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IF INTEGRITY IS THE ANSWER, WHAT IS THE QUESTION?

Deborah L. Rhode*

This is a good moment for moralists. Integrity is in fashion, and those of us who worry about ethics for a living have an unusually attentive audience. The reason, of course, is that money talks, often in circles where morals do not. And recent events have brought home the connection between the two. According to a “No More Enrons” coalition, the latest corporate scandals have cost Americans more than \$200 billion in lost jobs, taxes, investments, and pensions; other estimates put the loss in market value as high as \$5 trillion.¹ Trust in businesses and professional ethics, never high to begin with, has fallen to new lows. Lawyers, whose rankings for honesty barely edge out used car salesmen in public opinion polls, are now joined by corporate executives and accountants.²

As confidence in market structures erodes, national leaders have clamoured that something must be done, and have called upon business and professional schools to do their bit. President Bush has insisted that these schools “must be principled teachers of right and wrong, and not surrender to moral confusion and relativism.”³ Other

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1. See Marcy Gordon, *Accounting Trouble Has Cost U.S., Says SEC Commissioner*, Chattanooga Free Times Press, Nov. 15, 2002, at C2; Marcy Gordon, *Corporate Scandals Cost Americans \$200 Billion*, Sun-News (Myrtle Beach, S.C.), Oct. 18, 2002, at D3.

2. Only a fifth of Americans believe that lawyers are honest and ethical. See sources cited in Deborah L. Rhode, *In the Interests of Justice* 4, 215 n.4 (2000). In one 2002 Roper poll, which asked which occupational group had the lowest ethical standards, 29% identified lawyers, 20% identified CEOs of major corporations, and 5% identified accountants. Roper Center for Public Opinion Research, Roper Public Opinion Online, July 12, 2002 (on file with author and Fordham Law Review). In another Roper survey, only 16% rated the honesty and ethical standards of business executives as high or very high. *Id.*; Roper Center for Public Opinion Research, Roper Public Opinion Online, Feb. 11, 2002. In a *Business Week* poll, nearly 90% of Americans questioned the honesty of corporate America’s accounting practices. Richard Dunham, *Enron’s Legacy: A New Wariness*, Bus. Wk. Online (Feb. 19, 2002), at http://www.businessweek.com/bwdaily/dnflash/feb2002/nf20020219_0406.htm.

3. Press Release, President Announces Tough New Enforcement Initiatives for Reform (July 9, 2002), at <http://www.whitehouse.gov/news/releases/2002/07/>

leaders, both within and outside universities, have demanded that professional schools not only teach integrity but screen for it as well. Prominent institutions, including Harvard, have put a new ethics question on their MBA application forms; others are beginning to pay attention to the responses.⁴ Courses, conferences, committees, and commissions have been assembled. Dutiful platitudes have been uttered. And parodies of all of the above are in ample supply. A representative example ran in the *New Yorker* this past summer under the caption, "Bush, Cheney Blister Shady Business Ethics."⁵ In this account, the President displayed his customary "can-do attitude" in solving the "real problems facing American business," such as "overcharging employees for lunch in the company cafeterias," and theft of hotel shampoo, soap and sewing kits by corporate executives travelling at company expense.⁶ To combat such abuses, the President reportedly announced plans to form a "Cabinet-level Department of Homeland Personal Toiletries," and a "blue-ribbon panel of corporate food managers, who have been asked to report back to him by the year 2050 if they have any thoughts."⁷

This symposium offers an opportunity to take stock of critics—and their critics—of the current state of professional ethics. If we begin with the widely-shared premise that the answer is more integrity, then what is the question? What strategies are likely to promote higher ethical standards? And what role can business and professional schools play in the process?

To that end, the following comments focus first on what we mean by integrity and then on the capacity of post-graduate programs to identify that moral trait in applicants and inculcate it in students. Given the limited ability of schools to do either, the discussion then turns to the structural influences of unethical conduct and the reforms necessary to address them. In essence, my claim is that much of the current demand for action by business and professional schools is misdirected. Post-graduate institutions are not well positioned to teach "right and wrong" or to screen out applicants unable to make the distinction. But these schools could, and should, do far more to give students the foundations for ethical analysis, an understanding of the structural pressures that undermine ethical commitments, and the strategies, both personal and organizational, that could reduce those

print/20020709-4.html. For similar views, see Lynnley Browning, *M.B.A. Programs Now Screen for Integrity, Too*, N.Y. Times, Sept. 15, 2002, at B4. See also Thomas K. Lindsay, *What Does it Profit a Man to Gain an MBA?*, L.A. Times, Nov. 18, 2002, at A13; Letters to the Editor, *Money, Ethics and the M.B.A.*, N.Y. Times, Aug. 23, 2002, at A16.

