

Business Case Studies II

Part 6 of a Video Tutorial on Business Ethics

Available on YouTube and iTunes University

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Lightly Edited Transcript with Slides

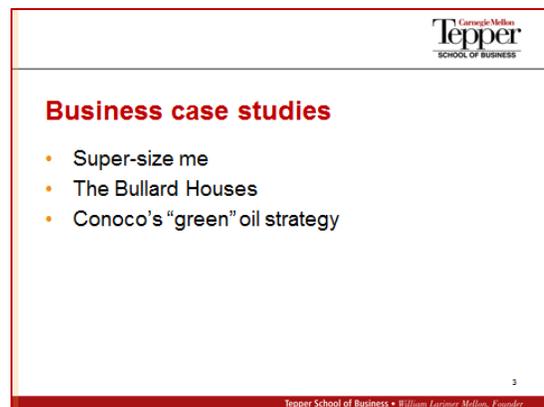
Introduction

Hi. This is the sixth and last installment of a business ethics tutorial. I'm going to wrap things up with three final business case studies, to practice our skills at applying ethical principles. I'm going to begin by looking at McDonald's and its influence on our diet, then look at a well-known case study called the Bullard Houses, and finish up with an environmental case involving the Conoco Oil Company.

Super-size Me

First, McDonald's. Perhaps you saw the film *Super-size Me*, which came out in 2004. It looked at the effect of McDonald's on our health, the obesity problem in the U.S., and so forth. The name of the film came from the fact that at that time, McDonald's workers were instructed to ask the customers, "Can I super-size you?", meaning, "can I give you a large size of fries or drink, rather than the regular size?" At about the time the film came out, McDonald's stopped super-sizing. They claimed their decision had nothing to do with this film, but it was made at about the same time.

In the film, the director of the film Morgan Spurlock went one month eating nothing but McDonald's, morning, noon and night – nothing but McDonald's, to see what it would do to him. What did it do to him? He went to the doctor before, he went to the doctor after. He gained 24 pounds during the month and had a number of other problems, such as blood tests coming out bad for his liver, and so forth. So it didn't look like a very healthy diet. In fact, he had to go on a detox diet afterwards to lose the weight and get back to normal, which took a while.



The slide features the Tepper School of Business logo in the top right corner. The main title is "Business case studies" in red. Below it, a bulleted list includes "Super-size me", "The Bullard Houses", and "Conoco's 'green' oil strategy". A small number "3" is in the bottom right corner, and the footer reads "Tepper School of Business • William Larimer Mellon, Founder".



The slide features the Tepper School of Business logo in the top right corner. The main title is "Super-size me" in red. A bulleted list describes the 2004 film "Super-size Me", mentioning Morgan Spurlock's 24-pound weight gain and the film's suggestion that McDonald's menu and marketing contribute to the U.S. obesity epidemic. A small image of the movie poster is on the right. A small number "4" is in the bottom right corner, and the footer reads "Tepper School of Business • William Larimer Mellon, Founder".

The film suggests that this McDonald's diet is influencing the way we eat, affecting our health, and contributing to the obesity epidemic in the U.S. We're going to look at the issue: is McDonald's doing something unethical here? There are a lot of good lessons in this case, but it does get some people upset. I realize that. So bear with me, I'm not propounding a view here. I'm only showing how the arguments play out, and you can think about it.

There are really two issues involved. One: is the McDonald's menu ethical? Two: how about their marketing practices, particularly toward children? I'm going to look at that as well.

I'm going to assume that there's full disclosure: the customer knows what's in the Big Mac. The ingredients – the fat, the sugar, and the calories – they are easily available. So we have no problem with disclosure.

The usual arguments you hear are these: McDonald's is bad because they are harming the customers. They are feeding them food that's unhealthy, giving them diabetes, and so forth. They are enticing kids with Happy Meals, and the kids get hooked on this stuff and develop a taste for it. On the other hand, people defend McDonald's by saying that these are consenting adults, this is what the customer wants, and McDonald's is not responsible for what their customers want. They are just satisfying demand. Besides, they offer salads – although I understand that the dressing on the salad actually has more calories than a Big Mac. Too bad. Finally, as for the kids, parents are responsible for their kids. It's their responsibility. You can listen to these arguments all day long and get nowhere. Let's see if we can get somewhere.

