Organizational Harm, Legal Condemnation and Stakeholder Retaliation: A Typology, Research Agenda and Application

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ABSTRACT. The essence of the ethical issues pertinent to business activities is the harm or benefit that occurs as part of a company's resource transformation process. A typology is developed that sorts ethical issues according to three variables: (1) the nature of the harm, (2) the nature of those harmed and (3) the transformation stage where the harm occurs. Propositions are formulated that would enable analysts and practitioners to predict the degree of legal condemnation of, and stakeholder retaliation to, harms generated by questionable moral reasoning. An organizational harm analysis is then constructed as a decision making tool that could supplement cost/benefit analysis.

Introduction

In 1981, Saul (1981) warned that "corporations must choose between accepting more government interference, more consumer lawsuits, and more public ill will, or integrating ethical considerations into corporate guideliness." The Center for Business Ethics (1986) has documented that some companies have created written codes for ethical conduct; nonetheless, they conclude that "specific implementation of stated ethical goals is badly lagging."

The managerial choice to not go beyond ethical window dressing during the 1980s has resulted in continued claims that unethical practices are being institutionalized (Hosmer, 1987a; Kelly, 1987; Jansen and von Glinow, 1985) and a fulfillment of Saul's bleaker predictions. Though conclusive evidence linking corporate social responsibility to higher profits is lacking (Aupperle *et al.*,1985; Arlow and Gannon, 1982) there is evidence that unethical corporate behavior can have a negative impact on profit. During the past decade, a \$2.5 billion class action suit has been filed against the Velsicol Chemical Company by 80 town residents (Rosenberg, 1987), General Electric and E. F. Hutton have been fined \$2 million and \$2.75 million respectively for illegal behavior (Hosmer, 1987a), Texaco's improper interference with a merger agreement between Pennzoil and Getty Oil resulted in a jury verdict in excess of \$10 billion and a \$1.1 billion decline in its stock market value (Summers and Cutler, 1988), UNR Industries had nearly 17 000 law suits filed against the company for its asbestos product (Gini, 1984), the Manville Corporation estimates that future asbestos-related lawsuits will cost the company \$2 billion to \$10 billion (Johnson, Baliga, and Blair, 1986), and the Ashland Oil Company estimates that it will have to pay a \$2.5 million insurance deductible for spilling 3.5 million gallons of fuel into the Monongahela River, with the expectation of higher insurance premiums and individual lawsuits in the near future (Gruson, 1988). Besides direct financial costs that can lead to bankruptcy, a company's prestige is severely damaged, employee morale declines, and highly qualified management personnel leave.

The magnitude of corporate wrongdoing is evident in some shocking government statistics. In 1984, there were 3740 occupational fatalities in the private sector (approximately 6.4 per 100 000 full-time employees), 5.4 million occupational injuries and illnesses (8 per 100 full-time employees), and the commencement of 10 745 product liability suits, 1100 antitrust cases and 9748 employee discrimina-

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tion cases (Bureau of Labor Statistics, 1986; Administrative Office of the U.S. Courts, 1985).

What are the ethical issues that pertain to business activity? How can these issues be classified and managed? Currently, the business ethics and business and society literature offer several approaches to classifying ethical issues. Although the authors themselves do not necessarily refer to these approaches as typologies, they will be labelled as such since that is the function they serve. Unfortunately, neither academic area provides a well-developed typology of ethical issues nor one that serves any practical purposes for business practitioners or analysts. After a brief review of these approaches, a typology will be developed that enables analysts and practitioners to classify each company's unique assortment of prominent ethical issues and to predict the degree of legal condemnation and stakeholder retaliation (in the form of protests, political lobbying, etc.) to harms generated by questionable moral reasoning.

Business ethics typologies

According to the most recent working definition of the term, business ethics refers to the analysis of how one should behave in business relationships based upon moral reasoning (Beversluis, 1987). Praiseworthy and blameworthy actions in business transactions should not only be determined according to economic reasoning but also according to moral reasoning.

Business ethics scholars critique a wide range of business practices and procedures. Three general typologies are often used in the business ethics literature: (1) typologies that segment the ethical issues into broad subdivisions, (2) typologies that utilize a listing approach and (3) typologies that fit the ethical issues into philosophical subdivisions. The business and society scholars who limit their analysis to the areas that concern the business ethicists tend to create typologies similar to the first two approaches listed above, a broad subdivision or a listing approach.

What follows is a brief review of these approaches. The typologies presented are a representative sample of major works in the area. Though the scholars whose works are reviewed may not have intentionally constructed a typology, I will call them as such since they serve a classification purpose. The summary below provides a general background to the wide range of issues currently being explored in the business ethics literature. My intention is to build on this analysis by sorting the ethical issues in a manner that would (a) help to further conceptualize the ethical issues for further academic research and (b) enable the construction of a conceptual tool useful for business practitioners.

Broad subdivision typologies

The most common sorting of ethical issues is to distinguish between ethical issues internal to the company (between company officials and internal stakeholders) and those external to the company (between company officials and external stakeholders). According to Hoffman and Moore (1984), the former are issues of employee rights and duties, quality of working life and hiring practices, while the latter are issues pertaining to consumers, the environment, regulatory agencies and foreign interactions. Velasquez (1982) sorts ethical issues according to transactions between businesses and (1) the market, (2) external exchanges and (3) internal constituencies. An extension of this typology is offered by Mathews *et al.* (1985). Their anlaysis is subdived based on (1) personal values, (2) corporate values looking inward, (3) corporate values looking outward, and (4) corporate values in international business.