4. Browning, *supra* note 3.

5. Bruce McCall, *Bush, Cheney Blister Shady Business Ethics*, *New Yorker*, July 29, 2002, at 39.

6. *Id.*

7. *Id.*

pressures. Faculties of business and professional schools also could direct more of their research and policy work to institutional reform.

If there is a moral to the current stories of corporate misconduct, it is not simply or solely one about integrity. To be sure, greed and dishonesty are part of the narrative, but so are problems of institutional design. Organizational reward structures and regulatory frameworks are not well constructed to reinforce ethical conduct. And unless and until these institutional problems are addressed, to present integrity as the answer may misconceive the central questions. The most productive inquiries for business and professional schools are not how to keep out the morally myopic or construct an ethics class that will convert them. The questions rather are how to equip the great majority of professional and business school students with the skills necessary to recognize and deal responsibly with ethical dilemmas, and how to design regulatory and reward structures that will be part of the solution, not the problem.

In *Eichmann in Jerusalem*, Hannah Arendt described the “banality of evil” in ways that resonate with our recent experience. Eichmann, like other leaders of the Third Reich, was “not Iago, and not MacBeth.”⁸ Nor did he consciously embark on a plan of unprecedented moral atrocity. Rather, “[e]xcept for an extraordinary diligence in looking out for his personal advancement, he had no motives at all.”⁹ Many of the professionals implicated in America’s recent moral meltdowns fit a similar description. The challenge for professional schools is how to help individuals and institutions cope with pressures that place moral principles against personal advancement.

I. DEFINITIONS OF INTEGRITY AND CHARACTER SCREENING IN PROFESSIONAL SCHOOLS

In common usage, “integrity” often functions as an all-purpose term of moral approval. In philosophical discussions, the concept connotes a more specific set of qualities that make for an integrated self. At a minimum, persons of integrity are individuals whose practices are consistent with their principles, even in the face of strong countervailing pressures.¹⁰ Yet the term also implies something more than steadfastness. Fanatics may be loyal to their values, but we do not praise them for integrity. What earns our praise is a willingness to

8. Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* 287 (rev. ed. 1964).

9. *Id.*

10. For definitions of integrity, see Lynn E. McFall, *Integrity*, 98 *Ethics* 5, 7 (1987); Daniel Putnam, *Integrity and Moral Development*, 30 *J. of Value Inquiry* 237, 242 (1996); Nancy Schaubert, *Integrity, Commitment and the Concept of a Person*, 33 *Am. Phil. Q.* 119, 120 (1996); Gabriele Taylor, *Integrity*, 55 *Proc. of the Aristotelian Soc’y* 143, 148 (Supp. 1981).

adhere to values that reflect some reasoned deliberation, based on logical assessment of relevant evidence and competing views.¹¹ Some theorists would add a requirement that the values themselves satisfy certain minimum demands of consistency, generalizability, and respect for others.¹²

Few would dispute the importance of integrity among those preparing for business or professional careers, and the recent spate of scandals has prompted greater efforts to identify that quality in applicants. Some M.B.A. programs have intensified their scrutiny of the information that applicants provide by verifying the accuracy of grades, prior experience, and recommendations.¹³ Other institutions have requested more information related to integrity, both from applicants and from those who recommend them.¹⁴ For example, Harvard is reportedly asking authors of letters of recommendation to rank a candidate's integrity on a five-point scale.¹⁵ The school is also having applicants "[d]iscuss an ethical dilemma that you experienced firsthand. How did you manage and resolve the situation?"¹⁶

In explaining these new additions to the application process, Harvard's director of M.B.A. admissions noted: "It's really important, and certainly recent events have brought this to light, to do our best to thoroughly, to the best of our ability, understand a candidate's values and ethics."¹⁷ The director of admissions for the University of

11. Mark S. Halfon, *Integrity: A Philosophical Inquiry* 32, 32-33, 133-36 (1989); Jody L. Graham, *Does Integrity Require Moral Goodness?*, 14 *Ratio* 234, 244 (2001).

