CHAPTER FIVE

AN APPLICATION OF THE CATEGORICAL IMPERATIVE FOR BUSINESS & TRADE

Trade and Business have functioned on diverse principles and varied normative theories ever since they set foot in human civilization. The growth of multinational and transnational companies ably assisted by the accelerating pace of technology has changed the way business operates. The theories which serve as backdrops to these companies and their business have not always been consistent and legitimate. John Hasnas claims that there are three leading theories of business ethics namely Stockholder, Stakeholder and Social Contract theories. These theories deal with the incompatible accounts of the moral obligations of people who involve in business.¹

However, all these theories end up in some sort of Utilitarian or egoistic bargain because they ultimately target some personal gains. For instance, the Stakeholder theory states that, “The interests of all stakeholders are of intrinsic value. That is, each group of stakeholders merits consideration for its own sake and not merely because of its ability to further the interests of some other group, such as the shareowners.”² Thus it favours the interest of only those who have a stake in that particular business and has no regard for those outside of it or the society at large. The same could be said of also the other types of theories of business ethics.

Philosophical ethics must provide guidance to everyone in the society irrespective of what one’s concerns are. In the context of illogical, inconsistent and relativistic business theories, Kant upholds that human reason has adequate powers to yield a moral law which can be logical, consistent and absolute. His conviction was that non-empirical reasoning would lead to the discovery of our duty and give us an absolute moral theory based on the *Categorical Imperative*. Through its three formulations, the Categorical Imperative has the potential to put in place effective policies for business.

For instance, a business executive who abides by the Kantian imperative would enquire before every decision whether the principle on which the decision is based can successfully be tested by it, and the same could be made universal without contradiction. Tom and Norman write, “Kant’s point is implicitly recognized by the business community when corporate officials despair of the immoral practices of corporations and denounce executives engaging in shady practices as undermining the business enterprise itself... Cheating, kickbacks, and bribes necessarily cannot be made universal laws.”

It is acceptable that the corporations have to make profit and often, what enhances business at the bottom line is their ability to make profit. The charters of incorporation specify their obligation to make profit and they have their legal obligation to the shareholders. Therefore the managers of these corporations have a duty to make sure that they don’t incur loss. The point to be noted here is that Kant is never against profit making, for we know from his personal life that he lived by the money he earned as a tutor. Therefore, Kant would not argue for a charitable business corporation rather what concerns him is, if it is ethical and universal.

This is the reason for Kant to devise a formula which can serve as a base to motivate everyone to act out of duty. With the possibility of multiplicity of commands and imperatives, Kant subscribes to one which is unique, unconditional, absolute and inherently moral: the *Categorical Imperative*. In the *Groundwork*, he envisions the nuances of this absolute formula: “Finally there is one imperative that, without being based upon and having as its condition any other purpose to be

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3 Beauchamp and Bowie, eds., *Ethical Theory and Business*, 20.
attained by certain conduct, commands this conduct immediately. This imperative is Categorical... This imperative may be called the imperative of morality” (GW 4:416). In this session we explore the three different formulations of one and the same Categorical Imperative and their relevance and applications to business ethics.

5.1 One Imperative with Multiple Perspectives: Viabilities to Business

The business industry is a massive enterprise with multiple and a variety of facets. From planning of a product to its execution, when it is finally produced and marketed, it passes through various stages. And in the process it confronts a variety of situations and issues of personal nature to the inter-personal, organizational and managerial. More often than not the extremely conflicting situations are pertaining to the ethical domain. Though, no one theory can put on board a full proof solution, the Kantian imperative with multiple perspectives is certainly an option worth considering.

The different formulations of the categorical imperative put in place by Kant addresses the various problems of business and trade. And it is for this reason that Kant’s moral theory still remains to be one of the most popular theories applied to evaluate business activities. To quote Altman: “Kant’s ethics serves as a corrective to moral theories that give too much weight to whatever positions we as a society happen to hold, and it asserts the absolute worth of persons against political expediency and economic efficiency.” In this section we attempt to apply the diverse formulations of the categorical imperative to the domain of business and trade and bring to the fore it’s ethical relevance for fair trade even today.

5.1.1 The First Formulation and its Emphasis on Human Autonomy

The first formulation of the categorical imperative states, “act only in accordance with that maxim through which you can at the same time will that it become a universal law” (GW 4:421). The first formulation of the categorical imperative places human autonomy in an unparalleled height.

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4 Altman, Kant and Applied Ethics, 286.
Though in Kant’s scheme of things it is not singled out as a direct object of moral concern through an assertion of any particular normative principle, autonomy has a significant role in the justification of his moral theory.

The term *autonomy* implies a sort of freedom or independence where an individual has control over him and does not permit him to be controlled. It was meant to describe political states that were independent of foreign rule and the German term *die autonomie* was first introduced by Kant referring to human beings. And the earliest philosophical usage of the phrase *autonomy of individuals* also appears in Kant’s philosophical discussions. Beauchamp and Childress state that, “To respect an autonomous agent is, at minimum, to acknowledge that person’s right to hold views, to make choices, and to take actions based on personal values and beliefs.” This definition adds clarity to the Kantian view of autonomy. For Kant, “Autonomy of the will is the property the will has of being a law to itself (independently of any property of the objects of volition)” (GW 4:440).

For Kant, morality is meaningful only if we assume that autonomy is the property of the will of all rational beings. It is the property of the will and a law to itself. If an individual succeeds in living an autonomous life then he is considered genuine and his life is real. An autonomous life reveals one’s character and the fiber of his being. Non-autonomous life is an un-integrated life with no authentic pursuits, commitments and consistent set of values. An autonomous person would live on his convictions with a strong character to fulfill his objectives fearlessly. Hartman observes; “If I am sufficiently autonomous to be able to decide what kind of person I shall be, then I can decide what will be most important to me and what I shall most want, hence what will be in my interests. And while having interests that are at odds with those of others is disadvantageous, being self-interested is not bad insofar as one's interests include others' well-being. Unfortunately our values and our interests do not always overlap.”

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5 Dean, *The Value of Humanity in Kant’s Moral Theory*, 199. Dean adds, “The word ‘autonomy’ has had a remarkably diverse career since then, and now serves as a label for a variety of conceptions which are central to issues in political philosophy and political science, moral philosophy, and psychology. Although these conceptions of personal autonomy often differ significantly from one another, there is a shared core concept that is captured by the word’s etymology. Autonomy is always in some sense a matter of ruling oneself, as opposed to being controlled by something or someone else”. Ibid.


The underlying principle of Kant’s description of autonomy is that every rational being possesses autonomy. It is not a quality of a selected few who live virtuous and authentic lives rather an intrinsic property of every rational being. Autonomy is not a kind of property that would fade in and out depending on the choices we make rather a consistent mark of rationality unaltered by the delimiting principles of human incapacities. It is the property of all rational agents, the only source and summit of moral obligation and it does not grow fainter when a rational agent shows lapse in his moral commitment. It is therefore the character of human will which is the supreme force in decision making. With no capacity for making decisions the human agent possesses nothing spectacular and therefore autonomy provides the most fundamental trait of a rational agent.

This view is further supported by the interpretation of Richard Dean. He argues that Kant’s strategy is that every rational agent who has the capacity for choice and deliberation is a free being. It is in this concept of autonomy alone we can ably trace the prerequisites of human freedom. And, only in freedom a rational being enjoys the state of self-legislative being. Deliberation implies choosing between options which is possible only for an autonomous being. Even if a rational agent does not comply with the argument of freedom of will and opts for determinism as its alternative, yet cannot bypass the process of deliberation which is essential for practical reasoning. Though theoretically determinism provides guidelines for human action in its practical application it is freedom which rules one’s actions. ⁸

Taylor throws some light on Kant’s autonomy principle when he points out that the human beings have a unique way of existence in the world. They shuttle between the world of senses and the world of understanding. As influenced by the world of senses they act in accordance with the laws of nature and in the world of understanding they are unrestrained and therefore in a position to legislate norms which evolve from their faculty of reason. The human beings alone have this special quality to enact autonomous laws and be subjected to them in a responsible manner. In his own words; “This capacity for freedom is the source of the rational agent’s dignity, a dignity which

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⁸ See Dean, *The Value of Humanity in Kant’s Moral Theory*, 205.
distinguishes him from lesser beings and justifies not only his position in the status hierarchy but also the differential treatment that accompanies it.”

Thus autonomy is indispensable for the human beings to be called so and Kant emphasizes it right through his philosophical discussions culminating in the categorical imperative. The upcoming session provides an application of this fundamental principle of autonomy in business and trade decisions.

### 5.1.1.1 Autonomy of Business Decisions in the First Formulation

The first formulation of the categorical imperative is an invitation to act responsibly for the sake of the moral law and it reminds that there are many rational agents besides us, and therefore, for the imperative to be universal, it must take into consideration every other person. This also guarantees autonomy of the individual to make decisions in an appropriate manner so that they may be appealing to everyone. The first formulation asserts that the principle of moral action cannot exempt oneself or any other and should possess an objectivity which evolves from one’s own maxim.

It is the desire of Kant, to see this formulation as an all-encompassing norm and no one can take advantage of it or seek exception to it. Shaw shares this view: “For Kant, an absolute moral truth must be logically consistent, free from internal contradiction. For example, it is a contradiction to say that an effect does not have a cause. Kant claimed to ensure that his absolute moral law would avoid such contradictions. If he could formulate such a rule, he maintained, everyone would be obliged to follow it without exception.”

Thus, it is universal, giving no room for exceptions and arises out of one’s personal moral conviction which he calls *universal maxim*.

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10 Shaw, *Business Ethics*, 57. At times the categorical imperative is criticised for being too vague or imprecise. It is exactly what Kant wanted his universal moral law to be, and instead to give a strict set of dos and don’ts, this principle provides a platform through sound and broad doctrine with wider applicability and relevance. For instance, a principle such as *don’t steal* may be precise but has a limited utility and it is where we witness Kant’s universal imperative in its splendour and stardom. Paton writes, “To reject Kant’s principle merely on the ground that they do not give us some easy and infallible criterion for moral judgement is an absurd method of criticism.” H. J. Paton, *The Categorical Imperative*, 131.
The first formulation upholding the autonomy of the individual has tremendous significance to the world of business and trade and one’s ethical behavior. For example, when banks render services to people, they think they are eligible to charge high interest rates. The customers will be put under high debts while the banks cash in at the expense of these people. It is here we find the first formulation operative, where an autonomous bank manager who is free to act on a maxim in accordance with the universal moral law, would ask himself, if his action to charge excess interest from the customers is right, and if it can become a universal law. Thus, in all business activities this principle could be extended to analyze the moral worth of one’s actions.

This formula is validly applicable to diverse organizational set ups. It hits at the root of most business units which consider employees and customers as mere contributors whose service is recognized only in response to the financial progress of the company. They are seldom consulted or taken into confidence while their personal talents and wealth are manipulated to achieve the targets of the company. They are paid for their service, though often less than what they deserve, but their autonomy which is the decisive factor in a rational agent stands unacknowledged. Therefore this Kantian formula invites every business manager or those who play similar roles to acknowledge a human person as an autonomous agent who willingly decides to work for a firm. When he gets paid, it is his service which is acknowledged but his autonomy is often left uncared. This is why the first formulation is crucial that it highlights an important aspect of a human being which is neglected in most business centers. We are seen and treated as factory workers, sales persons and customers but not as autonomous individuals.

