dexter. According to another consequentialist argument, free markets generate a larger economy, in turn generating more goods to distribute and more welfare trickling down also to those who are worst off. Adam Smith (1776) famously argued that markets generate a wider circle of interaction where we, for self-interested reasons, trade also with those outside of the narrow community, thereby generating division of labour and a more efficient production.

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<sup>17</sup> Basu (2007) is reluctant to assign much weight to unequal bargaining positions. If parties with much power would risk that courts would overturn their contracts with the least favoured, the poor would risk being excluded from the market. Therefore, we need to find some other ground for violating the freedom of contracts. I return to Basu in the next section.

I have already touched upon some challenges to the free market paradigm. There is concern that employees cannot genuinely (enough) consent to some of the transactions due to the poor quality of the alternatives or unequal bargaining powers. To the extent that voluntariness is tainted, these agreements are therefore regarded as coercive and morally worrying. In addition, we have the Marxist-oriented critique rejecting the capitalist system with reference to alienation, exploitation and surplus value. Before I move on to issues of exploitation and moral responsibility I recap Basu's (2007) account on the moral standing of the market.

Basu (2007) investigates the moral limits of markets and their foundation, the 'principle of free contract' (PFC). According to him, PFC rests on the notion of an adult's fundamental right to do as she wishes with her property and to consent to whatever agreements she finds most suitable. Basu argues that even if we have no reason to doubt that a transaction is voluntary; this does not automatically make the transaction ethically non-problematic. 'Should we look the other way if a firm exposes workers to large health hazards as long as this is made clear to the workers in advance and they are not coerced into accepting the job?' (p. 562)<sup>18</sup> In this sense, Basu's position is similar to mine as I also suggest a framework for moral assessment in the labour market, where a lack of voluntariness is not the main ethical concern. Basu investigates certain corporate treatments, such as hazardous work and the firm's demands to contract away unionized collective bargaining. As an ethical tool, he uses the Pareto principle, stating that we must prefer state A to B if at least someone is better off in A than in B, while no one is worse off. In his paretian framework, it might be that we should not prevent single cases of hazardous work. However, if such contracts are made legal, then those that strongly prefer safe work and collective bargaining will possibly have to accept these terms, which is a Pareto argument against such legalization. Thus, the Pareto argument for banning consented hazardous work and preventing employees from contracting away their collective bargaining is not that it wrongs those few employees who actually prefer this state of affairs. Instead, it is a kind of externality argument, that is, that these types of contracts negatively affect other workers' welfare in general.

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<sup>18</sup> Basu is skeptical of both 'market fundamentalists' and their critics who 'clutch at whatever opportunistic ethic that is available on hand'. (p. 577) According to Basu, it is important to not fall into either the ditch of the well-meaning, eager to forbid exploitive contacts but unwilling to consider the potential negative consequences for the least well off, or the one singing praises of the free market.

Basu's perspective differs somewhat from mine. Where he asks whether certain kinds of demands should be legal, I investigate the ethical status of these treatments; do they attract justified blame, are they justified, legitimate or inconsistent with the firm's moral responsibilities, etc.? I assume their legality and do not attempt to explicitly question this state of affairs. Basu makes the case that we should not, for paternalistic reasons, hamper workers' ability to voluntarily sign such contracts that might harm them. Even if I do not necessarily disagree with this standpoint, the issue I address is what kind of proposals must be regarded as poor and unjustified, rather than what workers should be permitted to consent to. There might be good reasons to prefer a society (all things considered) where workers are permitted to accept certain kinds of ethically problematic proposals. However, an even better state of affairs must be one where firms voluntarily refrain from proposing certain demands, namely, those of such poor quality that workers prefer not to have to accept.

In Essay II, I characterize a market where concert tickets are bought and sold as a harmless market. In the unfortunate case that you cannot attend the concert, if someone then offers you a shamelessly low price for the ticket, you might rightfully be upset. Nonetheless, how to morally assess such an offer does not appear to be a question for political theory. Such hard choices and annoying circumstances are part of life and do not generate the kind of wrongs that I investigate. Lindblom (2009) puts it nicely: 'To be wronged is usually understood as suffering the morally relevant kind of harm' (p. 110). In my essay, the morally relevant kind of harm typically emerges in markets where you cannot opt out without risking severe setbacks that may affect your entire life. This brings us closer to the situation of a substantial amount of workers in the labour market, rather than when I sell my old sofa, a valuable stamp or a concert ticket.