12. See, e.g., John M. Doris, *Lack of Character: Personality and Moral Behavior* 18 (2002); N.F. Bews & G.J. Rossouw, *A Role for Business Ethics in Facilitating Trustworthiness*, 39 *J. Bus. Ethics* 377, 381 (2002); Graham, *supra* note 11; B.W. Husted, *The Ethical Limits of Trust in Business Relations*, 8 *Bus. Ethics Q.* 233 (1998); Gerald J. Postema, *Self-Image, Integrity, and Professional Responsibility*, in *The Good Lawyer: Lawyers' Roles and Lawyers' Ethics* 286, 307 (David Luban ed., 1983). For a good overview of various positions on whether integrity is content-free or implies some commitment to broadly shared values, see Sharon Dolovich, *Ethical Lawyering and the Possibility of Integrity*, 70 *Fordham L. Rev.* 1629, 1654-56 (2002).

13. For example, Wharton has hired an outside firm to do background checks on a randomly selected group of applicants. Browning, *supra* note 3. Dartmouth is asking applicants to self-report grades and test scores, and will then corroborate them against official transcripts. *Id.*

14. For example, Harvard asks recommenders to "[p]lease comment on the applicant's behavior (e.g. respect for others, honesty, integrity, accountability for personal behavior) within your organization and in the community." M.B.A. Application Form, Harvard University (2003), available at <http://www.hbs.edu/mba/apply/index.html>. Harvard is also reportedly requesting authors of letters of recommendation to rank a candidate's integrity on a five-point scale. Lynnley Browning, *Weeding Out the Bad Apples (Before They Get to Harvard)*, *N.Y. Times*, Sept. 8, 2002, at B3.

15. Browning, *supra* note 14.

16. M.B.A. Application Form, Harvard University (2003), available at <http://www.hbs.edu/mba/apply/index.html>.

17. Browning, *supra* note 14 (quoting Brit J. Dewey).

Chicago's M.B.A. program put the point more bluntly: "We are more than willing to reject evil nerds" ¹⁸

Yet whether the means chosen are adequate to the task is another question, and one that too few institutions are asking, at least publicly. Requesting applicants to describe a personal ethical dilemma is, to be sure, a modest improvement over the once common practice of asking bar applicants to explain "what the Code of Professional Responsibility mean[s] to me." ¹⁹ But the assumption that this kind of autobiographical revelation will disclose much about a candidate's integrity seems dubious at best. Given the highly competitive nature of the admission process, it is unlikely that most candidates will view this as an occasion to bare their souls. Indeed, if experience with the personal essay question on college application forms is any guide, we can expect the rise of a new market in moral dilemmas. The ethically challenged will be able to purchase advice manuals, essay coaching, and probably even pre-packaged narratives, suitable for adaptation to personal circumstances. The prospect is reminiscent of a recent *New Yorker* cartoon picturing two high school students watching a classmate escort a little old lady across the street. The caption reads, "Hey, there's Sara, padding her college-entrance résumé." ²⁰

Efforts to obtain information about applicants' character through letters of reference and background checks may be somewhat more productive, but their predictive capacity is also limited. Presumably, few applicants will solicit recommendations from individuals likely to disclose a moral blemish. If candor creeps into the process, it may be more reflective of applicants' poor judgment in selecting references than of their integrity relative to other candidates.

Submission of false resume information may also be more common, and less probative of moral unfitness than is commonly supposed. As a consultant for the Society for Human Resource Management put it, "[l]ying [in employment-related application processes] is happening on a very large scale." ²¹ One recent survey of some 2.6 million job applications found that almost half revealed some dishonesty; research on student cheating disclosed even higher levels of misconduct. ²² Fudging the facts occurs with some frequency even at

18. Browning, *supra* note 3, at B4 (quoting Ann L. McGill).

19. Thomas L. Shaffer, *Legal Ethics After Babel*, 19 Cap. U. L. Rev. 989, 991 (1990).

20. *New Yorker*, June 18, 2001, at 77.