Issue number one is the menu: anything wrong with it? The utilitarian test is the key one here. What is the effect of offering this menu to the world? It's a question of fact, and not ethics. We cannot resolve the health effects of McDonald's marketing and menu by sitting around talking about it. We have to go out there and research it. That's why we distinguish issues of fact from issues of ethics. The ethical decision depends on the outcome of the research. On the other hand, we can't just sit back and say, "Well, I think this is OK," because there's probably a *prima facie* case here that the



Super-size me

- The issues
 - Is the McDonalds menu ethical?
 - Is its aggressive marketing to children ethical?
- Assumption
 - The ingredients, fat, and caloric content of the food are fully disclosed to customers.



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Super-size me

- Common arguments
 - Anti-McDonalds
 - McDonalds causes harm by selling unhealthy food.
 - McDonalds entices children with toys, etc., and gets them hooked on junk food.
 - Pro-McDonalds
 - McDonalds isn't responsible for what consenting adults choose to eat.
 - McDonalds offers salads.
 - Parents are responsible for their kids.

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Super-size me

- Issue 1. The McDonalds menu
- Utilitarian test
 - This is the key test.
 - The utility effect of the McDonalds menu is a question of fact, not ethics.
 - Questions of fact are resolved by research.
 - To pass the test, McDonalds must be rational in believing that its menu maximizes utility, including health effects.
 - This requires some research.

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McDonald's menu is having a negative effect on health, or making people fat. At least, it looks that way. It is probably not rational to believe that McDonald's menu is having no negative effect, given casual observation. The least we have to do, to be ethical here, is to research this issue.

I'm going to make an assumption, so we have something to talk about. I'm not claiming this, I'm only assuming it for the sake of argument. Let's *assume* that McDonald's menu could be adjusted to increase utility at least a little. If nothing else, they can take all that high-fructose corn syrup out of the hamburger buns. They will taste the same, but customers won't get as fat. I'm going to assume there's *something* they could do, maybe only a little. If that's true, they are failing the utilitarian test, because they should do it. I'm not assuming that McDonald's causes people to be overweight. I'm not assuming that McDonald's is doing more harm than good. In fact, they are doing a lot of good. I'm only assuming only that McDonald's could at least tweak its menu to make it better for people. If that's true, they are failing the utilitarian test.

The response to this argument is the one I mentioned before. All this may be true, but McDonald's customers are consenting adults (we will talk about kids later). People come in asking for this stuff. Who is McDonald's to say what people should eat? It's not their responsibility to make decisions for other people. Maybe the utilitarian test is failed, but so what?

I have to tell you that the utilitarian test takes into account *all* of the consequences, including those that are mediated by the choices of others. If you don't think so, suppose you are a pharmaceutical company, and you have two possible projects in front of you. One project is a miracle cure for cancer that can relieve millions of people from a horrible death. You can develop that drug, or you have another product, a really super-duper toenail polish, and it's equally profitable. So you measure the utility of each. The utility of the cancer drug goes through the roof. It's wonderful! As for the toenail polish, not so good. So what are you going to do, to pass the utilitarian test? In either case, people freely choose to use the product. People freely choose to take the cancer drug, and physicians freely choose to prescribe it. There is free choice, just as with hamburgers and French fries. Are you going to ignore all the good it does, all that relief of suffering and death, because people freely choose to use the drug? Of course you're going to count it! You have to count all the consequences, even if free choices are involved. That's the way the test works.



Super-size me

- Utilitarian test
 - I will **assume** the menu could be adjusted to increase utility, at least marginally.
 - For example, by using less high-fructose corn syrup in the hamburger buns.
 - I am **not** assuming that McDonalds causes obesity.
 - I am **not** assuming McDonalds does more harm than good.
 - Then McDonalds fails the test.