According to Buchholz *et al.* (1985), there are four broad areas of concern that businesses respond to and each area has a set of ethical issues: (1) societal concerns – infant formula debate, product stewardship, environmental forecasting, corporate governance; (2) governmental concerns – government bailouts, Soviet/Western European Pipeline, advocacy advertising, Political Action Committees; (3) community and employee concerns – programs for disadvantaged people and areas, community relations, comparable worth, reverse discrimination; and (4) consumer and environmental concerns – product safety and land use.

Listing approach typologies

The listing approach typology entails providing a list or cluster of ethical issues and treating each issue separately. For instance, Beauchamp and Bowie (1983) segment their analysis into nine areas: (1) corporate social responsibility – plant closings and product safety; (2) employee rights – freedom of speech, trade secrets, worker safety, honesty exams, lie detector tests and employer noncompliance with OSHA standards; (3) conflicts of interests and roles – whistle blowing, U.S. firms in South Africa, foreign corrupt practices act and promotion procedures at Bendix; (4) advertising and information disclosure – business bluffing, deceptive advertising and invasion of privacy; (5) environment – ecological rights, animal rights, pesticides and effect of dams on community development; (6) preferential hiring and reverse discrimination; (7) self-regulation and government regulation – institutionalizing ethics, business codes of ethics, government regulation, cost/benefit analysis, product safety and air pollution; and (8) theories of economic justice – price of oil during oil embargo, wages of baseball players, hiring and promotion issues. A similar listing approach is offered by DeGeorge (1986).

Starling and Baskin (1985) enumerate fifteen ethical issues: (1) implementing the public affairs function, (2) effects of deregulation and technological change on banking, (3) politics of international banking, (4) influence of government, history and culture and business, (5) environmental issues, (6) politics of pollution, (7) toxic wastes, (8) worker safety and the use of bankruptcy laws, (9) government-industry cooperation, (10) use of human resources, (11) influence of top management values on corporate culture, (12) strike breaking, (13) sexual harassment, (14) cost/benefit analysis, and (15) reverse discrimination. A different listing of ethical issues is offered by Lydenberg *et al.* (1986). The seven issues that they consider to be essential for measuring the conscience of a corporation are: (1) charitable contributions, (2) representation of women on boards of directors and among top corporate officers, (3) representation of minorities on boards of directors and among top corporate officers, (4) disclosure of social information, (5) involvement in South Africa, (6) conventional weapons-related contracting, and (7) nuclear weapons-related contracting.

Philosophical subdivision typologies

A third typology found in the business ethics literature entails categorizing business decisions based on philosophical methodologies. For instance, Donaldson and Werhane (1983) segment business decisions according to five philosophical concerns: (1) ethical relativism – Lockheed bribery issue; (2) egoism – Goodrich aircraft brake issue; (3) truth telling – Italian tax mores; (4) property and profit – marketing infant formula in the third world; and (5) justice – who should sell what product to which country. Goodpaster (1985; 1983) blends philosophical subdivisions with business structure by linking three types of moral accountability – descriptive, normative and analytical – with three levels of business transactions – individual, organization and system.

Deficiencies of present typologies

The summary of representative typologies provides one with a wide perspective on the innumerable issues that business ethicists are exploring and the different manners in which these issues could be analyzed. Mitnick (1987) provides a listing of relevant criteria for the development of good typologies (such as dimensional clarity, naturalness, essentiality, extensiveness, exclusivity, inclusivity, systematization, theoretical productivity and prescriptive utility) that can be utilized to critique the business ethics and business and society typologies.

The internal and external subdivision typology requires further dimensional clarity and systematization. For instance, companies have different ethical relationships with communities that provide input factors and communities that are affected by output factors. A community may be harmed by the manner in which a business treats the environment in the input process (i.e., depleting resources) and the output process (pollution). Both are external issues, but they have quite different ramifications. On the other hand, some ethical issues – such as hiring practices – have an impact on both internal constituents (company employees) and external constituents (members of the local community).

The listing approach typology, by its very nature, requires greater systematization as there is substantial overlapping among the ethical issues. Hiring and promotion issues appear in three subsections (3, 6 and 8) of Beauchamp and Bowie's typology. All of these categories are actually a subset of the first category, corporate social responsibility. Although whistle blowing appears under the subheading conflicts of interest and roles, it is also an issue of employee rights. DeGeorge's typology has thirteen categories, some of which can be grouped together (three pertain to worker rights). Two other problems associated with the listing approach are those of subjectivity and essentiality. For instance, in the corporate social responsiblity literature Lydenberg *et al.* (1986) subjectively assume that involvement in South Africa and nuclear weapons-related contracting are examples of corporate immorality. In regards to essentiality, their list is not hierarchical; thus a lack of women on the board of directors is considered on the same moral plateau as nuclear weapon contracts.