21. Jeffrey Kluger, *Pumping Up Your Past*, *Time*, June 10, 2002, at 45 (quoting Wendy Bliss). The problem is equally widespread among foreign applicants to American graduate programs. See Katherine S. Mangan, *The Fine Art of Fighting Fakery*, *Chron. of Higher Educ.*, Nov. 1, 2002, at A39.

22. Kluger, *supra* note 21, at 45. See Sonny Lufrano, *Study Shows More Youths Lie, Cheat and Steal to Get Ahead*, *San Jose Bus. J.*, Mar. 28, 2003, at A28 (discussing a study finding that seventy-four percent of 12,000 surveyed high school students admitted cheating on an exam at least once in the past year); Brigid Schulte, *Cheatin', Writin' & 'Rithmetic: How to Succeed in School Without Really Trying*, *Wash. Post*

the highest corporate levels. A representative review of resumes submitted for president, vice-president, and board of director positions found that about a quarter included some misrepresentation.²³

Worse still, when resume fraud is exposed, too many businesses treat it as business as usual. A case in point involves Bausch & Lomb, which recently acknowledged that its Chief Executive Officer had falsely claimed to have earned an M.B.A. from New York University.²⁴ The company's board of directors initially called the lie an "unfortunate mistake" and reaffirmed its support for the CEO.²⁵ In the wake of adverse publicity, the board elevated the mistake to a "serious matter," and announced it would withhold his \$1.1 million bonus.²⁶ But the board also declined to accept the CEO's resignation because he remained the "right person to carry on the resurgence of the company."²⁷

In this cultural climate, many students might well infer that some resume refurbishment is but a venial sin. Of course, business and professional schools have an obvious interest in attempting to dispel that attitude by excluding applicants who distort their records. But it does not follow that such exclusions are a reliable way of screening out those applicants likely to engage in future misconduct. Psychological research makes clear that moral behaviour is highly situational.²⁸ While individuals differ in their responses to temptation, contextual pressures have a substantial impact on ethical conduct. How applicants will cope with moral dilemmas in their later careers depends heavily on factors that cannot be anticipated at the time of admission, such as financial circumstances, peer pressures, and organizational reward structures.²⁹ Prior behaviour is relevant, but

Mag., Sept. 15, 2002, at W16 (citing a national survey of 4,500 students in which approximately three-quarters reported serious cheating); Gerald L. Zelizer, *Break Cheating Pattern Early*, U.S.A. Today, Nov. 20, 2002, at 15A (citing a national survey of 12,000 students in which almost three-quarters acknowledged cheating).

23. For prominent examples, see Ian Parker, *Dishonorable Degrees*, New Yorker, Nov. 4, 2002, at 44.

24. James Flanigan, *Slipshod Business Ethics a Poor Example for Youth*, L.A. Times, Oct. 30, 2002, at C1.

25. *Id.*

26. *Id.*

27. *Id.*

28. Doris, *supra* note 12, at 24-25; Walter Mischel & Yuichi Shoda, *A Cognitive-Affective Theory of Personality: Reconceptualizing Situations, Dispositions, Dynamics, and Invariance in Personality Structure*, 10 *Psychol. Rev.* 246 (1995); Deborah L. Rhode, *Moral Character as a Professional Credential*, 94 *Yale L. J.* 491, 556-62 (1985).

29. See Deborah L. Rhode & David Luban, *Legal Ethics* 347-59, 367-76 (3d ed. 2001); see generally Robert B. Cialdini, *Social Influence and the Triple Tumor Structure of Organizational Dishonesty*, in *Codes of Conduct: Behavioral Research in Business Ethics* 44 (David M. Messick & Ann E. Tenbrunsel eds., 1996); Corporate and Governmental Deviance: Problems of Organizational Behavior in Contemporary

also sometimes misleading because it is necessary to know a great deal about how and why individuals responded to earlier situations in order to gauge how they will react in somewhat different future circumstances.³⁰ Admissions officers seldom, if ever, have that kind of knowledge.

The current popularity of character screening may in part reflect what social psychologists term “the fundamental attribution error;” our tendency to overvalue the importance of character and undervalue the role of situational influences in shaping personal behaviour.³¹ Those responsible for the recent spate of scandals were not all “evil nerds.” Nor is it likely that a more intensive character screening process for professional school applicants would have identified those who later signed off on the “creative” accounting practices of Enron et al.