Harrison observes that, “However, if our actions recognize the ‘ends’ of others (i.e. their goals and ambitions) and we seek ways to balance the meeting of our objectives with allowing them autonomy, in particular freedom to act and demonstrate moral worth, then we may meet Kant’s strict view. This very interesting idea that we should not attempt to ‘bypass’ the rationality and moral autonomy of another person may not always be compatible with a manager’s felt need to exert control over his environment.”¹¹ Harrison here calls for a balancing act as he invites the manager or those responsible for other rational agents to work out a business strategy striking a

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¹¹ Michael R., Harrison, An introduction to business and management ethics, 102.
midway that meets the objectives of the business firm while acknowledging their autonomy. Though it seems to be a viable approach, Kant’s focus would be of respecting and regarding the worth of autonomy not in comparison with something; not striking a balance with something else rather act purely for the sake of autonomy.

The human persons are autonomous beings and they need to be viewed in that manner. Their autonomous human nature leads them in their pursuit of public reasoning. By public reasoning I mean to assert that they are self-legislators who are capable of accomplishing their goals in a responsible manner and at the same time they can transcend their personal views and opinions and concede others’ point of view as well. Their autonomy envisages them to go beyond subjective beliefs to heed to other people’s reason for their action. Therefore this Kantian imperative is a huge paradigm for self-examination for the corporate world if it is genuinely looking for a standard of assessing their ethical behaviour. A business manager who realizes the value of this principle would incorporate the reasons of his subordinates in decision-making. It should be done in a spirit of moral obligation and imposing one’s reasoning on others would hurt the relationships between the top-level administration and the subordinates leaving a gulf difficult to reconcile.

For instance, in a corporate unit, the corporate managers should not interfere with individuals’ freedom during a political process. They should have a duty not to thrust their interests or obstruct one’s freedom to participate in the formation of public policy. The autonomy principle holds that they have a moral obligation to refrain from needless meddling in the political process in respect of the autonomy of the other. The Microsoft Public Policy Process states: “Microsoft publishes annual a Public Policy Agenda that guides our participation in the political process and is focused on public policy issues that are core to our business.”12 Here the manifesto of public policy of Microsoft asserts, in principle, the autonomous nature of every one by stating that they would act respecting the issues pertaining to the business rather than interfering in the political process. Thus the Kantian imperative invites all to respect the autonomous nature of each other which definitely is a need for enhancement of human relations in business and trade.

Decision making is an everyday affair for every business organization which is both a habit and a process. Perhaps it has become too much of a habit that they do not care so much about the intricacies involved in every decision irrespective of its importance. It is as an aftermath of this complacent attitude that the decisions are often taken brushing aside the views and opinions of those employees and customers at grass root level. This would in turn receive a lukewarm attitude from those who were not consulted. It is a fact that effective and successful decisions make profit and the ineffective ones incur losses. Therefore the corporate decision making is a crucial process for any organization and private decisions those which do not regard the autonomy of everyone involved are likely to be rejected and a collective, consultative or at least a beneficial decision on account of everyone would be better received.

Kant has put forward certain examples to explicate the first formulation of the categorical imperative. Among these examples, the example of borrowing money has great significance and relevance for business and trade. Therefore, I have attempted to explicate its implications for business and trade. The following couple of sections aim to explore the drawbacks in business and trade in the light of this example.

5.1.1.2 Testing the Maxim of a Lying Promise in Business and Trade

The strength of the categorical imperative is that it can serve as a parameter to test human actions and see if they are trustworthy and ethically acceptable. It is a yardstick to measure the compatibility of one’s action with its ability to be a universally acceptable practice. An action could be undertaken only if it is worthy of being a universal law.

Kant gives the example of borrowing money. I am in need of money and would like to borrow it from someone though I am aware that I would not be able to pay it back. But, with a false promise of paying back, I desire to get it, as I think that it is not possible without a firm promise to pay back. However, if I have the moral conscience to ask myself whether it is in conformity with the duty to borrow after knowing well that I can’t pay it, I would decide against it. And, if I do not abide by the spirit of duty, my maxim would read as: when I need money, I will borrow it and promise to pay back, though it is not possible (GW 4:422).
The question here is, if this maxim is to be universalised what would happen to the system of promise making, which is so essential to business? The system of business is built on trust between producer and consumer, and retailer and customer. The consumer trusts the quality of the product while the customer trusts that the retailer does not overcharge. But, if one throws only empty promises regarding the products or prices, knowing well that they are only false claims, then, it would derail the very structure of morality. If the maxim of borrowing money to be universalised it would defeat the very system of promise making and keeping.

Theft by employees, managers and workers is a major issue in production sites and sales outlets. Let’s consider a situation where a worker at the production site is angry with the owner for the low salary or for some other reason and he decides to steal the goods. If such an act is to be universalised, it would mean accepting stealing universal and acceptable. If stealing to be universalized, there would be nothing private, for anyone would grab anything belonging to anyone and there would be no ownership rights. Similarly, lying promise too fails the test of being universally acceptable due to its inherent contradiction.

Promise making is often both mysterious and paradoxical. It implies transcending the present time and look in to the future while remembering the past. It means that at a given future time you are determined to act in a particular way irrespective of what you wish at that time because a promise has already been made. It also means remembering the promise in view of carrying it out in the future. It reveals the promise keeping as a character trait of rational agent as different from the animals and shows the human capacity to remain faithful to the commitments. We are defined by our activities which result out of projects and commitments which follow from promises. Promise implies a relationship to the other and by way of this commitment we are assuring a way of future behavior to the other. Promises expect a specific kind of behavior towards the concerned individual involving certain type of emotional responses which cannot be anticipated but has to be carried out at the appropriate time. It calls for even acting against one’s interest at a given interest for the
sake of the promise once made. It is for these reasons that promise breaking is a serious offence leading to lying.

Lying goes against the principle of truth telling in business contracts. Issues such as lying promises are misdemeanors which terrorize the societal values. The business community is culpable for such repeated crimes over the years. In the 1970s, Winthrop laboratories promoted a pain reliever advertising it to be a non-addictive. But, later a patient died of having addicted to this pill. The court’s verdict was leveled against Winthrop Laboratories and held them responsible for the death as they had advertised that their drug was non-addictive. They failed to remain faithful to the advertised claim of their products.

Lying in business generates unjustifiable hypes about the products and raises undue expectations regarding the standard of the product which is not true. People who buy it realize that it fails the test of being a worthy product and eventually reject it. This is what Kant meant to state that the lying promises don’t stand and no system can be set on such principles. For Kant telling a lie reduces a person to a thing. In his Words: “By a lie a human being throws away and, as it were, annihilates his dignity as a human being. A human being who does not himself believe what he tells another has even less worth than if he were a mere thing” (MM 6:429). In the Second Critique he even specifies what a thing deserves: “Respect is always directed only to persons, never to things” (CPrR 5:76).

It is in the light of such heinous crimes of deception, that Kant’s ethical system becomes extremely significant. It is the duty of business enterprises to maintain contracts and Kantian morality paves a formidable base for such enterprise. Besides, The Uniform Commercial Code states in its section, 2-313(a): “Any affirmation of fact or promise made by the seller to the buyer which relates to the

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14 For Kant lie is “uttered with an associated intention to injure the other by the untruth (LE 27:700). In Metaphysics of Morals Kant speaks of lie as, “In the doctrine of right an intentional untruth is called a lie only if it violates another’s right; but in ethics where no authorization is derived from harmlessness, it is clear of itself that no intentional untruth in the expression of one’s thoughts can refuse this harsh name” (MM 6:429).
15 Velasquez, Business Ethics, 341.
goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.”16

The human pedagogy calls for rational and truthful existence. A failure in this regard on the part of individual leads to disastrous consequences and this is amply evident in every act promise breaking. Business promises and Trade commitments are essential and they need to be maintained to the core. When someone violates a promise it is always considered a breach of trust. Philosophers and responsible human beings of the society have always expressed their displeasure at every instance of promise breaking. There has been extensive literature from these committed people to alert the human community from the peril of letting a promise broken.17

It is ultimately a question of fidelity which expresses itself in the up keeping of promise and avoidance of lying. These are expressions of our faithfulness to our word. Honesty is the core principle in every walk of human life and in business and particularly in advertising it should be kept to its best because effective marketing for a longer duration is built on trust. In business, honesty is not always blunt rather it often means biased presentation of facts. Deception here is all about the fabrication of facts and misappropriation of truth leading to deceptive marketing.18

Deceptive business strategies come with an implicit maxim that it is acceptable to tell a lie for the purpose of some personal advantage of the entire corporation or for the benefit of some individuals

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17 David Hume in his Treatise on Human Nature calls promise making “… one of the most mysterious and incomprehensible operations that can possibly be imagined.” David Hume, “Treatise on Human Nature” in The Great Legal Philosophers, ed. Clarence Morris (Philadelphia: University of Pennsylvania Press, 1959), 207. Frederick Nietzsche begins the second essay of On the Genealogy of Morality with a statement on promise making which reads; “To breed an animal with the prerogative to promise - is that not precisely the paradoxical task which nature has set herself with regard to humankind? is it not the real problem of humankind?”. Frederick Nietzsche, On the Genealogy of Morality (Cambridge: Cambridge University Press, 2007), 35. The statements of these two profound philosophers tell us in hindsight the significance of promise making and what it means to upkeep them in our everyday living. Hume highlights its mysterious nature while Nietzsche calls it a paradox of human nature. Certainly there is something common in both of these statements. There is an element of uncertainty which puzzles and yet makes the parties of promise making to come together. Therefore it is not without serious reflection that Kant presents the example of Lying promise. Kant is tremendously aware of its social and cultural repercussions when one of the parties does not adhere to it. This example of Kant becomes significant from this perspective that it is intrinsically good and its violation would automatically be treated an offence.

involved in it. But the Kantian objection to lying promise is from the view that what would happen
if everyone adopts it a maxim of his action. Human society thrives on believing what we say to
each other. We send an invoice as a proof of purchase of stationaries to the office and they believe
that it is not inflated. Signing a check is a promise that there is enough money to cover the amount
stated.

When I submit my certificates to an IT firm in which I am seeking a job, I assure them that I have
not tampered with the marks and they are genuine. And when I promise to take my friend out for
a view of the town who has come to a new place he trusts my words. If I fail to live up to my words
it is a breach of promise unless there was an interruption by the unforeseen. Hinman summarizes
the undercurrent of every such instance: “But imagine if we were to adopt the maxim that people
can lie whenever they think it is to their benefit to do so. If we will that everyone adopt such a
maxim, then we undermine the very possibility of gaining an advantage from our own lying—for
if this maxim were universally accepted, no one would believe what anyone else said or promised
because they would know that it could easily be a lie.”19

Thus, lying promise in business dealings is a crime that cannot be permitted and therefore Kant’s
ethics has great value for the world of business in order to maintain fairness and truth telling. And,
promises of such nature which fail the test should be disclaimed with no regard; otherwise no
viable business contracts would ever be established.

5.1.1.2.1 Does insolvency of a Company Justify a Lying Promise?
Insolvency is the most unpleasant event in the life and existence of a company. Businesses are said
to have lives of their own and if so insolvency is its ultimate point of fatality. A business is
considered to be insolvent when it does not have enough assets to cover its debts. The outcome of
insolvency would differ depending on whether they are limited companies, partnerships or sole
traders. But in the case of all of these, insolvency is an unwelcomed guest. Several companies over
the years have been declared insolvent and just because the books are looking good don’t mean
that everything is fine with the company. There are times when a business appears well on paper

but building up its accounts receivables might expose its short on cash status. Situations like this might make a company to consider unethical means to save the face of the business.