Finally, the broad philosophical subdivision typology has problems of descriptive naturalness, exclusivity and prescriptive utility. First, applying philosophical labels to various types of decisions or methods of moral reasoning is the mind-set of philosophers, not business scholars or practitioners. Second, adequate analysis of a case study may entail the use of several philosophical subdivisions. For instance, the Lockheed bribery case is not only a matter of ethical relativism but also a matter of ethical egoism (maximizing one's own well-being) and justice. Third, the philosophical subdivisions are more useful for enumerating ethical issues than for solving them. For example, deontology is useful for highlighting the role of individual duties or obligations in the decision making process but does not prescribe a solution when duties or obligations conflict with one another. Likewise, utilitarianism is useful for highlighting situations where individual acts may have a negative impact on the general welfare but prescribes counterintuitive solutions for situations involving individual dignity and minority rights (Scheffler, 1982; Smart and Williams, 1973).

In the following section I will sort these ethical issues in a systematic manner that could generate various cohesive research efforts.

A typology of organizational harms and company transactions

The essence of the ethical issues that dominate the business ethics and business and society literatures is that a harm or benefit is generated from company transactions with a stakeholder (Freeman and Gilbert, 1988). In reference to harms, ethics serves as a constraint on one's behavior (what act one should not perform). In reference to benefits, ethics serves as a catalyst for one's behavior (what act one should perform). The typology I will construct is one based on interactions that generate harms since these are the case studies that dominate the literature and are detrimental to the company and those harmed. Nonetheless, the typology should also be applicable to interactions that generate benefits to a stakeholder.

There are three areas of concern that pertain to the placing of a value judgement on a harmful transaction: (1) the nature of the harm, (2) the nature of the harmed, and (3) the stage of the resource transformation process at which the harm occurs. The first and second areas of concern have an impact on how people place a judgement on *any* harm that occurs and the third area of concern is unique to business activity.

The first concern that influences value judgement pertains to the *nature of the harm*. This concern can be subdivided according to its essence and other relevant variables. While not all harms are legal matters, the distinctions used by the legal system as to the essential nature of harm are helpful in this instance. These distinctions are: (1) physical, (2) economic and (3) psychological (Keeton, 1984). Physical harms are the most serious and receive the highest condemnation from the justice system, followed by economic harms and then psychological harms. Psychological (or emotional) harms are the least likely to be condemned because causality is difficult to verify. A proposition based on the essential variable of the first concern is that business transactions resulting in a physical harm receive greater condemnation than business transactions that result in psychological harms (P1). Thus businesses are more likely to be held blameworthy by stakeholders and the justice system for a physical harm (as in worker safety issues) than for a psychological harm (as in worker alienation issues).

It is important to note that this analysis is descriptive, not prescriptive. The proposition does *not* state that businesses "ought" to be held more blameworthy for generating physical harms than for generating psychological harms; the proposition states that they *are*. Since the above distinctions are legal ones, a possible method for operationalizing the proposition would be to compare the differences in judicial decisions pertaining to these cases.

This suggested avenue of research methodology is beneficial on two counts. First, from a theoretical point of view, social philosophers place great weight on the role of the justice system in maintaining peace and upholding virtue in civil society. In Adam Smith's (1759/1976) conceptualization of capitalist activity, he assumed that the justice system would restrain individual pursuits of economic self-interest that generated harms (Collins, forthcoming). Second, concentration on legal condemnation will help to reveal a descriptive account of the present legal reality. It would systematically direct the business practitioner to those harms of greatest financial burden (in hope that the practitioner will not commit them) and the public policy theorists to those harms that are least likely to be enforced by the legal system (in hope that other social controls can be designed to prevent them).

Dworkin (1986; 1977) has eloquently argued that there is an ethical basis for jurisprudence, yet the overlap is far from a complete correspondence. Shipp (1987) and Stone (1975) have properly argued that the legal system inadequately covers ethical issues. Following this line of argumentation, research is needed to determine which harms elicit the greatest number of stakeholder complaints or modified vendettas. The inadequacy of the legal system to monitor ethical issues, however, is not sufficient cause for its abandonment; both criminal law and civil law aim to prevent harms (Fienberg, 1977) and business decision makers tend to be quite sensitive to the threat of lawsuits. Throughout the remainder of this section, the propositions will pertain to legal condemnation though they are also applicable to other forms of stakeholder retaliation. Also, the propositions are legally descriptive, not ethically prescriptive.

Other relevant variables pertaining to the nature of the harm include the intentionality, visibility, severity, repetitiveness, permanency and verifiability of the harm inflicted. These are clustered variables that, as of this moment, cannot be hierarchically arranged. For instance, intentional harms are highly condemned by the justice system but if the harm is not severe, repetitive or permanent the legal condemnation of the act is greatly diminished. Nonetheless, these variables can be clustered to establish the two extremes on the continuum: Business transactions resulting in harms that are intentional, visible, severe, repetitive, permanent and verifiable receive greater condemnation than business transactions resulting in harms that are not (P2). The ordinal position of each variable could be determined through multidimensional scaling by comparing jury settlements in situations where all the other relevant variables are insignificant except the independent one.

By linking the propositions, it could be stated that high condemnation is placed on business transactions resulting in a physical harm that is intentional, visible, severe, repetitive, permanent and verifiable (P3: P1, P2). Thus companies that have worker safety problems that are visible, severe, repetitive, permanent, intentional and verifiable are highly condemned, while companies that have worker safety problems void of these variables are not as highly condemned.