That is not to suggest that character screening efforts should be abandoned. However limited their effectiveness in revealing an applicant’s true values and capacity to live up to them, such inquiries may send a useful message about the school’s own values and willingness to institutionalize them. At the very least, giving moral character a more prominent role in the admission process is a relatively low cost way of deterring fraudulent applications and reinforcing the message that morality matters. But that message needs to be conveyed by the entire curriculum, and in that effort most schools fall far short.

II. ETHICS CURRICULA IN PROFESSIONAL EDUCATION

On the surface, ethics instruction as a response to ethics scandals has much to recommend it. As William Hazlitt once wryly observed, we can conveniently “applaud what is right and condemn what is wrong, when it costs us nothing but the sentiment.”³² Compared with other structural responses to corporate misconduct, curricular refurbishment is a cheap fix. Accordingly, when the Watergate investigations pushed lawyers’ public opinion rankings to new lows, the American Bar Association called for mandatory ethics instruction

Society (M. David Ermann & Richard J. Lundman eds., 5th ed. 1978); *Social Influences on Ethical Behavior in Organizations* (John M. Darley et al. eds., 2001); Ronald R. Sims, *The Challenge of Ethical Behavior in Organizations*, 11 J. Bus. Ethics 505, 513 (1992).

30. Mischel & Shoda, *supra* note 28.

31. Doris, *supra* note 12, at 93; Lee Ross, *The Intuitive Psychologist and His Shortcomings: Distortions in the Attribution Process*, 10 *Advances in Experimental Soc. Psych.* 173 (Leonard Berkowitz ed., 1977); Burnele V. Powell, 72 *Fordham L. Rev.* 311 (2003); Philip E. Tetlock, *Accountability: A Social Check on the Fundamental Attribution Error*, 48 *Soc. Psychol. Q.* 227 (1985).

32. Selected Essays of William Hazlitt: 1778-1830, at 220-21 (Geoffrey Keynes ed., 1948).

in law schools.³³ So too, Watergate, coupled with a series of subsequent corporate scandals in the 1970s and 1980s, encouraged greater ethics coverage in business schools and recent events have prompted demands that the subject should actually be taken seriously.³⁴ Even students have joined the chorus. In one recent survey, over eighty percent of prospective business graduate students felt that M.B.A. programs should be retooled to include a greater emphasis on ethics.³⁵

For those of us who teach ethics, this is, of course, a cheering development. Certainly, the current state of professional ethics instruction leaves much to be desired. In most law schools, it is relegated to a single required course that ranks low on the academic pecking order. Many of these courses, which focus primarily (and uncritically) on bar disciplinary rules, constitute the functional equivalent of "legal ethics without the ethics," and leave future practitioners without the foundations for reflective judgment.³⁶ Although ethical issues arise in every subject, that would not be apparent from the core curriculum, or from leading casebooks, which devote less than two percent of their total coverage to professional responsibility concerns.³⁷ With a few notable exceptions, business schools do no better.³⁸ A recent Aspen Institute poll of 1,600 students at a dozen leading business schools found that only a fifth believed

33. Deborah L. Rhode, *Ethics by the Pervasive Method*, 42 J. Legal Educ. 31, 39 (1992).

34. For the role of earlier scandals in promoting ethics courses, see Browning, *supra* note 3; Paul R. Tremblay, *Shared Norms, Bad Lawyers, and the Virtues of Casuistry*, 36 U.S.F. L. Rev. 659, 673 (2002). For current demands, see Browning, *supra* note 3; Penelope Patsuris, *Can Integrity be Taught?*, Forbes.com (Oct. 4, 2002), at <http://www.forbes.com/2002/10/04/1004virtue.html>; Miguel Roig, Letter to the Editor, *Money, Ethics and the M.B.A.*, N.Y. Times, Aug. 23, 2002, at A16.

35. *MBA Candidates Demand Ethics over Earnings*, Business Ethics Newline (Sept. 3, 2002), at <http://www.globalethics.org/newsline/members/currentissue2.tmpl>.

36. See Rhode, *supra* note 2, at 200; Robert Granfield & Thomas Koenig, "It's Hard to Be a Human Being and a Lawyer": *Young Attorneys and the Confrontation With Ethical Ambiguity in Legal Practice*, W. Va. L. Rev. (forthcoming) (describing an empirical study which found substantial discontent among practitioners with their law school professional responsibility courses); William H. Simon, *The Trouble with Legal Ethics*, 41 J. Legal Educ. 65, 66 (1991).