This leads us to the question whether weak financial status or even a foreseen insolvency justify a lying promise. And we are at a crucial question of *insolvent trading*. Insolvent trading crops up when a company continues to attain credit though the company is clearly aware that it has no sufficient funds to repay it. It is exactly this point that Kant’s example of lying promise brings to the fore. Can I borrow from someone knowing well that I can’t repay it but asserting that I would repay? (GW 4:422). It is a perfect duty not to make a lying promise and the conceptual inconsistency reveals that one should never make a lying promise.

So lying promise is never justifiable whether in the personal life or in the life of a business. But it does happen often in various forms in the society. Insolvent trading is business unit’s way of making a lying promise. Insolvent trading occurs when a company continues to obtain credit with the knowledge of the creditors even if the company has not got the necessary funds to repay the creditors. Numerous factors might lead a company to such an embarrassing situation such as excessive debt, weak cash flow or bad organization of financial records. It is never a pleasant position for the directors of the company and certainly no company would be happy to be in such an adverse position. *Insolvent trading* is an illegal practice which is also at times caused by company’s failure to upkeep the creditor’s trading terms. However, in common language they would all mean some form of *lying*.

From a Kantian perspective, lying in any form and at any measure is unacceptable. In his *Lectures on Ethics* we read: “In ethics, though, every falsiloquium, every knowing deception, is impermissible, even though it be not immediately coupled with an injury, and would not be imputable coram foro juridico. N.B. Hence the telling of tall stories, or braggings in company, demean us, and can only pass as a jest if the judgement of others about the content of their truth cannot be in doubt” (LE 27:700). Kant is categorical against telling a lie and appropriately to our purpose he refers to *bragging in companies*. Constructing a false image about business and presenting it to be healthy when it is not so in actuality is certainly an offence and a lie. Insolvent trading is therefore certainly some form of lying and a morally unethical act.
Insolvent trading is therefore illegal in many countries. For instance the Australian Corporations Act of 2001-Sect 588G, states that it is the director’s duty to prevent insolvent trading by company.\textsuperscript{20} The 1986 UK Insolvency Act also prohibits insolvent trading.\textsuperscript{21} The Indian Companies Act 1956 specifies the liability for fraudulent conduct of business. It reads:

If in the course of the winding up of a company, it appears that any business of the company has been carried on, with intent to defraud creditors of the company or any other persons, or for any fraudulent purpose, the [Tribunal], on the application of the Official Liquidator, or the liquidator or any creditor or contributory of the company, may, if it thinks it proper so to do, declare that any persons who were knowingly parties to the carrying on of the business in the manner aforesaid shall be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the company as the [Tribunal] may direct.\textsuperscript{22}

These legal norms and procedures of different countries reaffirm Kant’s ethical positions though ethical norms don’t depend on legal practices. Insolvent trading is regarded illegal because it is unethical.

Thus Kant’s case is simple and well argued. But Kant’s view that the moral rules derived from categorical imperative are absolute implies, as in this case we must not lie, even if refusing to lie results in some serious injury to the reputation of the company. Kant defends this position by reminding us that we cannot be certain about what the consequences of our actions will be and perhaps a lie will not bring forth our desired consequences. Insolvent trading may for some time show the business in good light but eventually disintegrate as truth begins to hurt.

5.1.1.2.2 Impact of Lying Promise on Business and Trade

Having analyzed in some depth whether extreme financial situation of a company would justify lying promises in any form whether through insolvent trading methods or any other, we now introspect into the impact that lying promises can have on business and the stakeholders. Promise making is a quality belonging exclusively to the human folk. Kant writes in *Groundwork*: “Skill and diligence in work have a market price; wit, lively imagination and humor have a fancy price; on the other hand, fidelity in promises and benevolence from basic principles (and not from instinct) have an inner worth” (GW 4:435). In his *Lectures on Ethics* affirms the reason to maintain fidelity to the promises made. He writes: “Breach of faith is when we promise something truthfully, but do not have so high a regard for the promise as to keep it. The lying promise is offensive to the other, and though it does not invariably cause offence, there is still always something mean about it” (LE 27:449).

Thus, one of the most exciting characteristics of a human being is this capacity to make promises and acting on those promises. Human person is a promise making animal who envisions acting on those promises in the future. Duska and Ragatz write: “The ability to look to the future and remember the past, gives a person the capacity to make promises, and develop projects to which one commits. Those commitments, in turn, are defining characteristics of the individual. Thus, it is important to examine the nature of promises and their relationship to one’s identity and soul.”

Promise of any kind anticipates trust and a conviction that utmost care would be taken to keep it intact. It is essential to every human situation and its violation would be deeply felt. In business and trade, impact of any unwarranted breach of promise is viewed to be a blow to its legitimacy. Bowie shares a personal experience which clearly brings forth the impact of dishonest promise in business or trade transactions. During one of his vacation trips, he visited his favorite seafood outlet. He was welcomed with a placard which read *we do not accept checks here* and below which hung numerous checks which bounced back without funds. At this outlet the impact of such an

23 Being a promise maker does not follow that the person is also ethical. An individual might make false promises, malicious promises or promises to involve in immoral activities. An individual can make a commitment to attain an unethical end. Every promise therefore does not aim at an ethically acceptable end and if promises have to be ethical they must have higher purpose. They must pursue healthy plans and genuine aspirations. The theories which serve as normative for these purposes have to be rational. And it could be mentioned that the categorical imperative is a viable principle which one should pursue.

unethical act was deeply felt and the integrity involved in paying in checks was cast to the wind by the customers.25

Payment by check is a promise and it involves a commitment between two parties. This is what happens when one of the parties breach the promise code and a large number of customers gave away unworthy promises through false checks that the retail store could not anymore allow the use of checks. Again it goes against the very foundation of Kant’s categorical imperative which calls everyone to act on a universal maxim. Here, a maxim such as writing checks without sufficient funds could never be universalized and the system of payment by checks breaks down.

In his Lectures on Ethics Kant writes that ‘if the other has cheated me, and I cheat him in return, I have certainly done this fellow no wrong; since he has cheated me, he cannot complain about it, yet I am a liar nonetheless, since I have acted contrary to the right of humanity… Whoever may have told me a lie, I do him no wrong if I lie to him in return, but I violate the right of mankind; for I have acted contrary to the condition, and the means, under which a society of men can come about, and thus contrary to the right of humanity’’ (LE 27: 447).

Kant means to argue that a lie cannot be reciprocated with another and in doing so, one loses his integrity. It is not wrong to tell a lie to the liar but in doing so I humiliate the humanity in me. It is an important insight for trade and business where often one lie justifies another. Even if a seller overcharges you for a product you bought, you have no reason to give a fake currency or in some way reciprocate his lie or wrong. Though with a counter lie you may not have done anything different from what he has done, primarily you have disrespected the humanity in you.

It is often the desire to maximize profit which makes the directors and managers of the company to take measures which do not value ethics. Promises would be least kept if shareholders target only profit. Sadly, there are companies which function on principles of pure benefits. They might end-up losing the esteem of the company which ultimately has an impact on the profit they make. Cadbury writes: “Reputation is a valuable asset which takes time to build up and needs to be jealously guarded. More fundamentally, business ethics matters to society because distrust is a real

barrier to the flow of information and of trade. Confidence is important as a basis for business, and so society as a whole is impoverished if business standards slide. If that slide results in increased regulation, then that is a costly and often inefficient alternative.”

Though reputation is crucial to success in business and trust is essential, these are not always genuinely possessed by the shopkeepers and others in business. Pretentiousness and hypocrisy often lie behind their generous gestures. They seem righteous but self-interest is the cause for their outward Kindness. Kant captures this in the most appropriate words: “The greediest shopkeepers of all are the most honourable in their dealings, simply from self-interest, and this is thus often a reason for truthfulness, etc. The lust for honour makes lying easier, since here the inner content is not so apparent” (LE 27:59). This hypocritical attitude is another way of breaking the trust of the customers who trust both the words and the products of the trader. Business that does not keep promise has more to lose than gain. Such business units would be immediately singled out and the customers would be vigilant. As the business targets its benefits so also customers look out for their benefits. In this process, the particular business cannot afford to leave the customers but the customers can easily opt for competitive markets. The business would lose its integrity and if lost once the customers would not easily opt again for the product even if the business rectifies its errors. For instance, a particular mobile service in Pune, India, was making deductions of the customers’ credit without their consent. Even after numerous calls to the customer care unit of the particular mobile service, the practice went on for months. Finally, a group of students of a college avoided using the particular mobile service and also spread awareness to others and invited them to do the same as well. It is just an example of customers boycotting untrustworthy businesses.

The chronicles of history exposes innumerable cases of unauthentic and unethical business practices which lead people to desert them. One of those instances which come immediately to our minds is the case related to Enron. It came as a bolt from the blue as Enron always maintained a high profile and was viewed as an example for other firms with high CSR record. People found it hard to understand how it could fall apart and could not be trusted anymore. This is an extract of the report on the Enron scandal as told by BBC News: “It has been discovered that executives at

Enron have offered bribes to tax officials. No income tax was paid between 1996 and 1999 and the ethics of the tax officials is in question. The report that disclosed this information is like reading a step by step analysis of how to abuse the tax system. The collapse of Enron was a shock to many people, especially those with retirement savings. It appeared that Enron was prosperous at the time of failure. Lawmakers are trying to improve laws so that this situation cannot happen again in the future.”

These are the unauthentic business practices which hurt the trust people have on these firms. Though there may be no direct instance of lying promise or breach of a contract, it implies that these businesses have some serious responsibility to its customers which is built on trust and so there is an inherent contract or promise. When Enron presented a rosy picture to the public about its financial status, people accepted it in its face value trusting it entirely. And when they failed to live true to their implied promises they lost the credibility before the public. This is a typical example of the fate of dishonest and lying businesses. Therefore, businesses cannot thrive on lying promises and at some stage their books would reveal and they will be vindicated.

5.1.1.2.3 Test of this Formulation: Fair Play in Business and Trade

Having tested the Kantian example of lying promise in the light of categorical imperative, we have exposed the defects of such principles, and the significance of Kant’s moral law. We have analyzed the reasons for the Kantian moral law to be universal, logical and consistent and its adverse effect if it fails to be so. Now we positively try to understand that the successful test of the maxim would be the principle of fair play in business.

Fairness in trade and business is a concept that needs some clarification as it suffers from over-use in daily life and practice. Being fair is a common way of acknowledging justice. When a meal is charged reasonably by the restaurant, we say it is fair and when a cab driver does not over-charge we say it is a fair charge. Eagleton and Pierce present a refined description of fairness in trade and business. According to them, “The first component of legitimacy of any institution is

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that is fair, and is seen to be fair, in terms of both process and outcomes. Fairness of process refers to decision-making and negotiation within the organization. Fairness of outcomes refers to the provision of certain public goods, and takes the distribution of costs and benefits resulting from governance into account. There are various solutions to unfair process, depending on where one sits: greater transparency, greater accountability, greater direct participation or at least smaller chains of delegation and so forth."

Fairness in trade aims to reinforce market access to the underprivileged producers particularly in the developing countries to overcome their struggles and live a decent life. It would appeal to them in terms which are beneficial and exploitation by the mighty would not prevail in fair trade. It would aim at empowerment of these people at the grassroots and protect them from the middle men to expand their business. Trade is fair when it satisfies every stakeholder with some amount of personal gratification. It is not a utopian concept but experienced time to time in our practical life. We do sometimes feel personally happy after a bargain on a product with the producer that both the parties are at equal-ends. At that point none of the parties feel that I have paid over or the other feels to have incurred loss. Thus, there is some sort of experience of fair trade in our usual shopping practice. The following observation presents an interesting point in fair trade.