Photo: iStockphoto.com

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Super-size me

- Consenting adults
 - But customers **choose** to eat the unhealthy food.
 - McDonalds is not responsible for their choices.
 - The utilitarian test considers **all** consequences.
 - Including those mediated by the free choices of others.
 - Consider a pharmaceutical company that markets a miracle cancer cure.
 - Its effect is positive only if others freely choose to use it.
 - Similarly, the effect of McDonalds food is negative only if others freely choose to eat it.
 - In either case, the effects are part of the utilitarian calculation.

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As for this idea of being responsible for others' decisions, nothing I have said implies that McDonald's is responsible for customer decisions, as long as the company is maximizing utility. Let's suppose a customer comes in, gorges himself with Chicken McNuggets, and ruins his health. McDonald's is off the hook, so long as total utility is maximized. We're not saying that McDonald's is responsible for customer decisions. It is responsible only for the total utilitarian consequences of *the company's* decisions, consequences that may be mediated by the choices of others.

Am I being Puritanical? This is, after all, an Anglo-Saxon proclivity we have here in the U.S. Isn't life about some degree of indulgence? Of course it is. If a mom-and-pop restaurant sells luscious fudge brownies, and you give in to temptation and eat one, that probably increases utility. You don't eat them often enough to cause problems, maybe once a week or once a month, and you love them. No problem.

The difficulty with McDonald's is that they are ubiquitous. They are so convenient, and when they offer a product, everyone is eating it. So the utilitarian outcome is different for them. This is the price of success: greater responsibility. There are greater consequences, and you have to consider those consequences. So there is no need to be Puritanical, just to consider the overall consequences. People can indulge to a certain degree, just not all the time.

Now, as for marketing to children: it is more aggressive than you might think. There are, of course, the play areas and Happy Meals with free toys to entice kids. But I have read that the marketing people actually ride around in SUVs with parents, to watch the kids nag their parents to stop at McDonald's. They observe which nagging techniques work and demonstrate those techniques in their ads, so that kids will know how to nag their parents. I don't know if this is really true, but let's suppose it is true and think about whether it's ethical.

We still have a problem with the utilitarian test. If this practice is deleterious to the kids' health, even though it's mediated by the free choices of the kids and their parents, it fails the utilitarian test. It's that simple.

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Super-size me

- Consenting adults
 - This doesn't say McDonalds is "responsible" for the choices of others.
 - McDonalds passes the test even if some customers voluntarily destroy their health with Chicken McNuggets.
 - So long as overall utility is maximized.



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Super-size me

- Too much Puritanism?
 - It's OK for a mom-and-pop restaurant to tempt customers with luscious fudge brownies.
 - The pleasure of occasionally yielding to temptation outweighs the negative health effects.
 - But McDonalds is ubiquitous.
 - The temptation reduces total utility.
 - Success brings greater responsibility.



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Super-size me

- Issue 2. Marketing to children
 - Some rather aggressive techniques.
 - Not just toys in happy meals, play areas.
 - Marketing experts observe kids while nagging their parents.
 - The successful nagging techniques are demonstrated in ads.



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Super-size me

- Issue 2. Marketing to children
- Utilitarian test
 - We still have a problem here.
 - Parents are responsible for their kids, but McDonalds fails the utilitarian test for the same reason as before.



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Super-size me

- Autonomy
 - Is it OK to manipulate kids psychologically?
 - Suppose the ads persuade kids to eat broccoli or do their homework.
 - Kids don't have full autonomy in the first place.
 - Parents must "manipulate" kids to raise them...
 - With goal of developing autonomous (ethical) adults.
 - Advertising *could* frustrate this goal, but perhaps not in McDonalds case.

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Super-size me

- Generalization test
 - Sufficiently intrusive ads, if generalized, could undermine the family structure that makes the ads effective.
 - Kids are saturated with on-screen messages that are hard for parents to control.
 - Schools displace parental influence but must take commensurate responsibility.
 - Advertisers are unwilling and probably unable to take on this responsibility.