37. Deborah L. Rhode, *The Professional Responsibilities of Professors*, 51 J. Legal Educ. 158, 164 (2001).

38. See Deborah L. Rhode & Paul Patton, *Lawyers, Ethics, and Enron*, 8 Stan. J. Law & Bus. 9 (2003); Browning, *supra* note 3; Jeff Gottlieb, *UC Irvine Business Ethics Class: In a Word, Enron*, L.A. Times, July 9, 2002, at B1; Andrea L. Stape, *Area Business Schools Are Not Rushing to Add Courses on Ethical Behavior as a Result of the Enron Scandal*, Providence J.-Bull., Apr. 7, 2002, at F1; Judith Samuelson, *The State of Affairs for Management Education and Social Responsibility*, Address to the AACSB International Deans Conference 6 (Feb. 10, 2003) (transcript available from the Aspen Institute's Initiative for Social Innovation through Business and on file with the author and the Fordham Law Review); Brian Hindo, *Where Can Execs Learn Ethics?*, Bus.Wk. Online (June 13, 2002), at http://www.businessweek.com/print/bwdaily/dnflash/jun2002/nf20020613_6153.htm.

that their schools were doing a substantial amount to prepare them to handle problems such as mismanagement or fraud.³⁹ Such marginalized treatment of ethical issues undercuts the message that educators intend to convey. Ethics issues need to be addressed in all the basic courses.⁴⁰ As one Harvard Business School student has noted, if issues of moral responsibility are treated only in a specialized course, and not integrated in the core curriculum, they are likely to be regarded as diversions from what really matters—like “saving the whales on the weekends.”⁴¹ Students learn from subtexts as well as texts, and silence is a powerful socializing force.

More systematic ethics coverage is necessary throughout the undergraduate and graduate school curricula, but not for the reason that President Bush and other commentators have suggested. The basic responsibility for “teaching right and wrong” cannot rest with universities. For that mission, courses on legal and business ethics offer too little too late. A few hours of classroom discussion is unlikely to alter the values that individuals have acquired over a lifetime from families, relatives, schools, peers, and the culture generally.⁴² As Wharton M.B.A. professor Tom Donaldson notes: “A course on [business] ethics is not like a polio vaccine. We can’t inoculate students who have been inclined toward unethical behaviour for the past 20 some odd years.”⁴³ Nor will tinkering with legal ethics curricula convert those who do not give a “flying fig” about the moral implications of professional conduct.⁴⁴ As another Harvard Business

39. Lynnley Browning, *Ethics Lacking in Business School Curriculum, Students Say in Survey*, N.Y. Times, May 20, 2003, at C3; see Samuelson, *supra* note 38.

40. Rhode, *supra* note 2, at 201; Granfield & Koenig, *supra* note 36, at 38; see Rhode, *supra* note 33. In one survey by the Aspen Institute that asked business students “what is the most important change you would recommend to better educate students about the social responsibilities of companies?” the most frequent recommendation was to integrate these issues into basic coursework. Samuelson, *supra* note 38.

41. Samuelson, *supra* note 38, at 4 (quoting Sharon Parks).

42. See the research summarized in Doris, *supra* note 12, at 123; James S. Leming, *Curricular Effectiveness in Moral Values Education: A Review of Research*, 10 J. Moral Educ. 147 (1981); James R. Rest, *Can Ethics Be Taught in Professional Schools? The Psychological Research*, Ethics: Easier Said Than Done, Winter 1988, at 22, 23-24; Rhode, *supra* note 33, at 44-46; Donald H. Schepers, *Machiavellianism, Profit, and the Dimensions of Ethical Judgment: A Study of Impact*, 42 J. Bus. Ethics 339, 348-49 (2003); Jim Heskett, *What Can Business Schools Do to Avoid Bad Apples?*, Harvard Business School Online (Sept. 2, 2002), at <http://hbswk.hbs.edu/pubitem.jhtml?id=3084&t=heskett>. Cf. Ann Colby & Thomas Ehrlich, *Higher Education and the Development of Civic Responsibility*, in *Civic Responsibility and Higher Education*, at xxi (Thomas Ehrlich ed., 2000) (arguing for more ethics instruction in higher education).