The second concern that influences value judgement on harmful transactions pertains to the *nature of the harmed*. An essential variable in this area is the moral standing of the harmed (Attfield, 1983). Harms inflicted on persons are more highly condemned than harms inflicted on nonpersons (i.e., animals or vegetation) (P4). Companies whose pollutants cause harms to human beings are held more highly condemned for their actions than companies whose pollutants harm the ozone layer, even though this may, in the long run, result in harms to humans. It is important to note that this analysis pertains to degrees of condemnation in the present. For instance, when the Hooker Electrochemical Company dumped chemical wastes in a landfill during the 1940s and early 1950s the company was not condemned for its actions. However, thirty years later, after homes had been built near the landfill and people were harmed by the chemicals, the company was highly condemned.

Other relevant variables that pertain to the nature of the harmed include the social status of the harmed (rich, middle class, poor) and the number of harmed (many or few). Companies are more highly condemned for harms incurred to (1) rich people than to poor people and (2) many people than to one person. The former variable is, hopefully, more a function of how the legal profession can be manipulated by the economic well-being of the litigant than the sentiments of the justice system itself. By clustering the two variables, the following proposition establishes the two extemes on the continuum: Business transactions resulting in a harm to many rich people will be more highly condemned than transactions resulting in a harm to one poor person (P5: P4). Ordinality could be determined by comparing judicial decisions involving many poor people and those involving one rich person, all else being equal. When linked with the propositions pertaining to the nature of harm it could be argued that high condemnation is given to business transactions resulting in a physical harm that is visible, severe, repetitive, permanent, intentional and verifiable and that is incurred by many rich people (P6: P5, P3). (See Table I for a listing of essential and relevant variables that influence the degree of condemnation based on the nature of the harm and the nature of the harmed.)

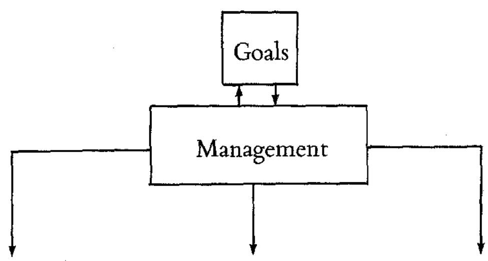
TABLE I
The dimensions of harmful transactions

	Nature of harm		
Essential Variable:	(1) Physical	(2) Economic	(3) Psychological
Relevant Variables:			
(1) Intentionality	High	Medium	Low
(2) Visibility	High	Medium	Low
(3) Severity	High	Medium	Low
(4) Repetition	High	Medium	Low
(5) Permanency	High	Medium	Low
(6) Verifiability	High	Medium	Low

	Nature of harmed		
Essential Variable:	(1) Person	(2) Nonperson	
Relevant Variables:			
(1) Number	High	Medium	Low
(2) Social status	High	Medium	Low

The third area of concern that influences the legal condemnation of harmful transactions is unique to business activity as it pertains to the company's *resource transformation process*. Katz and Kahn (1978) base their open system theory on three primary transactions: inputs, throughputs and outputs. Each of these transactions can generate a harm. Using the open system model, three major areas of transactions can be accentuated: (1) input resources – humans, raw material, capital, ideas and other companies; (2) throughputs – humans, raw material, capital and ideas; and (3) output receptors – humans, raw material, capital, ideas and other companies (See Table II).

TABLE II
Resource transformation process



Input Resources	*Throughputs*	*Output Receptors*
Humans	Humans	Humans
Raw materials	Raw materials	Raw materials
Capital	Capital	Capital
Ideas	Ideas	Ideas
Other companies	–	Other companies

A harm may be generated at any stage of the resource transformation process. In the most simple case, a company imports resources from a community, manages the resources within the organization and then exports resources back into the community. Using human resources as an example, a company hires a person, manages the person and then dismisses the person. There are ethical issues unique to each aspect: the proper hiring methods, the proper managing techniques and promotion methods, and the proper dismissal method. The same holds true with material and capital resources. A company may deplete a raw material during the input stage, inefficiently utilize the raw material during the throughput stage and pollute raw materials during the output stage. Capital may be improperly garnered from the community, misused within the company and wrongfully disbursed into the community. The throughput stage may be further differentiated according to the ethical dilemmas of subordinates and superiors; however, Brummer (1985) found these factors to be significantly interrelated. Expanding upon the simple cases above, a company may have transactions in three different communities. It may import resources from one community, perform throughput tasks in a second community and export into a third community.

Table III provides a classification of the ethical issues that dominate the business ethics and business and society literature when sorted according to the (1) transformation stage where the harm occurs, (2) nature of the harm and (3) nature of the harmed. For instance, the ethical dimension of plant closings pertains to an output transaction – the dismissal of a large number of employees – that generates both economic and psychological harms to human beings. Embezzlement pertains to a throughput transaction of an economic nature that is incurred to capital. Harms that occur in one transformation stage can lead to further harms in other transformation stages. For instance, sexual harassment or whistle blowing are listed as throughput transactions yet they may further generate output harms (an improper dismissal). The classification scheme is an attempt to meet the rigor that is demanded of systematic typologies (Mitnick, 1987).