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Super-size me

- Conclusions
 - The McDonalds menu is unethical if an adjustment would at least marginally increase total utility.
 - Even though customers freely choose to eat what they eat.
 - Even though salads are on the menu.

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We have another test to think about, and that's the autonomy issue. Are we violating the autonomy of these kids by inducing them to want McDonald's food? Kids can't resist this type of temptation the way adults can. Are we exploiting these kids by circumventing their autonomy? Yes, we are violating autonomy to some extent, but we always do that with kids. We violate the autonomy of kids when we raise them in the home. There is no other way. Of course, one of the objects of raising kids is to prepare them to be autonomous adults later on.

But while they are kids, we have to say, "You're going to do this!" or "You're going to think this way!" This is part of child raising, and parents already manipulate kids to a great extent. [Their obligation is to do so for the benefit of the child.] So that's the McDonald's case.



Super-size me

- Conclusions
 - Current marketing to children is unethical...
 - If it creates more overall harm than benefit for children, even though parents are responsible for what their children eat.
 - Or if it is sufficiently intrusive that, if it were general practice, would undermine the family structure on which it relies for effectiveness.

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The Bullard Houses

I would like to move on to a well-known case study that is often used in business courses, *The Bullard Houses*. It's about negotiation. The Bullard family owns some decaying townhouses and would like to have them refurbished and sold to a developer, but they don't want the development to be garish and commercialized. They just want a nice, pleasant townhouse development. A hotel chain, the Conrad Milton Hotel chain, wants to buy these buildings, put a high-rise hotel on the property, and use the houses as a kind of lobby for the hotel – just the sort of thing the family doesn't want to happen. The hotel chain is negotiating through an agent who is not telling who their client is. When the Bullards negotiate with this agent, called Absentia, they don't know that the hotel chain is actually behind the bids. Absentia has instructions not to reveal to the Bullards the true purpose of buying this property, because Conrad Milton knows the Bullards wouldn't go for it. They wouldn't sell if they knew. What should the negotiators at Absentia do about this?

There are a couple of scenarios. In one scenario, the Bullards specifically ask, "Do you guys have any commercial plans for this, other than just developing the townhouses?" What should you say, if you are negotiating for Absentia? In another scenario, the Bullards do *not* ask. They don't bring it up. They sort of assume that the development will be in line with they want. Should you say anything about it? Should you tip them off? We have these two related issues.

Some of my students say, "Look, if the Bullards are concerned about this, they should just put a clause in the contract to require that the property be developed in the right way. So there's no issue here. Let's go home." The problem is, they are *not* asking for a clause in the contract. You have to deal with that fact. Maybe they should put a clause in the contract, but they are not doing it. How do you deal with this?

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The Bullard Houses

- Bullard Houses are neglected townhouses in the center city.
 - The Bullard Family will sell them to a developer.
 - Conrad Milton wants to include them in a high-rise hotel development.
 - The Bullard Family wants to preserve their original character (no further commercial development), and says so in negotiation.

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The Bullard Houses

- Bullard Houses are neglected townhouses in the center city.
 - Absentia is a blind trust negotiating on behalf of Conrad Milton.
 - It has instructions not to reveal the Milton's identity or development plans.



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The Bullard Houses

- The dilemma
 - Case 1. The Bullards specifically ask about the development plans.
 - How should Absentia respond?
 - Case 2. The Bullards don't specifically ask.
 - Is it OK for Absentia to say nothing about this?
 - The Bullards could insert a clause in the contract...
 - But they don't.

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First, we have to talk about negotiation. To make good-faith negotiation work, you have to tell the other party what you are delivering, what you are selling, and you have to allow the party access to the product so they can find out whether it's what they want. Finally, you have to avoid deceiving the other party. Negotiation simply can't work if those three conditions are not satisfied.