Having touched upon consent, coercion and the moral standing of the market, I now move forward to the last set of concepts – *moral responsibility* and *exploitation*. When applying all these concepts in the labour market, they tend to overlap, since they are all tools to investigate the same issue, albeit from different perspectives: what constitute wrongful, admissible or justified transactions within this particular market. This variety of concepts is possibly needed since they typically mirror different kinds of human interaction. To exploit is not the same kind of wrong as to coerce or deny someone the possibility of proper consent. However, due to a certain overlap, there might be a sensation of déjà-vu in the last two subsections.

## Moral responsibility: resentment, control and wrongdoing

In Essay II, we have the following setting: A firm operating within a competitive market economy, itself embedded in a well-ordered democracy, believed to generate certain legitimacy. I describe the firm's primary moral responsibility as to not exploit the workers' precarious situation in the labour market by making unreasonable offers that they cannot afford to turn down.

Much of the debate on moral responsibility is centred on whether we can be held morally responsible if the world is determined and choice thereby limited (Eshleman 2009). However, whether we should be compatibilists or incompatibilists is an issue I gladly leave to others. My approach is closer to that of Strawson (1962), when he argues that the function of expressing resent, blame, anger, indignation or gratitude is that B deserves these kinds of judgments.<sup>19</sup> To utter that B has or has not acted in accordance with B's moral responsibility is a reaction expressing an attitude towards B, based on

how much we actually mind, how much it matters to us, whether the actions of other people—and particularly *some* other people—reflect attitudes towards us of goodwill, affection, or esteem on the one hand or contempt, indifference, or malevolence on the other (p. 5)

I see no reason not to accept Strawson's account as it stands. However, occasionally it can be fruitful (also for a philosopher) to use one's own words. This is how I would intuitively describe moral responsibility; beginning with the assertion that B has a moral responsibility to do X: If B had some control over the situation and could reasonably have done X, then we will have justified reasons to blame B for not doing X, or at least comment on the morally worrying aspects of B's choice. The reasons for B having such responsibilities may vary: (a) B might have some particular role of responsibility, emanating from B's particular relation to, for example, B's children or to those working at B's firm. (b) B has promised A to do X. (c) B has consented to an agreement where X is part of B's commitment to A, which makes such a commitment *prima facie* wrong to breach. (d) B has no particular relation to A, but since not doing X is so bad for A, B has a *prima facie* moral obligation to do X (e.g. to save A

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<sup>19</sup> Interestingly, some of those (e.g. Stern 1974) working in Strawson's tradition discuss 'moral community' and its ability to generate justified expectations among its members, a notion that I use in Essay II with regard to the firm as a kind of moral community.

from drowning). Socially and morally unacceptable reasons for not doing X could possibly include selfishness or cowardliness, while in cases with high degrees of difficulty or risk, B would be excused. Depending on how difficult it is to act according to B's moral responsibilities, we will applaud B when doing the right thing and such applause might be an indication that X was supererogatory and B is a real hero.

In the light of this description, how should we assess the firm's moral responsibilities, that is, when should we blame and when should we excuse its treatment of its employees? I will say a few words with regard to this after the next subsection. However, first, since I connect the firm's moral responsibility to exploitation, I discuss how a few scholars have used this particular concept.

### **Exploitation: mutual beneficence, fairness and vulnerability**

Murphy (1981) argues that we might have moral responsibilities to refrain from exploiting others' vulnerabilities, also when we are not ourselves responsible for their precarious position. If I offer a glass of water to a man in the desert that is in desperate need of water, in exchange for his house, Murphy does not consider this man to be obliged to honour such a contract. According to Murphy, the extreme cases seem clear: setting a very high price on a rare stamp is not exploiting someone, while doing the same thing with regard to a life-saving drug would be to exploit someone's desperate vulnerability. It is thus unclear how Murphy would regard the towing case, seemingly between these extremes. In Essay II, the worker's precarious situation rather resembles someone in desperate need for a life-saving drug than he who bids on a rare stamp.