As can be seen by the wide range of ethical issues in Table III, it is not apparent whether companies are held more blameworthy for an input harm, throughput harm or output harm. If the nature of the harm is physical and the other relevant variables are high, and if the nature of the harmed is human and the other relevant variables are high, then the location of the transaction that gave rise to the harm is, for the most part, not important. For example, there are laws against slavery, dangerous working conditions and product negligence. All three cases result in physical harms to human beings at different transformation stages. However, it is inherent that input and output transactions are more visible to a wider population than throughput transactions. Also, the degree of condemnation is lessened for some throughput harms, such as work-related deaths, under the assumption that employees accept certain risks when they receive wages for services rendered. Thus, all else being equal, transactions resulting in harms in the input and output transformation stages are more highly condemned than transactions resulting in harms in the throughput transformation stage (P7). Secondly, all else being equal, companies that harm a resource in all three transformation stages are more highly condemned than companies that harm a resource in only one transformation

TABLE III
Ethical issues and organizational harm

Ethical issue	Transformation stage	Nature of harm (Essential variable)	Nature of harmed (Essential variable)
Product safety	Output	Physical	Person
Plant closings	Output	Economic/psycho.	Person
Employee dismissal	Output	Economic/psycho.	Person
False advertising	Output	Psycho./economic	Person/nonperson
Pollution	Output	Physical/economic	Person/nonperson
Bribe payment	Output	Economic	Nonperson
Worker safety	Throughput	Physical/economic	Person
Promotion proced.	Throughput	Economic/psycho.	Person
Sexual harassment	Throughput	Economic/psycho.	Person
Whistle blowing	Throughput	Economic/psycho.	Person
Alienation	Throughput	Psychological	Person
Embezzlement	Throughput	Economic	Nonperson
Hiring proced.	Input	Economic/psycho.	Person
Deplete resources	Input	Physical	Nonperson
Copyright violation	Input	Economic	Person

stage (P8). For instance, companies that deplete raw materials, waste raw materials in the production stage and then pollute the environment with by-products of the finished product are more likely to be condemned for their actions than those that incur harms in only one transformation stage. Like the earlier propositions, these propositions could be operationalized based on an analysis of the justice system.

Particular case studies do not appear in the typology since they are tokens of one or more types. For instance, the South African divestiture issue can be differentiated according to the harm or benefits generated by the presence of American companies in South Africa. On the one hand, the black majority benefits from the less discriminatory hiring, promotion and firing procedures of American companies and may be harmed from the plant closings that would ensue if the companies divested. On the other hand, some argue that the community-at-large – as represented by the prejudicial South African government – should be harmed. From a company's perspective, however, a decision on divestiture may not be based on the harm or benefit incurred to the two opposing factions in South Africa. Instead, the decision may hinge on who is condemning the company for its actions, the degree of condemnation associated with the company's actions and the likely outcome of action taken by those condemning the company.

Application

Ethical issues are often complex. In many instances the trade-off is not between generating a harm or benefit but between degrees of harms or benefits to the company and/or a stakeholder. Hosmer (1987b) notes that ethical decisions consist of multiple alternatives, mixed outcomes, extended consequences and uncertain consequences. In business, the issues are further complicated by (1) the context of the decision, (2) the individual/s who make the decision and (3) the tool used to provide relevant information about the decision. First, managers are expected to pursue their company's economic interests. Second, many of the upper and middle-level managers responsible for the decisions that have ethical ramifications are often motivated by self-interested goals that benefit themselves at the expense of the company, or the company at the expense of society (Kelly, 1987; Downs, 1967). Their value structure is dominated by the accumulation or conservation of power, income and prestige (Downs, 1967). Third, the primary tool used by managers in the decision making process is cost/benefit analysis based on the company's perspective.

An example of how these factors are interrelated is the infamous Ford Pinto case study. A cost/benefit analysis showed that fixing each vehicle at a cost of \$11 per automobile would result in a \$137 million expenditure while the costs of 180 burn deaths, 180 serious burn injuries and 2100 burned vehicles was only \$49.5 million (Hoffman and Moore, 1984). Taking into account other factors as well – competitive pressure in the small-car market, sunk costs, present safety standards – Ford executives decided it was worth the risk to continue producing the defective automobile. This is highly questionable moral reasoning. Not until after the tragic deaths occurred did the Ford Motor Company find out that the \$200 000 figure assigned for the cost of a human life was a gross underestimation.

One solution that would prevent businesses from making decisions exemplified by the Ford Pinto case is government regulation of the industry. Regulation is a restraint on all companies in a particular industry. Samuels (1973), however, persuasively argues that regulatory agencies are power brokers often controlled by those whom they regulate. According to Cole and Sommers (1981), large companies often only partially comply with regulations since they have calculated that if a regulatory commission challenges their compliance record they can win the court proceedings. Indeed, Ford was successfully lobbying against higher safety standards during this time period (Hoffman and Moore, 1984).

Assuming that the context of the business decision and the nature of the managers making the decision are constant factors in the foreseeable future, the one variable factor is the mechanism that provides relevant information about the decision. This third factor takes on even greater significance if the first two factors are not held constant as companies become meaner and leaner due to increased global competition. Companies have excluded from their cost/benefit analysis what I have termed "high condemnation." Why should this be a concern for businesses? As the business ethics case studies so clearly demonstrate, high condemnation tends to result in a concerted response against the company. This concerted response can take several forms – regulatory legislation, adverse publicity, citizen organizing, protests, lobbying, and probably most harmful, court proceedings and class-action lawsuits. Justice demands that blameworthy behavior be punished. When the legal system fails to punish blameworthy behavior, stakeholder retaliation through modified vendettas becomes a viable option (Shipp, 1987).