On the other hand, you are not obligated to reveal how much you want the product or what it's worth to you. If I'm selling you a car, I have to tell you about the car, I have to let you look it over, and I can't deceive you about it. But I don't have to tell you that I can't drive and the car is worth nothing to me. I don't have to tell you that. In fact, I *shouldn't* tell you that, because it would cause negotiation to break down. If you think about it, what happens in negotiation? If I'm selling you a car, there is a lowest price I will accept, and if you are buying the car, there is highest price you will pay. Suppose I tell you my lowest price, out front. Then you will only offer my lowest price. If you tell me your highest price, then I will insist on your highest price, and we can never come together. The only way we can come together is if we don't know each other's highest and lowest price, and we somehow try to meet in the middle. When we make an offer, it gives some information about where our limits are, but not complete information. This what negotiation always does, all over the world, although it does it in different ways. You have to conceal how much you want the product, or you will never come to agreement.

With that as background, let's suppose the Bullards ask, "Are you going to build a high-rise hotel here?" What do you say? One thing you might say is, "No." Or you might say, "We don't know." Either is an out-and-out lie. You *do* know there are plans. Lying is not generalizable; it's unethical.

Can you say, "We're not at liberty to tell you the plans"? Sure. It's true, it's not misleading, and they can take it from there. But is it enough say only this? If you know what the Bullards want, are you obligated to say something more? If they don't ask you more about it, should you tip them off? Let's look at that.

First of all, you are not obligated to reveal to the Bullards how much your client wants this property. In fact, you are required not to reveal that. So, at least *prima facie*, there's no obligation to tell them how you are going to use the property. In fact, perhaps you shouldn't tell them, because they would learn what it's worth to you.

The slide features the Carnegie-Mellon Tepper School of Business logo in the top right corner. The title "The Bullard Houses" is centered at the top in red. The main content is a bulleted list under the heading "Good faith sales negotiation". The list includes two main categories: "Each party should:" and "However, both parties should:". The "Each party should:" category lists three points: telling the other exactly what will be conveyed, providing enough information for assessment, and avoiding deception. The "However, both parties should:" category lists three points: concealing acceptable information, context-dependent concealment, and the fact that this is not deceptive because both parties know it's going on. A small page number "21" is in the bottom right, and the footer "Tepper School of Business • William Larimer Mellon, Founder" is at the bottom.

The Bullard Houses

- Good faith sales negotiation
 - Each party should:
 - Tell the other exactly what will be conveyed.
 - Provide enough information about the items conveyed to allow the other party to assess their worth.
 - Avoid deceiving the other party.
 - However, both parties should:
 - Conceal information about what is acceptable to them.
 - The amount and nature of concealment depends on the context.
 - This is not deceptive, because both parties know it is going on.

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The slide features the Carnegie-Mellon Tepper School of Business logo in the top right corner. The title "The Bullard Houses" is centered at the top in red. The main content is a bulleted list under the heading "Case 1.". The list includes two main categories: "The Bullards ask about development plans." and "One response:". The "One response:" category lists three points: no commercial development, these are out-and-out lies, and they deceive the other party. The "Another response:" category lists three points: not at liberty to say, at least it's true, and a question about whether it's enough. A small page number "22" is in the bottom right, and the footer "Tepper School of Business • William Larimer Mellon, Founder" is at the bottom.

The Bullard Houses

- Case 1.
 - The Bullards ask about development plans.
 - One response:
 - No commercial development, no plans so far, we don't know.
 - These are out-and-out lies.
 - They deceive the other party. Unethical.
 - Another response:
 - We're not at liberty to say.
 - At least it's true.
 - Is it enough? See Case 2...

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That's fine, but perhaps there some deception involved here. By not fessing up to what's going on, perhaps you are deceiving the Bullards. Perhaps they assume that if you were going to develop the property contrary to their wishes, you would say something about it. If that's true – if they would expect you to say something about it – then you are deceiving them, and that's not ethical. On the other hand, perhaps they don't expect this. Perhaps they expect you to be a hard-nosed negotiator. In that case, there's no deception. So it's a hard one to call, and it depends on the precise situation. It depends on a question of fact, the psychological issues involved. What do they expect from you? Are they actually being deceived? You have to be on the scene to call it.