43. Patsuris, *supra* note 34 (quoting Tom Donaldson).

44. See Tremblay, *supra* note 34, at 674; see also Christopher L. Eisgruber, *Can Law Schools Teach Values?*, 36 U.S.F. L. Rev. 603, 610 (2002) (noting that “the capacity of law professors to teach values will be modest at best”); Hindo, *supra* note 38 (finding that students prefer hard skills classes over ethics courses).

School student put it, “the real causes of the recent business scandals lie not in our classrooms, but in ourselves. Put simply, Enron and WorldCom and Tyco didn’t happen because CEOs ignored their Aristotle They happened because they—like you and I—really, really wanted to get rich.”⁴⁵ Yet neither is a well-designed ethics curriculum a pointless equivalent of “compulsory chapel,” as other commentators have suggested.⁴⁶ Post-graduate courses can help students to develop their own capacities for moral reasoning, to identify legal and ethical boundaries, and cope more effectively with pressure to cross them.

In short, while the contributions of professional responsibility education should not be overstated, neither should they be undervalued. Most research indicates that strategies for dealing with ethical issues change significantly during early adulthood, and that well-designed curricular coverage can improve capacities for moral reasoning.⁴⁷ Such coverage can increase students’ understanding of concrete professional dilemmas, as well as the analytic approaches and practical strategies that can assist in solutions. “People are fond of saying that you learn ethics at your mom’s knee,” Donaldson observes, “but my mother didn’t tell me about highly leveraged derivative transactions.”⁴⁸ So too, many of the competing obligations of client loyalty and social responsibilities that lawyers will confront are not matters they will have considered before law school. And there is some value in having students confront the tradeoffs before they have a vested economic interest in the resolution.

So, too, well-designed courses can explore the structural conditions underlying moral dilemmas and the most promising regulatory responses. Many experts in the field, like M.B.A. professor Alexei Marcoux, view “business ethics as a plea for good institutional design.”⁴⁹ The same is true for legal ethics. Any effective response to abuses such as those reflected in Enron et al. will require policy responses that demand more attention from business and professional schools.

45. Charles Duhigg, *Ethicists at the Gate: Can Harvard Business School Make Its Graduates Behave?*, Boston Globe, Dec. 8, 2002, at D5.

46. See Tremblay, *supra* note 34, at 674; see also Browning, *supra* note 3; Patsuris, *supra* note 34; Robert Prentice, *An Ethics Lesson for Business Schools*, Editorial, N.Y. Times, Aug. 20, 2002, at A19; Rebecca Spence, Letter to the Editor, *Money, Ethics and the M.B.A.*, N.Y. Times, Aug. 23, 2002, at A16.

47. Rhode, *supra* note 33, at 45-46; Rhode, *supra* note 37, at 165.

48. Patsuris, *supra* note 34 (quoting Donaldson).

49. *Id.* (quoting Marcoux).

III. SITUATIONAL INFLUENCES ON MORAL CONDUCT: THE NEED FOR STRUCTURAL RESPONSES

This is not the occasion for a full discussion of the situational influences on ethical conduct. But in a symposium on integrity, it makes sense at least to remind ourselves how readily even the good go bad if the pressures are substantial. One of the most chilling examples is the classic obedience-to-authority experiment by Stanley Milgram. When asked to administer electric shocks to another participant in the experiment, about two-thirds of subjects fully complied, up to levels marked "dangerous," despite the victim's screams of pain.⁵⁰ Yet when the experiment was described to another group of subjects, individuals predicted that at most one person in a thousand would fully comply. No one believed that they personally would do so.⁵¹

Subsequent studies similarly demonstrate how market forces and organizational pressures can undermine moral judgment and professional responsibilities. When faced with a misalignment of ethical principles, peer pressures, and workplace incentives, many individuals unconsciously readjust their principles or develop strategies of moral disengagement that enable them to rationalize misconduct.⁵² In these circumstances, people often have a poor grasp of their own reasoning processes.⁵³ Strategies such as euphemistic labelling, displacement or diffusion of responsibility, and reattribution of blame often permit lawyers and corporate managers to deny accountability for unethical actions.⁵⁴ Such strategies are apparent not only in the massive moral meltdowns that have recently been on display, but also in everyday deceptions of seemingly petty proportion. Over time, such dissembling breeds a climate that corrupts judgment and lays the foundations for more serious misconduct. Fudging on hourly billing reports, wilful blindness to client and collegial fraud, or strategic withholding of material facts are all predictable responses to the institutional incentive structures prevailing in many workplaces.⁵⁵ "Virtue," Mark Twain once