Typically, a transaction is mutually beneficial, even if containing elements of unfairness. That is, both parties benefit from it if we set 'no-cooperation' as the baseline. For example, Feinberg (1988) argues that if a transaction is mutually beneficial, then no one has gained at the others' expense, a notion not too dissimilar from that of Nozick. This can be disputed with reference to examples such as that of the life-saving drug or towing Lars' car out of the ditch. Those who reject the 'no-cooperation' baseline instead use one based on fairness. Wertheimer (2008) provides the following example to illustrate the two baselines: Suppose a blizzard suddenly forces everyone to buy a shovel. If the hardware store owner then opportunistically decides to raise the price from 15 to 30 pounds, will such a transaction harm the buyers? As in the towing case, this depends on which baseline we choose. The buyers

will be better off than in ‘no-cooperation’; however, they will be worse off than if they were permitted to buy the shovel at a fair price. Wertheimer labels such a transaction ‘mutually advantageous exploitation’, which I believe is a suitable term.

Wertheimer then moves on to ask how seriously wrong an agreement really can be if it is both consensual and mutually beneficial: ‘It seems difficult to show how a mutually advantageous (but unfair) interaction can be morally *worse* than no interaction at all since, *ex hypothesi*, there is no party to the transaction for whom it is worse<sup>20</sup> (p. 12). In the literature, this is formulated as the ‘non-worseness-claim’, NWC. If NWC is correct, it might be morally non-problematic to sell shovels at a very high cost. Again, Feinberg argues that mutually beneficial agreements cannot be harmful or bad for anyone. According to Wertheimer, this is true, but only in some cases. Imagine that both A and B need blood for a transfusion. The only available blood is compatible with B’s blood type. Then, there are two alternatives: 1) No transfusion to either A or B. 2) Transfusion to B but not A. Here Feinberg’s description is applicable, that is, that ‘2’ is not bad for A since there is no feasible world where A could have gained more. However, this is not the case in the typical mutually advantageous exploitation, where A could have gained more if B had chosen not to exploit A’s vulnerable situation (such as in the towing or shovel cases). Another issue is when it is justified for legislators to intervene in cases of mutually advantageous exploitation. Wertheimer is sceptical of such an intervention, unless it actually benefits the exploited party.

Bringing the concepts of exploitation and moral responsibility into the domain of labour purchases, Meyers (2004) regards the typical sweatshops’ proposals as a kind of wrongful and coercive exploitation.<sup>21</sup> In his framework, the firm has a moral responsibility to lower its profits to a minimum to be able to offer a living wage to its employees and ensuring acceptable working conditions. Zwolinski (2007) instead defends a classic liberal or libertarian position, arguing that by accepting these working conditions, those working in such sweatshops exercise their autonomy and express their preferences, which must be regarded as a morally significant act. According to Zwolinski, these choices are voluntary and the offers remain neither wrongful

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<sup>20</sup> I would instead put it like this: in the no-cooperation scenario, no one has been wronged and no one has been used or exploited. These moral features make this state of affairs better in *this sense*, even if the cooperation scenario might be preferable (all things considered), despite its moral flaws.

<sup>21</sup> Even if this discussion regards sweatshops, that is, workplaces with gruelling working conditions, the ideas are also applicable to a labour market where unscrupulous firms have somewhat less wiggle-room.

nor exploitive. Similarly, Maitland (2001) argues that the employment contract should be considered voluntary since the contracting parties are not only free to take or leave the rules provided by the law, but also that nothing prevents the employees from refraining from contracting with a firm at all. Mayer (2007B) takes a middle position and agrees that such sweatshops offers are a kind of wrongful and coercive exploitation, but differs from Meyers in that he is not willing to lay that kind of moral responsibility on an individual firm. Instead, in certain cases, it may be justified to take unfair advantage of others:<sup>22</sup>

In this [capitalist and competitive] context it can be right to do wrong, for three reasons: (i) the wrongdoing is harmless; (ii) the consequences of this exploitation are preferable to the feasible alternatives; and (iii) the responsibility for reforming the context is collective, not individual. Because it is wrongful conduct, pure structural exploitation should elicit a sense of regret. But sometimes it is morally permissible to do regrettable things. (p. 606)

Thus, in light of the above discussion, how should we assess the firm's moral responsibilities, that is, when to blame and when to excuse its treatments of its employees? First, with regard to exploitation, Essay II uses Mayer's (2007A) account of exploitation. He describes it in terms of undeserved losses and wrongful gains at others' expense: 'Exploitation as a moralized term is the shorthand way of saying "failure to benefit a disadvantaged party as fairness requires"' (p. 143). Further on, when the working conditions wrong employees by being unreasonable, they are considered cases of mutually beneficial exploitation. That is, there is another plausible world where the firm gains a little less and its employees gain a little more, but where the current state of affairs is still better than not having the job at all.