Fair Trade offers a new model of the producer-consumer relationship that reconnects production and consumption via an innovative supply chain model which distributes its economic benefits more fairly between all stakeholders. Fair Trade attempts to address the gross imbalances in information and power that typify North-South supplier-buyer relationships by countering the current failures evident in many global markets. The Fair Trade model thus operates in

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29 People are becoming conscious about the importance of fair trade and business and it is catching up quickly around the world. They are aware of the merits of fair trade and it is being advocated through various organizations and awareness programs. According to Nicholls and Opal, “Fair Trade began as a campaigning issue driven by activists and maintains a powerful international network of lobbyists. In common with many such movements, Fair Trade has been highly inventive in promoting its message (the result of very limited marketing resources). Initiatives like Fair Trade Fortnight in Britain or the Fair Trade Towns campaign across Europe have been enormously successful in raising consumer awareness and also increasing sales. Fair Trade is now taught in school and university curricula, written about in academic and commercial media, and discussed at conferences and fora around the world. Similarly, populist campaigns such as Oxfam’s ‘Make Trade Fair’ initiative are generating powerful grassroots action that is also media-friendly.” Alex Nicholls and Charlotte Opal, *Fair Trade: Market-driven Ethical Consumption* (London: Sage Publications, 2005), 26.
stark contrast to the conventional international supplier-buyer transactional relationship that aims to maximize return to the institutional buyer through the establishment of a power imbalance in favor of the purchaser (though not always the end-consumer).³⁰

Thus fairness in business and trade is all about a mutual producer-buyer understanding. It is holding the consumer as a partner in the production process of a commodity where he is not merely seen as a future stakeholder. He is also present throughout the production process where his interests are also taken into consideration from the very first instance of planning the product. For instance, a firm that produces fruit-jam should be conscious about the health hazards of the preservatives used for the product. The potential customers should be treated as partners from the very first moment of the conception of the product. His benefits are as important as the profits they make. This is what fairness in trade and business is all about as presented by the first formulation of the categorical imperative, where our maxims are not exceptions for ourselves rather universally applicable principles for human action.

Fairness in business implies valuing every customer and take decisions which are mutually beneficial to both customer and producer. The producer prices fairly the market price of products and the customers also do not go for further bargain. However, we need to take note that fairness is not doing acts of charity towards others or it is not selling a thing at lower than cost of production. It is not about non-profit deal rather working out a fair-deal policy acceptable to all stakeholders. It implies redefining the profit policy through an acceptable balancing act. It is not just consumer friendly approach rather an ethically ridden commercial enterprise for the betterment of all involved.

Nicholls and Opal talk about three major advantages of fair trade and business. According to them it is essential, “to alleviate extreme poverty through trade; to empower smallholder farmers and farm workers to use trade relationships as a means of enhancing their social capital; and to support the wider campaign for global trade reform and trade justice. Crucially, Fair Trade addresses these objectives through a market-driven commercial model, rather than by charity or a developmental

³⁰Ibid., 6.
aid mechanism. This approach is ultimately more sustainable and empowers producers to develop livelihoods that avoid dependency.”\textsuperscript{31} This clearly shows that a fairness approach in business and trade can be a wonderful tool towards a humanitarian society founded on the Kantian imperative which invites us all to act in a responsible manner. An egalitarian society is at the root of this formulation which can also be reflected if a fairness approach is applied in business.

When a trade is fairly carried out, it reduces the role of brokers and other agents in the supply chain who would tamper with the price of the commodities. This assures that the producer can enjoy maximum benefits from his produce. Fairness in every aspect of human life is the call of Kant and the message of the categorical imperative. It calls us for a commitment to duty, and as traders and business persons fairness is the face of categorical imperative. For Kant being treated fair is my right and it is best understood when no intrusion is made into my freedom. In \textit{Metaphysics of Morals}, Kant states, “If then my action or my condition can generally coexist with the freedom of every one in accordance with the universal law, whoever hinders me in it does me \textit{wrong}, for this hindrance (resistance) cannot coexist with freedom in accordance with a universal law” (MM 6:230). Therefore fairness is my right within my free domain and being unfairly treated when I make a purchase means that the seller becomes a hindrance to my freedom. My freedom demands that I be treated in fairness in all aspects of life. The responsibility is mutual as I should also abide by the same.

Hinman presents another insight on Kant’s understanding of fairness. He highlights the universal nature of Kant’s promise making principle. He interprets Kant in these words: “What’s fair for one is fair for all. If a law applies to one person, it should apply equally to all. In this sense, we must treat everyone impartially. If it is wrong for other people to lie, it is also wrong for me to do so. I cannot give myself special treatment.”\textsuperscript{32}

When there is a conflict between the demands of the law or contract and duty, one would opt in favor of duty even if that means violating a contract. It can be further explicated saying that if I have to keep a contract which is dishonest and violates my core ethical principles, as a moral

\textsuperscript{31} Ibid., 25.
individual, I should act out of duty and a breach of contract may be tolerated. Law should be respected and commitments to be kept but not when they defy the norms of duty. For instance, I am queued up at the ticket counter to get my ticket booked and my friend tries to cut in and, in another instance, another friend of mine wants to travel with a ticket booked in my name. Events of this type do take place frequently in our life which goes against the principle of *fair play* and of duty as well. If these were permitted, they would automatically eliminate discipline and order at ticket counters which the queue-system brings to the society, and traveling on someone else’s ticket cancels out the need to enter names while booking it.

Business should focus to uphold its values and remain firm on fairness policy. However, there are several cases when businesses have turned deaf ear to this all-important fairness principle. For instance, on 5th August 2003, the Centre for Science and Environment (CSE) published a report which stated that the producers of the two prominent soft drinks Pepsi and Coke have not taken into account the levels of insecticides and pesticides in their products. The director of CSE, Sunita Narain said that we cannot file a case against them as India follows the guidelines given by WHO and CSE follows the EU norms for the tests. WHO only indicates certain minimum safety level and does not give specific rules for soft drinks. The CSE director said that the norms in India are so poor that these companies do anything and get away with it.33

In this case, these brands of soft drinks have made use of the loopholes in the existing laws of India to manufacture and market hazardous products. They are not guilty before the laws as they have not violated the laws. But, it does not assure them that their products are safe and healthy. It is here we see the Kantian principle at work, which makes it a duty to act on the moral law and ask if this particular act can become a universal law. The producers of these fatal brands are legal before the law of the courts, but not before the moral law of Kant which has no loopholes and does not permit any immoral acts. Thus, the Kantian imperative can be a great instrument in safeguarding against the unethical behaviors ensuring *fair play* in business.

One of the impediments to fair trade is the prevalence of bribery all over the world. It exists in some form or level in every country. We have discussed in one of our previous chapters the existence of corruption and a Kantian response to it. A quick reference to bribery is inevitable as it is the greatest threat to fair trade today. Bribery impedes the scope of fair trade and brings practical discrepancies to business.

Let us assume a situation where a company receives a contract by offering bribe and another company without offering a bribe. What happens here is that bribe adds to the cost of production and the company which did not bribe produces at a far cheaper cost. The company which bribed loses out to its competitors and those companies which don’t bribe therefore have a competitive advantage over others assuming other things remain the same. These companies would be easily driven out of competition which defeats the very purpose of having bribed in the first instance.

However, it is also a fact that in many countries if an international firm has to do business, bribing is a viewed as an acceptable practice. There is also the practice of sustained bribery to stay in contention for a top-placed business firm in the country. But how does it go through the principle of fair play? The argument here is of a higher grade which reads; if a country succumbs itself for the practice of bribery then it disgraces itself to a lower grade of morality. The country with no provision for bribery stands at a far superior state in its moral existence as compared to the one with high practice of bribery. Thus bribery is a huddle for fair trade in the world. Bribery attempts short routes to success.

Today the key issue in trade is the balance of fairness between customers and retail corporations. It is an ethically significant issue to discuss that fairness equally benefits everyone. There is always the danger of the retailers benefiting out of their greater capacity to market the goods. However the theory of fairness also binds the customers. Whysall observes that, “Fairness is also an obligation on consumers. Consumerism brought consumers’ responsibilities alongside enhanced rights. Consumers should follow product instructions, only make justifiable complaints, initially

using appropriate channels, pay as agreed, comply with contracts and point out errors even when these are beneficial.”

From a Kantian perspective, every human activity, trade and business included, is called to be fair. If a firm pays bribe without the knowledge of other firms to enjoy additional privileges and if it comes to the knowledge of other competitive firms, it would not be acceptable to them. It cannot be done on a principle of a universal maxim. If everyone makes secret attempts to bribe for special privileges then the act itself is meaningless. Like the lying promise, the secret bribe maxim will collapse and become a futile project. Besides, the maxim of offering or accepting bribes cannot be universalized and an un-universalized maxim cannot command unconditionally. Therefore fairness in trade transactions is the only way endorsed by the first formulation of the categorical imperative where everyone gets his due since it functions on a principle of universality.

5.1.1.2.4 Significance of Trade Contracts in the First Formulation

In our previous chapter we have discussed the Kantian understanding of a contract and why it needs to be respected with utmost care. In our section here we explore the importance of trade contracts in the spirit of the first formulation of the categorical imperative. Contract is essential to trade and it needs to be completed. In the words of Kant: “In a contract by which a thing is acquired, it is not acquired by acceptance (acceptatio) of the promise, but only by delivery (traditio) of what was promised” (MM 6:274). Thus a contract is complete only when what was agreed upon through a contract is finally carried out.

Every transaction is carried out in tune with the terms and conditions negotiated among the parties involved. Negotiation plays a crucial role in trade contracts where both parties sign an agreeable format. Securing a deal through negotiation implies that they have arrived at an agreeable conclusion. It assures minimum risk and in case of disputes facilitates legal actions. Trade contracts indicate the duties of the parties involved and the fact that “I ought to keep my promise is a postulate of pure reason” (MM 6:273). In remaining faithful to the promise I respect the faculty of reason which is operative in every trade contract. The first formulation through the principle of

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universality upholds the unbreakable nature of trade contracts. If a party unilaterally violates the contract it would be yet another incident of *lying promise*.

For instance, when an expensive (sometimes even less expensive) buy is to be made it is often done after a quotation has been received and its various aspects studied. It is possible that there is some error or omission and some buyers would consider the errors as is, if it is to their benefit and negotiate for it. But a Kantian approach would be to accept an unconditional revision of the quotation. From Kant’s perspective it is not the letter of contract which is important rather the spirit of contract which should be kept up. It is the persons in the contract who need to be valued more than the terms and in which case the contract will be automatically upheld. Kant argues that my right is, “not a right to a thing, (rather) a right against that moral person” (MM 6: 274). Therefore every contract has to be in the best interest of the persons involved and the humanity in them should be respected. This understanding of Kant enables to settle trade disputes amicably outside arbitration or court.

### 5.1.1.2.5 Promotion of Democratization in Business

We have seen in one of our earlier sections the role of autonomy in the Kantian formulation. Autonomy respects human persons and their dignity and gives meaning to ones existence as a rational being. And in business it also calls for a democratic⁵⁶ procedure in administration and at work place. Autonomy does not permit imposed norms which is not rationally feasible for the human person. In the context of utilitarian ethics democratic functioning is applicable only if it increases efficiency and not mandatory. But in the Kantian system, it grows out of the respect for the human person that every worker exercises his autonomous nature. Democratization at work place is a matter of respect for voice; irrespective of who the person is, everyone's opinion should be given enough attention. Denouncing the right of participation of everyone concerned in business activities would hit the very foundation of Kant’s theory.