How can companies better manage ethical issues? Company analysts should take into consideration other factors surrounding the issues highlighted in Table III that would result in better informed decisions. How can this be achieved? The relevant variables listed in the typology of organizational harms can be quantified by inserting probabilities for each variable. A four step process – hereafter referred to as the *organizational harm analysis* – can be applied as a method for obtaining the valuable information that a retrospective analysis of business ethics case studies has highlighted. Probabilities can be assigned to: (1) the likelihood that the harmful transaction will occur, (2) the likelihood of the harmful transaction occurring in each transformation stage, (3) the likelihood of each variable pertaining to the nature of the harm and (4) the likelihood of each variable pertaining to the nature of the harmed. Currently, the organizational harm analysis is performed on an ad-hoc basis in some instances. Economic considerations, along with moral considerations, dictate that companies avoid transactions that may result in a physical, visible, verifiable harm to many people.

What would the organizational harm analysis reveal if it had been invoked by company executives in the Ford Pinto case? The first step in the organizational harm analysis would have revealed that the probability of the potential harm occurring was very high. The second step in the analysis would have revealed that the potential harm would be an output harm. The third step in the analysis would have revealed a high probability that the nature of the potential harm was physical, empirically verifiable, permanent, repetitious, excessive and of high visibility. The fourth step in the analysis would have revealed that the nature of the harmed would be a substantial number of middle-class people. If the organizational harm analysis was invoked in the Ford Pinto decision making process then company officials would have been provided with additional evidence against producing the defective automobile since the presence of these variables would result in high condemnation, even if they did meet previous safety standards.

The business ethics literature is filled with case studies that, after the fact, appear to be obviously unethical decisions. By assigning probability figures for each of the four steps in the organizational harm analysis, analysts can obtain additional information in regards to the expected impact of the generated harm. The prescriptive utility of this analysis can be further exemplified with the following hypothetical case: Should a chemical company that produces toxic chemicals and is located in a suburban neighborhood comply with federal regulations pertaining to waste disposal? If it does comply, should the company fully comply? From a moral perspective, the company should fully comply. Unfortunately, in many instances companies set aside moral imperatives in favor of economic imperatives. According to Cole and Sommers (1981), three important "rule-of-thumb" variables influence a company's regulatory compliance decision: the size of the firm, the likelihood of an enforcement action and the probability of the regulatory agency winning the enforcement action. Thus important costs considerations, from the point of view of company executives, are the cost of following regulatory procedures and the legal costs incurred if the company's noncompliance or partial compliance is contested by the regulatory agency. Table IV provides additional information which should be gathered by the company prior to making its decision.

In this hypothetical case, the organizational harm analysis informs the decision maker that (1) there is a high probability of the harm occurring, (2) the harm will most likely be an output harm, (3) the nature of the harm will be physical, and quite possibly economical, as well as permanent, verifiable, visible and severe, and (4) the nature of the harmed will be many middle-class people. The probabilities could then be put into a mathematical calculation – with weighted averages for ordinal importance – to determine, within a reasonable range, the probability of high or low condemnation. The determination of

TABLE IV
Organizational harm analysis

(Chemical company's compliance decision)

Step: Category	Harm variable	Probability
1: Likelihood of occurrence		80%
2: Transformation stage	Output transaction	99
	Input transaction	1
	Throughput transaction	30
3: Nature of harm (Essential)	Physical	99
	Economical	60
	Psychological	10
Nature of harm (Relevant)	Intentional	1
	Visible	75
	Severe	75
	Repetitive	1
	Permanent	99
	Verifiable	99
4: Nature of harmed (Essential)	Person	99
	Nonperson	50
Nature of harmed (Relevant)	Many	99
	Few	1
	Wealthy	1
	Middle class	99
	Poor	1

the probabilities could parallel those derived for other risk management calculations. Adopting this procedure assumes that company executives are sincere in their effort not to generate unethical decisions.

A major caveat must be clearly stated. The typology constructed earlier in this article is a sociological taxonomy of the justice system, not a moral taxonomy. The propositions are derived based on a descriptive account of legal condemnation and stakeholder retaliation; they are not based on a prescriptive account of approbation. As such, I have examined condemnation from the perspective of the justice system and other stakeholder retaliation methods, and *not* from the perspective of a moral philosopher. From a moral perspective, the above analysis appears to be quite ominous as one set of harms are assigned lexical priority over another set of harms, and the hierarchical positioning is based on a descriptive account of judicial rulings. Should managers be more sensitive to harming many rich people than to harming many poor people? Of course not! Yet, from a sociological perspective, such questionable moral reasoning has been generated by judicial and political institutions. For instance, landlords of low income housing units have not been forced to compensate victims who contracted lead poisoning from paint on the walls (Diesenhouse, 1988) and political legislation requiring companies to warn workers that they risk cancer from occupational exposure to toxic chemicals was recently defeated in the Senate (*New York Times*, 1988). These examples, devoid of distributive justice, show a general callousness to the situation of those who are not financially well-off or politically powerful, a callousness that is not as often directed at those who are finanically well-off or politically powerful.

It could be tragic for managers to ignore the moral point of view even if they are not currently being legally condemned for transactions resulting in harms. With the passage of time, the public's ethical sensitivities seem to be rising and this, in turn, generates more stringent legal standards and increases the likelihood of stakeholder retaliation for harmful transactions. What companies thought they would not be held liable for in the past has come to haunt them in the present, as in the instance of the Hooker Electrochemical Company and the recent murder verdict against the executives of Film Recovery Systems Inc. for a workplace fatality (Mangum, 1988). Friedman's (1970) legalistic ethic – that the only social responsibility of business is to make a profit and obey the law – falls significantly short of protecting companies from past harms committed. Utilization of the organizational harm analysis goes beyond this narrow version of legalism by directing managerial attention to harms the company is committing, or about to commit, which may not yet be classified as illegal though they may indeed be unethical.