50. Stanley Milgrim, *Obedience to Authority: An Experimental View* (1974). For an overview of the Milgrim work and its relevance for lawyers, see David Luban, *The Ethics of Wrongful Obedience*, in *Ethics in Practice* 94, 96-97, 102-05 (Deborah L. Rhode ed., 2000).

51. Arthur G. Miller, *The Obedience Experiments: A Case Study of Controversy in Social Science* 13, 21 (1986); see Doris, *supra* note 12, at 39-50; Luban, *supra* note 50, at 97.

52. Howard Gardner, *When Ethics and Excellence Meet* (2001); Albert Bandura et al., *Corporate Transgressions Through Moral Disengagement*, 6 *J. Hum. Values* 1 (2000).

53. Doris, *supra* note 12, at 141; see Donald C. Langevoort, *The Organizational Psychology of Hyper-Competition: Corporate Irresponsibility and the Lessons of Enron*, 70 *Geo. Wash. L. Rev.* 968, 970-71 (2002).

54. Bandura et al., *supra* note 52; Cialdini, *supra* note 29; Luban, *supra* note 50, at 102-05; David Luban, *Integrity: Its Causes and Cures*, 72 *Fordham L. Rev.* 279 (2003).

55. See Rhode, *supra* note 2, at 86-90, 168-73 (discussing deceptive pretrial

observed, “never has been as respectable as money.”⁵⁶ And where short-term profits and personal salaries are the key determinants of power and status, integrity will often lag behind.

We obviously cannot solve those problems in business and professional schools. But we can devote more of our teaching and scholarship to institutional reforms that will make virtue more than its own reward. For example, greater attention should focus on strategies for creating ethical infrastructures and compliance programs in corporate and legal organizations. Such frameworks require clear standards of responsibilities and protections concerning internal whistle blowing, along with adequate ethical policies, training, reporting channels, enforcement, and reward structures.⁵⁷ As recent events make all too obvious, corporate codes of conduct are grossly inadequate without systems to monitor and reinforce compliance.⁵⁸ Enron had a model set of formal principles. On the day of the company’s bankruptcy, the code reportedly was available on eBay in “mint condition—never been read.”⁵⁹

Legislative mandates and professional rules should do more to require ethical infrastructures, and faculties of professional schools should be more actively involved in developing those reforms. Discussion of ethical issues should be integrated into the core curriculum and consistently showcased in academic conferences and publications. Integrity should be treated not as a pontifical or perfunctory digression from the “real” mission of professional training, but as its core foundation. This is no small task and occasions like this are a crucial reminder of the challenges of connecting principles to practice.

practices and billing abuses); see also Lawrence E. Mitchell, *Corporate Irresponsibility: America’s Newest Export* (2003) (analyzing the distorting effects of preoccupation with short-term profits); Lisa G. Lerman, *The Slippery Slope From Ambition to Greed to Dishonesty: Lawyers, Money, and Professional Integrity*, 30 Hofstra L. Rev. 879, 912 (2002) (identifying unethical billing practices); Luban, *supra* note 50, at 95 (discussing collegial fraud and misleading statements as a common practice).

56. Mark Twain, *The Innocents Abroad* 590 (Oxford Univ. Press 1996) (1896).

57. See Linda Klebe Treviño et al., *Managing Ethics and Legal Compliance: What Works and What Hurts*, 41 Cal. Mgmt. Rev. 131, 139 (1999).

58. For discussion of the need for more adequate codes and implementation structures, see Mark S. Schwartz, *A Code of Ethics for Corporate Code of Ethics*, 41 J. Bus. Ethics 27 (2002); Walter B. Wriston, *A Code of Our Own*, Wall St. J., Jan. 16, 2003, at A12. For a discussion of necessary compliance structures, see Treviño et al., *supra* note 57.

59. *Good Read*, Fin. Times, Jan. 10, 2003, at 16 (quoting Lynn Paine).