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⁵⁶ It is apt to mention here that it is debatable if Kant really favoured democracy as the best form of government with the reason being democracy is a way of the majority and does not pay attention to the minority. The Kantian imperative does not make exclusions and accommodates everyone within its scheme. However the concept democratization is used here to refer to a state where everyone’s freedom is respected and the decisions are not imposed by authority but collectively made.
Besides, there is a correlation between job satisfaction and productivity. It is a worker who feels respected will be the one who brings best out of him. Discontented worker is a liability at the workplace. Therefore democracy at work is necessary and should be constructed from the bottom up. It cannot be installed from above as every worker is also an autonomous being. Work extraction is an offence if autonomy is not respected. You can pay and get the work done but the person’s autonomous will that obliged to work needs its share of recognition as well. This is possible only when there is democratization at the workplace.

Bowie affirms it when he states; “Certainly, a necessary condition of autonomy is consent given under non-coercive and non-deceptive conditions. Consent also requires that the individuals in an organization endorse the rules that govern them. As a minimum condition of democratization, Kantian moral philosophy requires that each person in an organization be represented by the stakeholder group to which he or she belongs, and that these various stakeholder groups must consent to the rules and policies which govern the organization.”⁵³⁷ Thus the Kantian mode of democratic business is a participatory model where everyone’s interest is respected individually and business as a whole. It is a system where teamwork pays off and the personal milestones are not prioritized. There is no doubt that there are various business enterprises which subscribe to such a model.

5.1.2 The Second Formulation as Upholding the Dignity of Human Person

The second formulation is often considered by many to be the most celebrated version of the categorical imperative. The second formulation reads, “Act so that you use humanity, as much in your own person as in the person of every other, always at the same time as end and never merely as means” (GW 4:429). Kant believed that since human beings possess free will and act from laws of reason, they have dignity and a value beyond any price. Therefore, an individual cannot use another for the accomplishment of one’s own interests. This confers on every individual equal amount of dignity and therefore no one should be manipulated or exploited for the benefit of the

other. This formulation argues that every person is an end and no one can be treated as a means for another.

The implications of this version of the categorical imperative for business and trade are numerous. Business and trade aim to promote their products and maximise profit amidst competition and competing ideologies. In the context of such competing systems and ideologies, Kant’s imperative serves as bedrock on which the ideal business structure can be built. When Kant asserts that no one is a means for the other implies that he envisages a voluntary economic exchange where both parties and the society at large benefit. This formulation of the categorical imperative definitely puts certain constraints on the function of the economic transactions but it is a huge prospect to constitute a fair and genuine world of business.

The following quote presents a worthy summary of the implications of this formulation for business. “The Formula of Humanity thus appears as part and parcel of an overall argument for a more ethical brand of capitalism, one that would link the quality of human life to domestic and international market transactions. Yet, there is an even richer use of the Formula of Humanity, one where we unpack what it means to take on other persons’ ends.”38 This I think is the most exciting aspect of humanity formulation which blends human dignity with one’s business activities. With success often being the mantra of business, it makes sense to see the merit in Kant’s formulation.

Corporations undertake businesses involving a variety of individuals. As stakeholders, the employees, customers and everyone who is part of the business chain enters into a special relationship with the corporation. It is the duty of the corporation to value this relationship and contribute positively towards the wellbeing of all involved. It is the way a corporation responds to the stakeholders who are the lifeblood of the business. As corporate managers, it is their duty towards others that they respect the liberty of everyone who works in their firm and assure basic rights of life.

This formulation of the categorical imperative exhorts the humanity in every person. It invites everyone to responsibly involve towards the enhancement of everyone respecting each other’s

rights. *The United Nations Universal Declaration of Human Rights* (1948) explicitly presents clear guidelines for respectful human life. Article 1 of the declaration reads, “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.” The Kantian imperative has stated this fact in unequivocal terms well before this declaration came into effect. The second formulation holds together the other formulation of the categorical imperative with its sheer emphasis of human being. Let’s apply this version of the categorical imperative as an effort to specify the characteristics of a trade and business which is society-friendly.

### 5.1.2.1 Placing Stakeholders before Trade Benefits

This formulation of the categorical imperative advocates a new vision for the world of business. In the maddening world of reckless business competition, this version of the imperative can be an effective tool to enhance human dignity and worth. This formulation sets a tone for a moral world where the producers, workers, customers and everyone involved in business would live with due dignity and respect. When business comes before human persons, the human person loses his dignified place in the world. Therefore, Kant places human beings before everything else as *ends* in themselves.

An ideal market exchange is when two individuals with full knowledge of the goods agree for their transfer. In this act of transferring, there is satisfaction about the goods exchanged. There is an informed consent where both the parties know about the product, the terms and conditions. However, in real life, the financial markets do not function on such ideal principles and the consumers do not have sufficient knowledge of the products. There is the vulnerability to yield to unethical means, where the consumers are taken for a ride. This deceptive approach is personified in cases like Enron, WorldCom, Rite Aide, etc... The deceptive practice in business does not mean, only involving in outright flattery or lying regarding the products, but often, it is a subtle way of circumventing pertinent information. It is often argued in the business circles that *not disclosing isn’t lying, it’s just not telling*. Withholding relevant information about a product and attempting

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It is here the second formulation of the categorical imperative becomes significant upholding the dignity of human beings. Business without ethics is a farce and often the norms of business have been twisted to suit the beneficiaries of the business. The sales executives make sky-high claims about their products and the wheel of business rolls amidst a lot of fraudulent and deceptive practices. An insurance agent gives all promises to convince one to take a policy which will fetch him commission. Companies show inaccurate accounts to portray themselves in good light, or to have tax exemption and the misrepresentations of facts reveal that business ethics is today in shambles. In all these and similar cases, business is given prominence over human beings where the latter become just means for the former to flourish.

Businesses run on the mercy of stakeholders particularly employees and customers and their contributions are vital to business. Therefore the needs of every one of these people should be respected and they need to be preferred before trade benefits. If the customers feel respected then business would burgeon and poor management of workers and customers will draw business downhill. Respect is a value due to everyone who comes to the market stall. If the vendor thinks that his relation to the buyer is purely business oriented then he would quickly sense my intention then it is likely that the transaction does not get through. If a seller’s sole aim is to extract maximum benefit from the transaction the relationship between the parties breaks down and a subject-object attitude sets in. However, if the transaction is delicately handled then there is an appreciation for each other (buyer and seller) leading to appreciation for the product and the payment as well. This could well be the simplest application of the humanity formulation for business.

Respect and be respected. Kant acknowledges it in the Second Critique, “Respect is a tribute that we cannot refuse to pay to merit” (CPrR 5:77) and what makes one to respect other is the moral law. Kant says, “Respect for the moral law is therefore the sole and also the undoubted moral incentive” (CPrR 5:79). Thus respecting the buyer is not for the sake of his purchasing power or

\[40\] Hartman and Chatterjee, Perspectives in Business Ethics, 396-397.
other reasons but purely on account of moral law. Moral law is the incentive which impels us to mutually respect each other in our transactions. In disrespecting the partner in business we undermine the force of moral law. Moral law is the factor that motivates every stakeholder towards a fair and responsible approach to trade. Respecting everyone who participates in the same business is one’s duty and should be carried out purely for the sake of duty.41

It is observed that money42 often takes precedence over people in trade practices and priority is given to exchange of goods and services. Bilateral or multilateral trades are regular events which take place between two parties or several of them yet the participation of persons are often forgotten as money and commodities steal the show. Modern trade all over the world invariably uses money as medium of exchange. Well, if it’s only a medium, that’s what its role is. Practical life shows that money has outscored every other thing involved in a trade. Trade being carried out largely due to differences in the cost of production at different location, stress on money factor has become inevitable. No doubt, money is essential but how big is its role?

From the Kantian perspective, there is nothing which is worth more than a human being. Kant does not devalue the usefulness of money for he acknowledges that, “it (money) is among all things, has the greatest usefulness” (MM 6:287). However Kant argues that money has only an indirect value for it is impossible to enjoy it as such unlike a stack of grain which has a direct value. A heap of grain has maximum direct value since it immediately satisfies human needs (MM 6:287). Thus Kant certainly places money well below even what it can procure. It simply means that when

41 Martinelli Fernandez tells that, “The Formula of Humanity requires that we treat each other and ourselves never as simply means, but always, at the same time, as ends. Perfect duties, such as duties of justice, are ethical requirements that help us discharge the first part of our Kantian duties, i.e., not to merely use each other. To anyone, regardless of our familiarity with that individual, we owe such duties. However, imperfect duties, such as duties of beneficence, are obligations that arise when we have a particular relationship within which specified persons can discharge these kinds of obligations. Perfect duties are always required of us; imperfect duties are required of certain people who stand in relationship to each other in a particular way. A fully Kantian moral agent must discharge both kinds of duties.” Sue Martinelli Fernandez, “Kant, Lies, and Business Ethics,” 43-44.

42 Kant in The Metaphysics of Morals offers two definitions of money. The first one is what he calls a preliminary real definition of money which reads; “it is the universal means by which men exchange their industriousness with one another” (MM 6:287). Secondly Kant falls back on the father of economics himself to define money: “Money is therefore (according to Adam Smith) that material thing the alienation of which is the means and at the same time the measure of the industry by which human beings and nations carry on trade with one another” (MM 6:289).
you are hungry, money does not directly satisfy it rather you are satisfied by what money brings. Therefore even if money has the utmost usefulness, it still has only a secondary value.

This discussion on *money* enables us to understand the table of values in Kant’s ethical system and what tops it. And it is certainly not topped by *money*. For Penny, “Money is properly the byproduct of building men as partners.”\(^4\) If money is just a byproduct and has only an indirect value then for Kant it is the humanity in the person which is superior to all else. Businesses do not function in the Kantian mode and the world order does not prioritize on pure values.

In such a situation, Kant’s ethics offers a paradigm to revive humanity. In *Groundwork* we read, “For then it is obvious that he who transgresses the rights of human beings intends to make use of the person of others merely as means, without taking into consideration that, as rational beings, they are always to be valued at the same time as ends” (GW 4:430). It is only firm applications of the principles of this nature alone can uphold the worth of humanity. Thus the Kantian imperative in its second formulation should be the underlying principle of every business enterprise and an ethical structure based on it will sustain the merit of humanity for ages to come.

Business that values humanity ahead of profit benefits from it. For instance, *Mission Controls* is a California based company which deals with food and beverage systems. The founders of *Mission Control* valued their employees and they held on to the policy that would take no salary instead of laying off any of their employees. In the very first year they had to go through difficult phases when their sales dropped drastically and all the founders of *Mission Control* forfeited their salary for about eight months until the sales started to go uphill. They continue with the policy of retaining the workers instead of downsizing during the lean period.\(^4\) This is a clear case where the humanity in the workers are respected and the workers in return show greater commitment and strive to help the company to sail through this intricate phase. Thus there is a dual benefit where the workers feel regarded while the business gains advantage.

\(^4\) John C. Maxwell, *There is no Such Thing as Business Ethics* (USA: Warner books, 2003), 39.
For Kant the human person was supreme and he was passionate about his physical wellbeing. There is nothing which can substitute neither money nor high managerial positions. In the lectures on ethics that he gave prior to the publication of *Groundwork*, he said that what is intrinsically abominable about suicide is “the fact that a man uses his freedom to destroy himself, when he ought to use it solely to live as a man; he is able to dispose over everything pertaining to his person, but not over that person itself, nor can he use his freedom against himself.” (LE 27:343).