Concluding remarks

The essence of the ethical issues pertinent to business activities is the harm or benefit that occurs as part of a company's resource transformation process. This article focused on the harms since they dominate the present literature. After a review of typologies that appear in the business ethics and business and society literature a typology that sorts ethical issues was developed. Propositions were then formulated that could enable analysts to predict the degree of legal condemnation and stakeholder retaliation to harms that are incurred.

The "organizational harm analysis" that was developed can be utilized for further theorizing in the area of business ethics. Bommer *et al.* (1987) have developed a behavior model of ethical/unethical decision making. Their variables can be integrated into the typology to determine which behavioral attributes are likely to generate which type of harm. Cobb and Elder (1972) have analyzed how to manage getting an issue on or off a political agenda. An integration of their analysis with the typology presented in this paper would be a natural extension that could result in predicting political responses to unethical behavior. Other organizational variables — such as size of firm, complexity, market conditions, location, etc. — could be linked to each type of harm. There is still a need to better understand why companies implement policies that generate harm.

An implication raised in this article is that cost/benefit analysis is not a sufficient method for analyzing decisions that may generate harms. A mathematical calculus has been proposed as a method for predicting the degree of condemnation a company can expect if the harm is incurred. Before this mathematical calculus can be invoked there is a need to determine the ordinal relationship of these variables. There is also a need to further develop the calculus.

Some theorists may object to the use of the justice system as a means for analyzing ethical issues. Nonetheless, usage of the justice system allows for the operationalization of the propositions offered in this article and help in conceptualization of the legal reality that typically influences managerial decisions. It is also important to note that some theorists have argued that the legal system, in and of itself, is an inefficient method for controlling a company's ethical behavior (Shipp, 1987; Stone, 1975). I have suggested that the typology can also predict the probability of stakeholder retaliation and it can direct public policy theorists to weaknesses in existing legal and social controls. Some theorists may also object that the emphasis on avoiding condemnation proposed in this article is a retreat from the concept of "corporate social rectitude" to the earlier conceptual theory of "corporate social responsiveness" (Frederick, 1986). This may be necessary, in part, due to the lag between advancements in ethical theorizing and actual implementation by business practitioners.

Finally, the paper focuses solely on harms generated. Does this typology follow for the generation of benefits? Does it offer predictability for eliciting responses to socially responsible behavior? Epstein (1987) has conceptualized a corporate social policy process that would enable companies to incorporate value considerations. An integration of Epstein's analysis with this typology would offer some predictability for eliciting favorable responses for socially responsible behavior.

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References

Administrative Office of the U.S. Courts: 1985, *Annual Report of the Director of the Administrative Office of the U.S. Courts, 1984* (Government Printing Office: Washington, D.C.)

Arlow, R. and M. J. Gannon: 1982, 'Social responsiveness, corporate structure, and economic performance', *Academy of Management Review* **7** (2), 234—241.

Attfield, R.: 1983, *The Ethics of Environmental Concern* (Columbia University Press: New York)

Aupperle, K. E., A. B. Carroll, and J. D. Hatfield: 1985, 'An empirical examination of the relationship between corporate social responsibility and profitability', *Academy of Management Journal* **28** (2), 446—463.

Beauchamp, T. L and N. E. Bowie: 1983, *Ethical Theory and Business* (Prentice-Hall Inc.: Englewood Cliffs, N.J.).

Beversluis, E. H.: 1987, 'Is there "no such thing as business ethics"?', *Journal of Business Ethics* **6** (2), 81—88.

Bommer, M., C. Gratto, J. Gravander, and M. Tuttle: 1987, 'A behavioral model of ethical and unethical decision making', *Journal of Business Ethics* **6** (4), 265—280.

Brummer, J.: 1985, 'Business ethics: Micro and macro', *Journal of Business Ethics* **4** (2), 81—91.

Buchholz, R. A., W. D. Evans and R. A. Wagley: 1985, *Management Response to Public Issues* (Prentice-Hall Inc.: Englewood Cliffs, N.J.).

Bureau of Labor Statistics: 1986, *Occupational Injuries and Illnesses in the United States by Industry, 1984* (Government Printing Office: Washington, D.C.), Bulletin #2259.

Center for Business Ethics: 1986, 'Are corporations institutionalizing ethics?', *Journal of Business Ethics* **5** (2), 85–91.

Cobb, R. W. and C. D. Elder: 1972, *Participation in American Politics: The Dynamics of Agenda-Building* (Allyn and Bacon: Boston, Massachusetts).

Cole, R. J. and P. Sommers: 1981, 'Business and government regulation: A theory of compliance decisions', *Journal of Contemporary Business* **10** (1), 143–153.

Collins, D.: Forthcoming, 'Original intent: Adam Smith's social contract', *Business and Professinal Ethics Journal.*

DeGeorge, R. T.: 1986, *Business Ethics* (Macmillan: New York)

Diesenhouse, S.: 1988, '5 companies sued in lead poisoning', *New York Times*, January 24, 1988, p. 23.