There's another issue here, however. When you carry out a complex negotiation, you have to form relationships with people. You can't work out a complex deal unless you sort of get to know the other guys. You look them in the eye, and you go out to dinner with them for a few days. You develop a bond of some kind to get through this negotiation. When that happens, virtue ethics comes into the picture. If you can't look these guys in the eye, because you know something they don't know, that betrays the relationship. If the negotiation requires forming a relationship, and you have to betray that relationship to honor the wishes of your employer, you have a virtue ethics problem. You have to get out of there.

That's how I call it for this case. That's what I see the arguments coming to.

Conoco's "Green" Energy Strategy

I have one last case for you. It is about Conoco Oil Company, now Conoco-Phillips. Back in the 1980s, Conoco began drilling in the Ecuadorian rain forest. They comprised about a third of the consortium that was prospecting for oil. The national oil company was going to receive 80% of profits after covering investment costs, because Conoco was operating on government land. The



The Bullard Houses

- Case 2: The Bullards don't specifically ask.
 - There is no obligation for Absentia to reveal what the property is worth to its client.
 - In particular, no obligation (imposed by the possibility of negotiation) to reveal development plans.
 - In fact, there is an obligation not to reveal much about this.
 - But is there deception?
 - Does Absentia's failure to speak up **cause** the Bullards to believe there are no commercial development plans?
 - Absentia must reasonably believe that it does not.

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The Bullard Houses

- Virtue ethics
 - Complex negotiations may require developing a personal relationship with the negotiators.
 - In this context, failure to reveal a crucial fact could be inauthentic.
 - This kind of betrayal is a breach of loyalty.

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The Bullard Houses

- Conclusions
 - If the Bullards ask about commercial development plans,
 - Absentia representatives must respond honestly, at least by divulging that they are not at liberty to say.
 - Absentia representatives must reveal the development plans...
 - If the Bullards would reasonably expect them to do so.
 - Or if failure to do so would betray a relationship developed with the Bullard negotiators.
 - Even though the Bullards have not asked for a nondevelopment clause in the contract.

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Conoco's "green" energy strategy

- Late 1980s: Conoco (now ConocoPhillips) began drilling in the Ecuadorian rain forest.
 - 35% of a consortium.
 - Petroecuador would receive 80% of profits, after recovery of investment costs.



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Conoco

- Conoco focused on Block 16
 - In Yasuni National Park.



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Conoco



San Rafael Falls,
Yasuni National Park

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company focused on something called Block 16, which is part of a national park, Yasuni National Park in Ecuador. On the slide is a photo of a very beautiful waterfall in this tropical park, a largely undeveloped area.



Conoco

- Environmental problems
 - Past drilling:
 - 17 million gallons of oil spilled.
 - 4 millions of hazardous waste dumped in rivers every day.
 - Toxic drilling mud buried.



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Conoco

- Environmental problems
 - Access roads allowed landless peasants to settle in the national park.
 - They cleared large areas of the forest.
 - Biodiversity threatened.



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There have been some environmental problems with past oil drilling. Millions of gallons of oil have been spilled, waste dumped into the rivers, and toxic drilling mud buried all over the place. Conoco wants to get out of this. They want to address some of these problems. There's also a problem involving the indigenous people of the area. New access roads encourage outsiders to move in and occupy this land. They are clearing large areas of the forest and threatening biodiversity. The indigenous population, the Huaorani people, have had very limited contact with the outside world, but now the presence of these oil prospectors is threatening essentially to destroy their traditional lifestyle. The Sierra Club is calling this ethnocide.



Conoco

- Cultural issues
 - Home of Huaorani people
 - Little affected by outside contact.
 - Sierra Club spoke of "ethnocide."