Kant using the case of suicide emphasises the significance of the human person where he has all powers to get rid of anything belonging to the human person but not the person itself. Suicide as an example stands as a medium to itemise Kantian regard for the person. The same applies to trade as well where the demands of business can extract anything out of the person but not the person himself: his humanity. Thus from Kantian perspective irrespective of the advantages of business the stakeholders should be respected and the humanity in them should not be compromised for obtaining trade benefits.

### 5.1.2.2 Physical Wellbeing of Those in Trade and Business

This second formulation of the categorical imperative implies not merely the moral development and respect for humanity in every individual rather it also means the physical wellbeing\(^\text{45}\) of people. Respect for the person is intrinsically connected to the physical wellbeing. The stakeholders of business cannot go unpaid and their basic needs unmet. This welfare of everyone is mandated by his moral theory of duty.

\(^{45}\) *Physical wellbeing* also means that the stakeholders’ safety have to be a priority in the scheme of things of a company. There should be no act of negligence for the safety of customers and everyone such as the manufacturer, distributor and the sales persons are liable if they don’t pay due care for producing and selling a thing and if their product leads to harm its users. If it happens to hurt the user then the doctrines of *strict liability* and *absolute liability* have to be considered and appropriate actions to be taken. The doctrine of *strict liability* holds that, “the manufacturer is liable for a person’s injury or death if a product goes to market that is dangerous because of a known or knowable defect. A consumer has to prove three things to win the suit: (1) An injury happened, (2) the injury resulted from a product defect, and (3) the defective product was delivered by the manufacturer being sued.” *Absolute liability* is seen in cases when the manufacturer does not warn customers of product dangers even if they don’t know from a scientific point of view with certain amount of surety when the product was sold. For instance the manufacturers of medicines who may not spell out the future side effects of their medicines are also liable under this doctrine. However, there are also certain legal and moral limits for the product liability which are important to avoid instances of manipulation of these doctrines. *See* Joseph W. Weiss, *Business Ethics*, 150-151.
In his enumeration of duties Kant narrates a case, where everything seems to be going well for me while the other undergoes hardships. But I do not feel it necessary to assist him as I do not take anything from him and I don’t even envy him. For Kant such a maxim cannot become a universal principle of nature and he asserts, “For, a will that decided this would conflict with itself, since many cases could occur in which one would need love and sympathy of others and in which, by such a law of nature arisen from his own will, he would rob himself of all hope of the assistance he wishes for himself” (GW 4:423).

In a business set up particularly when the workers are paid based on sales, it is the duty of the owners to look into the needs of the employees during the lean period when sales are low. Kant says that we must not treat others instrumentally because rational nature exists “as an end in itself” (GW 4:429). Treating instrumentally would mean using them based on needs of the firm or individuals. When a firm needs greater labour force they may employ more people and downsize when not required but when they are without labour, the firm has a responsibility to guarantee that their basic needs are met.

Though Kant emphasizes that everyone should be treated as ends and calls for respect of all persons, he does not endorse begging\(^{46}\) as a way to cater to the physical wellbeing of every one. It is a significant move in Kant’s moral theory in the context of firms where the workers take out to the streets claiming their basic rights from the exploitive firms. For instance on May 2, 2002, the California Supreme Court verdict of the Marc Kasky vs Nike case stated that safe working conditions are inevitable and it needs to be defended in the court and recompensed for the denied period. Nike’s plea for a review was turned down and finally Nike had to pay 1.5 million dollars

\(^{46}\) Kant in *The Metaphysics of Morals* describes begging as “closely akin to robbery” (MM 6:326) and his *Lectures On Ethics* give us his views on begging. He writes, “A poor man who begs is constantly depreciating his personhood and abasing himself; he makes his existence dependent on other people, and accustoms others, by the sight of him, to the means whereby we neglect our own worth. The state must therefore restrict open begging as much as possible, rather than encourage it; it is permissible only to activate the natural feeling towards love of mankind” (LE 27:706). It is not that Kant blindly opposes alms giving rather he gives reasons that evolve from his deep philosophical reflections. Kant does not leave it abruptly rather suggests alternatives to almsgiving highlighting the social responsibility of everyone besides emphasising the role of state to monitor the sharing of resources of the state. He writes, “If men were strictly just, there might be no poor, in whose regard we think to display this merit of beneficence and give alms. It is better to be conscientious in all our actions, and better still to help the needy by our conduct, and not merely by giving away the surplus. Alms-giving is a form of kindliness associated with pride and costing no trouble, and a beneficence calling for no reflection. Men are demeaned by it. It would be better to think out some other way of assisting such poverty, so that men are not brought so low as to accept alms” (LE 27:455).
to the *Fair Labor Association* which takes care of the working conditions of the workers.\(^{47}\) There are several such instances and the humanity formulation of the categorical imperative forms a solid theoretical base for the safety of every worker.

So, physical wellbeing entails besides safe working conditions time of rest and leisure. The working hours have to be in line with the laws prescribed and overtime work must never be demanded but the worker chooses if he desires it. The Indian Factories Act 1948\(^{48}\) presents the code for the welfare of the employees and the manner they need to be treated and their humanity respected. The factory which employs workers take into account various factors such as limitation of working hours, overtime payments, bonuses, weekly holidays etc… which are the expressions of respecting the humanity of the individuals in a business enterprise.

It also brings to light the issue of layoffs and the downsizing of employees which goes against the Kantian principle. In moments of downsizing, the workers are dismissed to reduce their number and it is carried out on the belief that an enterprise should operate with fewer people to increase profit or cut loss. The idea here is to terminate the employment of a certain number of people. But the second formulation of the categorical imperative does not approve downsizing of employees as it uses this method to increase the shareholders wealth by using workers as means for the same. However, if the process is carried out in a mutually acceptable manner where the contractual agreements are addressed, then it takes care of the concerns of the second formulation. Thus the Kantian imperative gives due place not just for the moral wellbeing of human beings but also to the physical wellbeing of every one in every walk of life which includes trade and business.

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\(^{47}\) Oliver F. Williams, “The UN Global Compact: The Challenge and the Promise,” 242.

\(^{48}\) *The Factories Act 1948* of India which came into force on 1st April 1949, states in article 49, (1) “In every factory wherein five hundred or more workers are ordinarily employed the occupier shall employ in the factory such number of welfare officers as may be prescribed.” Regarding the number of hours of work, article 51 states; “No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.” Pertaining to the holidays the next article reads, “(1) No adult worker shall be required or allowed to work in a factory on the first day of the week (hereinafter referred to as the said day), unless— (a) he has or will have a holiday for a whole day on one of the three days immediately before or after the said day.” Article 53 deals with matters pertaining to the compensatory holidays and 55 specifies the rest that every worker needs and it reads, “2 *[ 1 ] 3 *[The periods of work] of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour.” *The Factories Act*, Accessed from http://pblabour.gov.in/pdf/acts_rules/factories_act_1948.pdf. on Aug. 2nd 2012.
For Kant, duty implies that we approach and treat other rational beings not merely as collections of needs rather as persons who search to establish themselves as *ends*. Therefore it is our duty not merely to preserve every rational agent so that they may not perish rather fostered to pursue their ends. Preservation of others and the self-preservation of oneself is a duty (MM 6:452) and not just to exist but exist as humanly as possible.

### 5.1.2.3 Ensuring a Salary Sufficient for Respectful living

The second formulation of the categorical imperative entails that everyone receives what they deserve because that is a way of respecting the person. The workers who contribute to the business deserve in return from the proceeds of the business. It is their right to receive a salary for a respectful living. The neoclassical economic theory holds that what one deserves is in proportion to his contribution made to the firm. In other words, the compensation an employee receives will be equivalent to the worth of his labor. The salary that a worker is entitled is calculated according to his marginal revenue productivity (MRP). Paying more than MRP brings loss to the firm and in this case, one gets paid more than one contributes to the firm. According to this method of calculation, paying less than MRP would add to firm’s financial stability but might face hardships from labor unions for better pay scale. It also forces workers to leave the firm and look for new opportunities.

At the outset, it appears to be a viable formula where everyone is paid according to what one deserves. Thus justice is done and no complaints are possible and the firms are free of the harassment from the trade unions and the judiciary. When Kant invites us to consider others as autonomous beings and dignified persons he appears to mean to treat everyone as they deserve. Though it is not totally a wrong perspective, deeper reflection on the second formulation reveals a greater responsibility from the human beings for each other. But when Kant invites to treat everyone as ends in themselves, it is not just to treat people as they deserve according to their service, rather treating on account of their humanity. The humanity in a person is beyond any comparable worth and therefore his wellbeing needs to be taken care of not in comparison to what

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he contributes but so as to respect his humanity. It would mean in economic terms looking beyond
the MRP, if the firm is in an affordable situation, and pay him a salary which is sufficient for
respectful living: respecting his humanity.

Couple of key concepts that have become the mantra of the multinational companies since recent
decades have been downsizing and outsourcing. Downsizing, as we have discussed earlier, leads
to reduction in the workforce of a business unit which increases the workload on other employees
and also the profit of the organization. Outsourcing also is aimed to serve the interests of the
business which lets organizations to pay for the services of the people only when they need them.
Sometimes two organizations come to a common understanding to share their skill and expertise
and pay accordingly. It is often done from outside the country, popularly known offshoring or
offshore outsourcing. Though it has immense advantages such as no need for special trainer to
train new candidates thus reducing operating expenses and providing budget flexibility, ultimately
benefits exclusively the business organization.

Kant does not go against these principles of downsizing and outsourcing as these are character
traits of a sound business mind and at times inevitable for the survival and larger interests of the
business. However, when they are done purely from the business motive with no regard for the
employees is obnoxious from a Kantian perspective. The workers who suffer on account of these
practices of the firm have to be duly paid for. Their post-retirement needs have to be cared for, as
they have given the best part of their lives to the organization and it is the organization’s way of
reciprocating to those responsible for its making.

And it is also unacceptable when a firm outsources at the expense of its regular employees in spite
of huge profits in the previous fiscal years. For instance, some years ago, Australia’s largest airlines
which were also viewed as world’s most profitable airlines, was all set to outsource 7000
employees off shore and axe 3000 employees who were part of its success story. This is a clear
example where a Kantian would raise objections to these inhuman practices of business. A
successful corporation has a primary responsibility to pay and maintain its workers and not go lay
off with a pure utilitarian motive. The second formulation brings to fore the commitment to a

humanitarian business that does not bypass basic principles of human living for the vested interests of corporation. A profitable organization should implement a pay scale which is conducive for a decent living of the employees while he is with the corporation or after his retirement. This is the Kantian way of respect for persons in the context of a business.

5.1.2.4 Ends in Themselves: Treating Consumers with Dignity and Respect

The Kantian principle of *ends in themselves* is definitely the suitable theory to safeguard the consumers from the sickening producers. They want to thrust upon the customers their products by misrepresenting them through false propaganda, overprizing or withholding selling product information. The manufacturers have a right to protect the interests of the consumers by producing safe and healthy products. However, often times, health is compromised for the sake of fancy products.

According to the contract view of the business firm’s duties to its customers, there is a contractual relationship built between the business firm and the customer. With the purchase of the product, the business firm agrees to hand over a thing of certain specific features to the customer and in return he agrees for a monetary payment. The contract theory holds that, “the business firm’s duties to its customers rest on the view that a contract is a free agreement that imposes on the parties the basic duty of complying with the terms of the agreement.” Any violation of this contract goes against the very foundations of Kant’s ethics. If a business unit violates this contract in whatever measure, from a Kantian perspective, it would raise the question whether the distortion of facts, while making the contract can be universalised?