As seen earlier, I use the phrase 'moral wrongdoing' rather abstractly; at a later stage deliberating on whether it is plausible to act in accordance with this criterion. Another (and perhaps more plausible) way to design this framework, would be to say that we do *not* have a moral responsibility to do X if X is too difficult to perform.

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<sup>22</sup> It is possibly easier to refrain from using someone in the towing case (and may be also in the shovel case) than for the firm to not use employees in a competitive market economy. This is one reason why Meyers' account seems plausible.

Thus, not doing X does not constitute wrongdoing at all (neither admissible nor blameworthy), if X is too much to ask. If you maintain that not doing X constitutes some kind of wrongdoing and a failure to fulfil your moral responsibilities – regardless of whether B can reasonably do X – then the concept rather becomes a goal for human interaction than a reliable criterion for resentment.

I do not use the ‘no-cooperation’ baseline in Essay II, not least since the provided examples have strong intuitive force. At first sight, it seems indecent to take advantage of a blizzard or car crash, just as it seems morally problematic to exploit workers’ arduous situation in the labour market. These are kinds of opportunistic behaviour that we are inclined to resent. Moreover, as I attempt to flesh out an account of the firm as a kind of moral community, with ties binding the parties together and where employees experience justified trust and respect from the management and owners, this naturally raises the bar for what will be regarded justified, fair and reciprocal behaviour.

Returning again to Strawson, how much do we actually mind the firm’s exploitative salaries? The answer must, in the end, depend on the more specific circumstances that prevail. Without this information we cannot know whether the very low wages is the result of indifference, malevolence or merely very sad circumstances making it impossible to pay higher wages without the risk of bankruptcy. However, if the profits de facto are very high, we will be inclined to say that the very low wages depend on selfishness or greed, i.e. morally unacceptable reasons that unleash our justified resentment.

Finally then, Shiffrin (2007) argues that a virtuous agent cannot complete a transaction that is, all things considered, wrong. She also makes a metaphilosophical point: if ethical theory fails to separate good behavior from bad it makes it more difficult to cultivate moral behavior. Even if I have chosen not to design my criterion for wrongdoing with help from virtue ethics, I find Shiffrin’s approach attractive. I suspect that her framework demands too much to compose a reliable tool for assigning blame, but it might serve as depicting a state of affairs worth striving for.



## References

- Anderson, S. 2011. 'Coercion'. *The Stanford Encyclopedia of Philosophy*.
- Arneson, R. J. 2003. 'Consequentialism vs. special-ties partiality'. *The Monist*, 86(3), 382 – 401.
- Arnold, D. G. and Bowie, N. E. 2003. 'Sweatshops and respect for persons.' *Business Ethics Quarterly* 221–242.
- Basu, K. 2007. 'Coercion, Contract and the Limits of the Market'. *Social Choice and Welfare*, 29(4), 559–579.
- Benson, G. 1989. 'Codes of ethics'. *Journal of Business Ethics*, 8:5, 305–319.
- Bowie, N. E. 1999. *Business Ethics: A Kantian Perspective*. Oxford: Blackwell Publishers
- Calder, Todd. 2005. 'Kant and degrees of wrongness'. *Journal of Value Inquiry* 39 (2).
- Cohen, G. A. 1985. 'Are workers forced to sell their labor power?' *Philosophy and Public Affairs* 14 (1):99–105.
- Cohen, G. A. 1983. 'The structure of proletarian unfreedom.' *Philosophy & Public Affairs* 12.1: 3–33.
- Cohen, G. A. 2001. *If You're An Egalitarian, How Come You're So Rich?* USA: Harvard University Press: p. 103
- Cornelius, N., Todres, M., Janjuha-Jivraj, S., Woods, A., & Wallace, J. 2008. 'Corporate social responsibility and the social enterprise'. *Journal of Business Ethics*, 81(2), 355–370.
- Cornelius, N., & Gagnon, S. 1999. 'From ethics "by proxy" to ethics in action: new approaches to understanding HRM and ethics.' *Business Ethics: A European Review*, 8(4): 225–235.
- Coughlan, R. 2005. 'Codes, values and justifications in the ethical decision-making process'. *Journal of Business Ethics*, 59:2, 45–53.
- Cressey, D.R. and Moore, C.A. 1983. 'Managerial values and corporate codes of ethics'. *California Management Review*, 25:4, 53–77.
- Eshleman, A. 2009. 'Moral Responsibility'. *The Stanford Encyclopedia of Philosophy*
- Farrell, B. J., Cobbin, D. M., & Farrell, H. M. 2002. 'Codes of ethics: Their evolution, development and other controversies'. *Journal of Management Development*, 21(2), 152–163.
- Farrell, H. and Farrell, B.J. 1998. 'The language of business codes of ethics: implications of knowledge and power'. *Journal of Business Ethics*, 17:6, 587–601.
- Feinberg, J. 1984. *Harm to others*. Oxford University Press.
- Feinberg, J. 1961. 'Supererogation and rules'. *Ethics*, 71(4), 276–288.
- Fortin, M., & Fellenz, M. R. 2008. Hypocrisies of fairness: Towards a more reflexive ethical base in organizational justice research and practice. *Journal of Business Ethics*, 78(3), 415–433.
- Friedman, M. 1982. *Capitalism and Freedom*. London: The University of Chicago Press.
- Greenwood, M.R. 2002. 'Ethics and HRM: a review and conceptual analysis'. *Journal of Business Ethics*, 36:2, 261–278.
- Honohan, I. 2001. Friends, countrymen or Strangers, Contemporary political studies
- Guest, D. 1999. 'Human resource management – the workers' verdict'. *Human Resource Management Journal*, 9:3, 5–25.
- Hansson, S. O. 2006. 'Informed consent out of context'. *Journal of Business Ethics*, 63(2), 149–154.
- Herzog, L. 2013. 'Markets'. *The Stanford Encyclopedia of Philosophy*.