Donaldson, T. and P. Werhane: 1983, *Ethical Issues in Business: A Philosophical Approach* (Prentice-Hall Inc.: Englewood Cliffs, N.J.).

Downs, A.: 1967, *Inside Bureaucracy* (Little, Brown & Company: Boston).

Dworkin, R.: 1986, *Law's Empire* (Harvard University Press: Cambridge, Massachusetts).

Dworkin, R.: 1977, *Taking Rights Seriously* (Harvard University Press: Cambridge, Massachusetts).

Epstein, E. M.: 1987, 'The corporate social policy process: Beyond business ethics, corporate social responsibility, and corporate social responsiveness', *California Management Review* **29** (3), 99–114.

Fienberg, J.: 1977, 'Harm and self-interest', in P. M. S. Hacker and J. Raz (eds.), *Law, Morality and Society* (Clarendon Press: Oxford), pp. 285–308.

Frederick, W. C.: 1986, 'Toward CSR_3: Why ethical analysis is indispensable and unavoidable in corporate affairs', *California Management Review* **28** (2), 126–141.

Freeman, R. E. and D. R. Gilbert: 1988, *Corporate Strategy and the Search for Ethics* (Prentice-Hall Inc.: Englewood Cliffs, N.J.).

Friedman, M.: 1970, 'The social responsibility of business is to increase its profits', *New York Times Magazine*, September 13, 1970, 122–126.

Gini, A. R.: 1984, 'Manville: The ethics of economic efficiency?', *Journal of Business Ethics* **3** (1), 63–69.

Goodpaster, K. E.: 1985, 'Toward an integrated approach to business ethics', *Thought* **60** (237), 161–180.

Goodpaster, K. E.: 1983, 'The concept of corporate responsibility', *Journal of Business Ethics* **2** (1), 1–22.

Gruson, L.: 1988, 'Pittsburgh restores water as crisis eases', *New York Times*, January 7, 1988, p. 8.

Hoffman, W. M. and J. M. Moore: 1984, *Business Ethics* (McGraw Hill: New York).

Hosmer, L. T.: 1987a, 'The institutionalization of unethical behavior', *Journal of Busines Ethics* **6** (6), 439–448.

Hosmer, L. T.: 1987b, *The Ethics of Management* (Irwin: Homewood, Illinois).

Jansen, E. and M. A. von Glinow: 1985, 'Ethical ambivalence and organizational reward systems', *Academy of Management Review* **10**(4), 814–822.

Johnson, B., B. R. Baliga and J. D. Blair: 1986, 'Chapter 11: Strategic advantage and social anathema?', *Journal of Business Ethics* **5** (1), 51–62.

Katz, D. and R. L. Kahn: 1978, *The Social Psychology of Organizations*, Second edition (John Wiley and Sons: New York).

Keeton, W. P.: 1984, *Prosser and Keeton on The Law of Torts* (West Publishing Company: St. Paul, Minnesota).

Kelly, C. M.: 1987, 'The interrelationship of ethics and power in today's organizations', *Organizational Dynamics* **16** (1), 5–18.

Lydenberg, S. D., A. T. Marlin, S. O. Strub, and Council on Economic Priorities: 1986, *Rating America's Corporate Conscience* (Addison-Wesley Publishing Company: Reading, Massachusetts).

Mangum, G. L.: 1988, 'Murder in the workplace: Criminal prosecution vs. regulatory enforcement', *Labor Law Journal* **39** (4), 220–231.

Mathews, J. B., K. E. Goodpaster, and L. L. Nash: 1985, *Policies and Persons: A Casebook in Business Ethics* (McGraw Hill: New York).

Mitnick, B. M.: 1987, 'A typology of boundary agent roles', *University of Pittsburgh Working Paper Series*, WP-653.

New York Times: 1988, 'Bill is rejected on toxin warnings', March 30, 1988, p. 23.

Rosenberg, H.: 1987, 'The kitchen and the multinational corporation: An analysis of the links between the household and global corporations', *Journal of Business Ethics* **6** (3), 179–194.

Samuels, W. J.: 1973, 'Public utilities and the theory of power', in R. Milton (ed.), *Perspectives in Public Regulation* (Feffer and Simons: London), pp. 1–33.

Saul, G. K.: 1981, 'Business ethics: Where are we going?', *Academy of Management Review* **6**(2), 269–276.

Scheffler, S.: 1982, *The Rejection of Consequentialism* (Oxford University Press: New York).

Shipp, S.: 1987, 'Modified vendettas as a method of punishing corporations', *Journal of Business Ethics* **6** (8), 603–612.

Smart, J. C. and B. Williams: 1973, *Utilitarianism: For and Against* (Oxford University Press: New York).

Smith, A.: 1759/1976, *The Theory of Moral Sentiments* (Liberty Classics: Indianapolis, Indiana).

Starling, G. and O. W. Baskin: 1985, *Issues in Business and Society: Capitalism and Public Response* (Kent Publishing Company: Boston, Massachusetts).

Stone, C.: 1975, *Where the Law Ends* (Harper and Row: New York).
Summers, L. and D. Cutler: 1988, 'Texaco and Pennzoil both lost big', *New York Times*, February 14, 1988, Section 3, p. 3.
Velasquez, M.: 1982, *Business Ethics* (Prentice-Hall Inc.: Englewood Cliffs, N.J.).

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