Another issue which is not uncommon today and challenges the dignity and respect of the consumers is that the economically poor countries be made dumping ground of the hazardous products, in view of profit by the developed nations. The loss of lives and health concerns arising from consumption of substandard products are recurrent. About 400 Iraqis died and 5000 were

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hospitalised after eating wheat and barley which were treated with the U.S. banned organic mercury fungicide. Again, Winstrol, which is a synthetic male hormone which was the cause of stunt growth of American children, was later made available for the children of Brazil as an appetiser. In Costa Rica, DowElanco’s weed killer is sold, though it is banned in US as it can cause cancer, while Dipyrone the pain killer is banned by the US Food and Drug Administration (FDA) for it can lead to blood disorder, but it is available at the medical stores in Mexico City.52

With such staggering negative records haunting the human society, we find it hard to believe that the business-world would treat us with respect and dignity. We too look with pity at the incapacity of the laws and law makers to ensure genuine products. We also seem to lose faith in a world, which only apparently guarantees the safety of consumers with its protective system such as Consumer protection acts, Food and drug administration, Environmental protection agencies etc. These external laws haven’t given us an inch of assurance and therefore an inculcation of a deeper moral law at the depth of one’s being alone can uphold the dignity of humanity. It is here, the ends in themselves principle arising from one’s moral law within as an act of duty can be more than handy.

Kant incessantly pleads in his writings to treat every other person in dignity and respect. In Groundwork, Kant says, “Morality is the condition under which alone a rational being can be an end in itself. . . Hence morality, and humanity so far as it is capable of morality, is the only thing which has dignity” (G 4:435). And applying this principle of groundwork in his later work The Metaphysics of Morals, he urges everyone to remember that our respect for a person is because of his moral character. He writes, “this is why showing respect for a human being as a moral being is also a duty that others have toward him and a right to which he cannot renounce his claim” (MM 6:464).

Again in the Second Critique, Kant says that “the human being (and with him every rational being) is an end in itself, that is, can never be used merely as a means by anyone (not even by God) without being at the same time himself an end, and that humanity in our person must, accordingly, be holy to ourselves” (CPrR 5:131). And even the Third Critique, Kant does not fail to leave a

52 Shaw, Business Ethics, 34.
note of homage to the human person as he says that, “it is only as a moral being that man can be a final purpose of creation” (CJ §86).

These repeated appeals reveal his passionate desire to bring to the attention of human community to treat everyone, every stakeholder with respect in business particularly the customer and the employees at the bottom level who are often the victims of dehumanization. Only a society bonded in such fraternity is the ideal ambience for human existence. The second formulation is the golden rule which can animate the society towards its purposeful end. Kant by stressing the respect-for-people principle has given a code for implementation in business organizations duly considering the human person.

5.1.3 The Third Formulation as Envisioning the Legislator of the Moral Community

Kant, for the third time, defines the categorical imperative which he thinks essential to understanding it in its entirety with all its nuances. It reads, “(act) so that the will could regard itself as at the same time giving universal law through its maxim” (GW 4:434). Here Kant exposes the depth of categorical imperative by asserting that every human will is potentially also a law giver. The individual will is capable of not just following a law but also of defining it. Thus the individual becomes also the legislator of the universal law, where he is not just a subject, but also its boss and legislator and he obeys it in his person, and gives it as a law to the community.

Kant asserts it further in these words: “Hence the will is not merely subject to the law but subject to it in such a way that it must be viewed as also giving the law to itself and just because of this as first subject to the law” (GW 4:431). Thus the human person is not subjected to a law that is someone’s making rather he is also the author of the law and its principal caretaker. This is what makes this formulation unique and special. It brings the categorical imperative to its complete exposition leaving the reader with no ambiguities regarding its origin and horizon.

Thus, the third formulation takes Kant’s ethics to a new high where the individual not only follows faithfully the law of his choice, but also devices it as well, for the entire community from his own maxim. This is of a great value to business ethics, for, when a firm sets a standard, it should
legislate it, apply it universally, abide by it, and offer to the entire business community. It also implies that the business products have to be of a standard which could be consumed by any individual irrespective of social and economic status. What one produces should be healthy to one’s wellbeing to the best of his knowledge, and in a given situation, it may be consumed by him or anyone in the society.

5.1.3.1 Profit-making Firms and Their Duty of Beneficence to the Community

The industries manufacture and sell products with an eye on getting good returns. They wouldn’t be satisfied just with their investment back, but profit as well. The industries make profit and at times they make it in huge sum, and not always ethically. In this process of maximization of profit, they gain out of the toil of workers, sales personnel, retailers and consumers. At times their demand of work even takes ugly forms such as child labor, bonded labor, slavery and often, they are forced into hard labor because of their socio-economic conditions. Thus, they are often forced into cheap labor with or without genuine or explicit consent.

In Kant’s opinion, one must not use others in ways to which they could not express consent. Everyone should respect others without manipulating them or without treating them as a means of one’s benefit. So Kant argues that these industries have a duty of beneficence towards people. Kant’s definition of beneficence is a huge inspiration in this direction. He defines beneficence as, “the maxim of making other’s happiness one’s end” (MM 6:452). It means that the profit-making industries should make it their agenda, to realize this duty of beneficence and promote the happiness of others. For Kant, beneficence is a duty, which should not be treated as charity or generosity. A rich man helps the needy because he possesses the means to do so. The satisfaction from a beneficent act which did not demand any sacrifice from anyone is a disgrace to the moral law. It is a duty one owes to the other without expecting to be honored (MM 6:453).

Thus, Kant’s philosophy of beneficence as duty enhances the social corporate responsibility. The industries have a moral commitment to the people and to guarantee product safety and fair pricing. Today we are bombarded with discount sales, factory sales, stock-clearance and offer-prices by business firms and agencies and they consider it a service to the public. They mushroom at every plaza with a greater intensity particularly during the festival seasons in India. These firms take
pride in saying that they do a great service to the humanity. However, the fact is that often the propaganda of this type is not genuine, for these are, substandard products, old-stocks or products of manufacturing defects. And, even if they were genuine discounts, in Kant’s view, they cannot claim merit in it as it is their duty to share more than what they have, for a genuine discount is offered because the firm can afford it.

It is in the context when those involved in such business activities consider them as duty of beneficence that the ideal moral community becomes a way of life. The ideal community is a *kingdom of ends* in which people are never merely used by others, and no one acts on principles to which others could not consent. Trust is fundamental to the relationships of respect between the members of the kingdom of ends; the ideal moral community.

The profit-making firms have a duty to promote genuine policies in the society. It is not merely at individual level or at a small group of workers who are associated with the business unit that the duty of beneficence to be exercised, rather the Kantian duty of beneficence has no bounds and limits. It is extended to every end of society depending on the reachable distance of the business. A business that runs on Kantian principle will set a model in its functioning while ascertaining it a way for the world.

For instance, let’s consider the anti-corruption policy for Microsoft representatives. Its policy “prohibits the corruption of government officials, which means paying money or giving something of value to a government official to obtain an improper benefit. This Policy similarly prohibits the payment of bribes or kickbacks in commercial transactions regardless of whether any government officials are involved. Corruption is forbidden by the laws in almost every jurisdiction of the world. This Policy also prohibits money laundering, which is the process of concealing funds that have been illegally obtained.”\(^\text{53}\)

This Anti-Corruption Policy of Microsoft could be seen as an example of application of Kantian imperative in the formation of local laws. It is absolute, objective and indiscriminate where the

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policy is evolved at the level of the organization and extends beyond itself to incorporate the social concerns. As the third formulation of the categorical imperative invites, the corporation is the author of the law, practices it within and responsibly fulfills its obligation of beneficence to the community. As a policy, in a true spirit of Kant, it addresses the issue of corruption in its business and also at all levels: beyond the business and at governmental and societal levels. This self-made policy is legislated as a universal duty of beneficence to the entire society first to be developed, conceived and practiced within and legislated for all. (This interpretation is not to suggest that this policy is practiced as interpreted here, rather to show its normative closeness to Kantian standpoint).

Kant invites everyone to practice beneficence as it is their duty and human beings depend on others’ beneficence is due to the injustice of Government. He writes, “Having the resources to practice such beneficence as depends on the goods of fortune is, for the most part, a result of certain human beings being favoured through the injustice of government, which introduces an inequality of wealth that makes others need their beneficence. Under such circumstances, does a rich man’s help to the needy, on which he so readily prides himself as something meritorious, really deserve to be called beneficence at all?” (MM 6:454). Though Kant here relates it to the responsibility of the government for the discrimination leading to people depending for the beneficence of others, the business corporations are also places of similar discrimination. Thus when Kant calls beneficence a duty, it implies from the respective government’s point of view that it is a national duty and from a business perspective it is a duty of the corporation. In brief, it could be stated that beneficence is a duty of every human agent irrespective of his walk of life.

In his Lectures on Ethics he says, “Beneficence to others must rather be commended as a debt we owe, than as a piece of kindness and generosity; and so it is in fact; for all acts of kindness are but small repayments of our indebtedness” (LE 27:456). Therefore the business corporations have an obligation for the common wellbeing of everyone and it should always be seen as a duty to the human community and a debt to be paid in return by the company for the service rendered to it by the stake holders. Thus the third formulation of the categorical imperative impels the businesses to be mindful of their duty of beneficence.
5.1.3.2. Kingdom of Ends: The Business Firm as a Moral Community

Kant gives a variant of the third formulation after asserting that everyone is a legislative member. He moves a step further to state that the privilege of being a law making member is for the sake of the common good. The law making member is asked to transcend his personal gains for the noble cause of a common good and therefore the variant reads; “every rational being must act as if he were by his maxim at all times a law giving member of the universal kingdom of ends” (GW 4:438).

Kant in this form of the third formulation exhorts that an individual law maker’s role is to promote a universal kingdom of ends. It is a natural follow up of the first formulation to find its culmination in this concept of the kingdom of ends. If we put together the universal law principle of the first formulation, and treating everyone as end in the second, we arrive at this exciting climax of the kingdom of ends. Paton writes, “The system of a kingdom of ends governed by self-imposed, objective laws is the framework within which the private ends of ourselves and others ought to be realised. Such a framework by its apparent emptiness leaves room for the creativeness, in a sense the arbitrary creativeness, of human will.”54 In business, this variant of the formulation gives the right impetus to view the industry as a moral community. The law makers who decide on the products and their prices act in a sense of moral responsibility realizing the need to promote a moral community.

This Kingdom of end formula as we have said is an attempt to connect different formulas and show their commitment for a common wellbeing all people. It is not a new formulation rather Kant’s further effort to capture what he has already ascertained in previous formulations, at least in three if not more, culminating in this variant of the kingdom of ends.

This formulation views the organization as a moral community. Bowie observes that, “Each member of the organization stands in a moral relationship to all the others. On one hand, the managers of a business firm should respect the humanity in all the persons in the organization. On the other hand, each individual in a business firm, managed as a Kantian moral community, should view the organization other than purely instrumentally, that is, as merely a means for achieving

individual goals. Organizations are created as ways of achieving common goals and shared ends.\textsuperscript{55}

Thus, this variant of the third formulation gives everyone in business a responsibility to march towards human fellowship in a bond of communion bound by the spirit of humanity in every rational agent. An organization stands as a means for social action and in the process the individual needs and aspirations are nurtured. Individual goals and objectives are not sacrificed rather channelized for a greater purpose in respect for humanity. Even the competitors should be considered in empathy because one’s commitment to ethical behavior demands such an action besides being enforced by the Kantian imperative.