- Honohan, I. 2001. 'Friends, strangers or countrymen: the ties between citizens and colleagues'. *Political Studies*, 49:1, 51–69.
- Hursthouse, Rosalind, 2012. 'Virtue Ethics', *The Stanford Encyclopedia of Philosophy*.
- Kant, I. 2012. *Groundwork of the Metaphysics of Morals*. New York: Cambridge University Press.
- Kant, I. 1949. 'On a supposed right to lie from altruistic motives'. *Critical of practical reason and other writings*, 346–350.
- Kaptein, M. 2004. 'Business codes of multinational firms: What do they say?'. *Journal of Business Ethics*, 50(1), 13–31.
- Kjonstad, B. and Willmott, H. 1995. 'Business ethics: restrictive or empowering?'. *Journal of Business Ethics*, 14:6, 445–464.
- Kymlicka, W. 2001. *Contemporary Political Philosophy*. Oxford: Oxford University Press
- Lindblom, L. 2009. 'Consent, contestability and employer authority'. *Revue de philosophie économique*, 10(2), 47–79.
- MacLagan, P. 2007. 'Hierarchical control or individuals' moral autonomy? Addressing a fundamental tension in the management of business ethics'. *Business Ethics: A European Review*, 16:1, 48–61.
- Maguire, S. 1999. 'The discourse of control'. *Journal of Business Ethics*, 19:1, 109–114.
- O'Neill, 1985.
- McMahon, C. 1989. 'Managerial authority'. *Ethics*, 100(1), 33–53.
- Maitland, I. 2001. 'Distributive justice in firms: do the rules of corporate governance matter?'. *Business Ethics Quarterly*, 129–143.
- Mayer, R. 2007A. 'What's wrong with exploitation?' *Journal of Applied Philosophy*, 24, 137–150.
- Mayer, R. 2007B. 'Sweatshops, exploitation, and moral responsibility'. *Journal of Social Philosophy*, 38(4), 605–619.
- Melrose-Woodman, J. E., & Kverndal, I. 1976. *Towards social responsibility: Company codes of ethics and practice*. British Institute of Management.
- Meyers, C. 2004. 'Wrongful beneficence: Exploitation and third world sweatshops'. *Journal of Social Philosophy*, 35(3), 319–333.
- Miller, F. G., & Wertheimer, A. (Eds.). 2010. *The ethics of consent: theory and practice*. Oxford and New York: Oxford University Press.
- Molander, E. A. 1987. 'A paradigm for design, promulgation and enforcement of ethical codes'. *Journal of Business Ethics*, 6(8), 619–631.
- Murphy, J. 1981. 'Consent, coercion and hard choices.' *Virginia Law Review*, 67, 79–95.
- Nozick, R. 1974. *Anarchy, State and Utopia*. Oxford: Blackwell.
- Nozick, Robert. 1969. 'Coercion.' *Philosophy, science, and method: Essays in honor of Ernest Nagel*: 440–472.
- Olsaretti, S. 1998. 'Freedom, force and choice: Against the right-based definition of voluntariness.' *The Journal of Political Philosophy*, 6, 53–78.
- Peter, F. 2004. 'Choice, consent and the legitimacy of market transactions.' *Economics and Philosophy*, 20, 1–18.
- Scanlon, T. M. (1998). *What we owe to each other*. London: Harvard University Press.
- Sen, A. 1985. 'The moral standing of the market'. *Social philosophy and policy*, 2(02), 1–19.
- Shiffrin, S. 2007. 'The divergence of contract and promise.' *Harvard Law Review*, 120, 709–752.
- Smith, A. 1937. *The Wealth of Nations*. 1776. *New York: Modern Library*, 740.