However, it is a fact that the spirit of moral community as envisaged by the third formulation is regularly overridden by the corporations who are powerful to bypass labor and environmental norms in most of the developing nations. The MNCs operating worldwide use coercive influence to manipulate the weak judiciary of several host nations to enforce laws which do not have welfare of humanity in their scheme of things. There is always a fear factor operative in the minds of these host nations that strict measures would make these MNCs to move away from their territory to nations which are willing to exercise flexibility in their laws and are not people-friendly.\textsuperscript{56} Any tampering with the laws lead to denial of basic rights of its citizen and the corporate managers have a duty in a Kantian spirit to ensure that laws respected and people regarded.

The business fraternity as a moral family is the emphasis of the Kantian imperative where profit is the byproduct of common action. Holtman’s reading of Kant makes a valued summary to this discussion. He observes, “importantly, we must further conceive of this community as one in which we are governed by laws of our own making that reflect our mutual status as ends. Our maxims and the actions based on them should reflect this understanding of ourselves and our

fellows and of the community appropriate to us.”\textsuperscript{57} Kant’s formulation underlines with immense care the normative base for a human fraternity where moral oneness is the basic character trait.

In conclusion, it may be ascertained that the vital features of Kant’s ethics are, his conception of human persons as people of worth, and then, proceeding from it to constitute the ideal moral community. According to Kant, everyone has a value due to his autonomous and rational nature which needs to be respected. We have seen in this chapter, how the categorical imperative, as the maxim behind one’s actions, be conceived as universal law is a theory par excellence. Moral communities can work on moral principles and Kant keeps it to just one single, broad and all-inclusive principle. Kant’s three formulations of the categorical imperative together provide a prosperous outline for the business ethicists to guide businesses towards raising a moral society.

5.2 \textit{Implications of Categorical Imperative for Business Organizations}

After having elaborated in some detail the possible relevance and application of the Kantian imperative for business and trade, we now aim at summarizing our discussions with some concluding remarks. The Kantian imperative sets a benchmark for a rightful approach for the sustenance of business organizations. It facilitates a cordial relationship between the different stakeholders in business. For example, Svensson and Wood present the relationship between suppliers and the company which fits into our discussion here. According to them, though the suppliers have a duty to remain faithful to the protocols of the company they are not inferior partners in the relationship. A subordinate treatment of a supplier hampers the relationship among the stakeholders because everyone should be considered equal in the venture and therefore deserves due recognition. They are all participants in the same mission which includes creating value in the market place for everyone who is part of it. Consultation between suppliers and company should be regularized so that they endorse company’s ethical stand and contribute effectively within the ethical parameters set by the company.\textsuperscript{58}

The description of this supplier-company example is just one instance where Kantian imperative has a viable role and this example could be extended to other relationships such as producer-consumer, wholesaler-retailer, retailer-customer etc. Any attempt to consider one party subservient to the other impedes the smoothness of business transactions. The imperative is the normative base for all business protocols where everyone’s interests are sufficiently cared for. Mutuality in exercising freedom and sharing of responsibility is the key factor for fair trade practices.

This aspect is brought to the fore in its most appropriate manner in the categorical imperative which does not permit differences among human beings in any form as humanity is the common essence shared by all human beings and there in no gradation in the depth and quality of humanity among persons. If one is the General Secretary of the firm and the other is a lowest grade worker, yet both deserve the same respect as there is humanity in both. This is the point that the categorical imperative brings towards enhancing equality in the business fraternity.

The second formulation in particular which invites all to act respecting the other always as ends reveals the view on which the Kantian deontology is based. The self-defined laws beginning with its autonomous nature of the first formulation, well-held by its humanity formula culminates in individual legislation into a Kingdom of ends brings morality within every one’s reach. As an astronomer explores the outer space, the celestial bodies particularly its positions, dimensions and composition, through rational speculation and experimentation, so also Kant makes the discovery of moral structure possible through a rational process.

His rational morality flows from one’s faculty of human mind and its immense powers for rationalization. His critical philosophy that even critiques reason brings forth a morality that singles out the humanity in everyone regarding why equality among rational agents is that which gives solidity to world order including the business network. This rational formulation of the categorical imperative flows from the human nature to look for unanimous platform for authentic self-expression. Morland shares these sentiments when he writes; “As such, it is our very humanity that demands the rational formulation of universal moral laws. For Kant, human beings, as autonomous law-givers, enjoy a status that should not be compromised. However, this
deontological worldview, with its anthropocentric orientation, may not always translate easily into a world where business organizations are treated as though they were moral agents.”

Morland’s fear is genuine as he raises the concern that if this human centered moral ideology would ever bring forth its desired results. A moral thought as high and demanding as Kant’s, cannot not be inculcated easily into a social order which is still fumbling with contradictions. An ideal stands above the average human accessibilities so that the human beings in their striving for perfection find a reason to race ahead. The high standard set by the categorical imperative is a vision for every individual as well as communities to search after. Goals are set to be beaten but they always remain far away. Kantian imperative is a goal with a far-reaching impact for the business world. A profound understanding of Kantian imperative helps stakeholders to cherish an amicable relationship as responsible corporate citizens. Businesses may face huddles or even incur loses but lending a shoulder in a spirit of oneness to each other as shareholders, managers, employees and customers is what the Kantian imperative calls for. There is no better way than this to respect the humanity in oneself and in others as the categorical imperative envisages.

The Kantian morality invites business organizations to adopt a new culture with a new set of codes for contact. This code that comes in the form of categorical imperative is simple, broad, rational and free. It may be demanding but not imposed, vague but inclusive and logically comprehensive. And it is effective in upholding the merit in every human person and place business and trade at the service of them. In a world that witnesses the rise and fall of ethical theories at regular intervals, the Kantian scheme would have valuable insights in spite of its drawbacks. It is not a full-proof theory but certainly the most genuine encouraging the people to respect each other whether in business or otherwise.

5.3. Unfeasibility of the External Norms and the Exigency of the Internal Moral Law
The experiences of the world events reveal that the external laws have been ineffective to its most part to curb frauds and consumer negligence. Many companies and their managers have involved

in activities which resulted in damaging consequences and got away scot-free. Inflating financial statements to project a rosy picture of the business in order to attract new investors is a frequent event, which has led to frauds that hit headlines in the recent years. Karan Arora wrote in The Financial Express, “Ethical decision making gets especially interesting when organizations must reconcile their core values and show a healthy bottom line which ends up in conflict with one another. The company and its management might get diversified to malpractices. Enron, WorldCom, Satyam, Xerox and other scandals shook public confidence in ethical value system of organizations.”

The tragic part of it is that they have been carried out so systematically in an organized manner for several years in spite of stringent norms set forth by different acts relating to business and trade. We could be right to presume that several other companies who might have involved in such heinous crimes of tampering with business records have never been tracked by the existing external norms.

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This could be further supported by the repeated acts of mismanagement which have taken place consistently over a period of time some of which have come to light after they have been at it for a long time. The Satyam case is one that immediately comes to the mind as it took place in India, often nicknamed as Indian Enron and the first high profile case of fraud since the global financial crisis. I present an extract of Mr. Raju’s letter to the Board of Directors, Satyam’s founder, chairman and CEO. It clearly reveals how the auditing laws can be cleverly manipulated consistently for years and one might suppose that there are as many external business laws as the loopholes in them. The extract follows below;

To
The Board of Directors
Satyam Computer Services Ltd.
From
B. Ramalinga Raju
Chairman, Satyam Computer Services Ltd.
January 7, 2009

Dear Board Members,
It is with deep regret, and tremendous burden that I am carrying on my conscience, that I would like to bring the following facts to your notice:

1. The Balance Sheet carries as of September 30, 2008
   a. Inflated (non-existent) cash and bank balances of Rs.5,040 crore (as against Rs.5361crore reflected in the books)
   b. An accrued interest of Rs.376crore which is non-existent
   c. An understated liability of Rs.1,230crore on account of funds arranged by me
   d. An over stated debtors position of Rs.490crore (as against Rs.2651 reflected in the books).


Karan Arora, “There are very few second acts, once the public perceives the organisation is flawed by dishonesty or inferior quality,” The Financial Express @ campus, Monday Oct.12, 2009.
rules. In the case of Satyam, it was argued that its accounts have been audited by PricewaterhouseCoopers (PWC)\textsuperscript{62} one of the best known for accounting and yet the fraud went undetected for several years.\textsuperscript{63} It only shows that even the most equipped external system of laws with the best qualified in its ranks can barely halt a transgression.

The stringent of all external laws have not been very successful to check these companies from carrying out illegal business. Another aspect which go unchecked by these laws is the consumer negligence where substandard products which could be potentially harmful to the consumers. Look at the Nano car example, where several of the first edition of Nano cars caught fire. No doubt, they were priced cheap, but it was never informed to the buyers that cheap prizing of the car would be potential cause for fire accidents. Every consumer has a variety of rights such as right to health and safety, right to be informed etc. Given these rights, it is uncertain if the Nano cars were fitted with safety fuse which would have come handy in such instances of fire. This is another case where the external norms have not protected the rights of customers.

The external norms which are meant to protect people have always come with loopholes which give opportunities for exploitation. Justice operating through external norms gives enough room for misappropriation. It is where the Kantian imperative has an edge as it evolves from within the individual through a rational formation of a maxim that acts as a universal norm directing everyone’s actions. The external norms are generally imposed from outside while the internal moral law freely evolves from within and therefore it receives respect from its author. Though the external norms may be formed by sincere people with genuine interests for humanity, they are not imbibed by the people in the same true spirit of humanity.

At times these laws come from legislature or the parliament or other similar administrative bodies and therefore do not reflect the conviction of common man. The external norms of business with


stringent auditing norms are in place all over the world and yet business crimes are on the rise. On the contrary when people realize the significance of acting responsibly from within then great humanitarian frameworks have been installed. In times of war (eg: Kargil) and flood the Indian public and the business giants of the country have been generous to contribute for the victims with no external laws demanding them to do so. It is the moral law at work deep within that calls for action in respect for the suffering humanity in every other person. It is exactly what we mean by acting on a maxim of universal brotherhood.

However the challenge to humanity is consistency that every human being has to consistently act on a maxim which may be universally acceptable to all. The Kantian categorical imperative could serve as a viable ethical norm for businesses as it can inculcate a value with no force from outside but from internal conviction of people in business. A few people who actualize categorical imperative in their business transaction can contribute to a just society than several others who act merely for the sake of external laws. Therefore the realization and application of the internal moral law is an exigency today and the externally imposed laws have been proved unfeasible at least to some extent.

However, having said these, I must assert that the external laws are necessary as there are always people who do not see and act on maxims of universal nature. The imperatives of hypothetical nature often dominate human behavior and the external laws come handy at such times. The external norms also may at times assist the formation of maxims which can be worthily called categorical imperative. Ultimately, the need for acting on universal maxim is the exigency and the moral development of the world relies on how quick people begin to realize the moral law and act from it. The best nation is not that which has put in place the best judiciary rather which grooms best moral citizens who are able to act out their inherent moral convictions.

To conclude, according to Kant, everyone has a value due to his autonomous and rational nature and so deserves respect. We have explored in this chapter, how the categorical imperative, as the maxim behind one’s actions, be conceived as universal law is a theory par excellence. Kant’s three formulations of the categorical imperative deliver a prosperous outline for the business ethicists. Any firm or business looking for a viable ethical theory to base itself will find in Kant’s ethics a
near-perfect paradigm. Though it has its drawbacks and as we know that no one theory can be absolutely flawless, this is a certain theory that upholds the spirit of humanity as a totality. And for this reason the categorical imperative, when all its various formulations are taken together is immensely purposeful for the business to depend upon.