- Solomon, R. C. 1993. 'Ethics and Excellence: Cooperation and Integrity in Business.' Oxford: Oxford University Press .
- Solomon, R. C. 2008. 'Business Ethics and Virtue'. A Frederick, R. (Ed.). *A companion to business ethics*. Wiley. com.
- Solomon, R. C. 2004. 'Aristotle, Ethics and Business Organizations'. *Organization studies*, 25:1021
- Stern, Robert. 2004. 'Does 'ought' imply 'can'? And did Kant think it does?' *Utilitas* 16 (1):42–61.
- Stern, L. 1974. 'Freedom, blame, and moral community'. *Journal of Philosophy*, 71 (3):72-84.
- Stevens, B. 1994. 'An analysis of corporate ethical code studies: where do we go from here?'. *Journal of Business Ethics*, 13:1, 63–69.
- Strawson, P. F. 2008. *Freedom and resentment and other essays*. Taylor & Francis US.
- Tännsjö, T. 1998. *Hedonistic utilitarianism*. Edinburgh University Press.
- Werhane, P.H. 1999. 'Justice and trust'. *Journal of Business Ethics*, 21:2–3, 237–249.
- Warren, R. 1999. 'Against paternalism in human resource management'. *Business Ethics: A European Review*, 8:1, 50–59.
- Werhane, P.H. 1999. 'Justice and trust'. *Journal of Business Ethics*, 21:2–3, 237–249.
- Wertheimer, A. 2008. 'Exploitation', *The Stanford Encyclopedia of Philosophy*
- Winstanley, D., Woodall, J. and Heery, E. 1996. 'Business ethics and human resource management: themes and issues'. *Personnel Review*, 25:6, 5–12.
- Zimmerman, D. 1981. 'Coercive wage offers'. *Philosophy & Public Affairs*, 10:2, 121–145.
- Zwolinski, M. 2007. 'Sweatshops, choice, and exploitation'. *Business Ethics Quarterly*, 689–727.

## Appendix

THE WOLF

What I need you two fellas to do is take those cleaning products and clean the inside of the car. And I'm talkin' fast, fast, fast. You need to go in the backseat, scoop up all those little pieces of brain and skull. Get it out of there. Wipe down the upholstery – now when it comes to upholstery, it don't need to be spic and span, you don't need to eat off it. Give it a good once over. What you need to take care of are the really messy parts. The pools of blood that have collected, you gotta soak that shit up. But the windows are a different story. Them you really clean. Get the Windex, do a good job.

VINCENT

(calling after him)

A “please” would be nice.

(The Wolf stops and turns around.)

THE WOLF

Come again?

VINCENT

I said a “please” would be nice.

(The Wolf takes a step toward him.)

THE WOLF

Set is straight, Buster. I'm not here to say “please.” I'm here to tell you want to do. And if self-preservation is an instinct you possess, you better fuckin' do it and do it quick. I'm here to help. If my help's not appreciated, lotsa luck gentlemen.

JULES

It ain't that way, Mr. Wolf. Your help is definitely appreciated.

VINCENT

I don't mean any disrespect. I just don't like people barkin' orders at me.

THE WOLF

If I'm curt with you, it's because time is a factor. I think fast, I talk fast, and I need you guys to act fast if you want to get out of this. So pretty please, with sugar on top, clean the fuckin' car.