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Conoco has a plan. At a cost of about 5% or 10% increase in investment, they are going to mitigate these environmental damages. Their argument to the stockholders is that regulations may be slapped on later anyway, and it is cheaper to take care of it now. They are going to



Conoco

- Conoco's plan
 - Minimize environmental damage.
 - Increase investment 5-10%.
 - Could avoid greater cost if controls later imposed.



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Conoco

- Conoco's plan
 - Hazardous wastes
 - Collection and treatment
 - Reuse and safe deposit of drilling mud.



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Conoco

- Conoco's plan
 - Access
 - Guards posted.
 - Access by ferries rather than bridges.
 - Employees not permitted to trade with Huaorani or fish on their land.
 - Presented plan to environmental and other interest groups in 1990.

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Conoco

- Subsequent events
 - Sold Block 16 operations to Maxus Corporation.
 - Due to opposition from indigenous and environmental groups.
 - YPF (Argentina) bought out Maxus.



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collect the hazardous wastes, take care of the drilling mud, and limit outside access by not building bridges into the area. They presented this environmental plan to local interest groups in 1990. Subsequently they basically gave up, due to local opposition, and sold out to the Maxus Corporation, which was later bought out by an Argentine firm. It is a long story, but they got back into Ecuador in 2006, bought Burlington Resources, and got drilling rights. Due to local opposition and indigenous rights protests, they put the drilling on hold, and that's where it stands today.



Conoco

- Subsequent events.
 - ConocoPhillips back in Ecuador, 2006.
 - Bought Burlington Resources.
 - Drilling rights in 2 blocks.



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Conoco

- Subsequent events
 - Drilling on hold.
 - Due to local and international opposition.



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The issue: what are a company's obligations to protect the environment, beyond those required by law? I am going to suppose that some of the pollution released in Ecuador is legal. Also, what are their obligations to the people? Is this ethnocide?



Conoco

- The issues
 - Environmental
 - What are a corporation's obligations to protect the environment?
 - Beyond that required by law.
 - Cultural
 - Is there an obligation to protect indigenous cultures?

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Conoco

- Government's role.
 - This is not the issue.
 - Even if government has responsibility, private business may also have responsibility.
 - Particularly if the government doesn't act.

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People often answer by saying, “This is the government’s problem. The government should step in and regulate these guys.” Probably they should, but people go on to say, “the government should do it, and *therefore* the company has no responsibility.” The problem is with the “therefore.” If the government is not doing it, it’s not so clear that the company has no responsibility. We have to look at that issue.

The utilitarian test is simple, in principle. By prospecting for oil, the company is benefiting the world. They are providing cheap energy. On the other hand, they are causing damage. You just have to complete the ledger, add everything up, and see what the consequences are. This is a question of fact, not ethics. We can’t answer it here.

We also have the argument: if I don’t do it, someone else will. If Conoco doesn’t play the game the other guys are playing, others will come in and drive it out of business, because they will operate at lower costs. The environmental damage will occur just the same. So we have to conclude that pollution to the extent necessary to stay in business passes the utilitarian test. Apparently, not too much pollution is necessary to stay in business, because Conoco is willing to take on a 5-10% investment cost increase to reduce their pollution. However, I will suppose that a significant amount of pollution is necessary to stay in business there, and deal with the other issues.



Conoco

- Utilitarian test
 - Simple in principle
 - Pollution is wrong if it does more harm than not polluting.
 - To others as well as to the corporation.
 - This is a question of fact, not ethics.

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Conoco

- Utilitarian test.
 - “If I don’t do it, someone else will.”
 - Conoco may be driven out by competition if it spends too much on pollution control.
 - Pollution to the extent necessary to stay in business passes utilitarian test (perhaps not other tests).
 - Apparently not much pollution is necessary to stay in business (5-10% cost of cleanup).
 - But let’s suppose significant pollution is necessary for Conoco to remain competitive.
 - Does it pass other tests?

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The basic problem is that regulation in this part of the world is weak. This kind of behavior would be illegal in much of Europe or North America. What does this prove? Some people say

it proves the company is hypocritical, because they are willing to violate their own country's regulations when they go somewhere else. Yet I don't know what to conclude from that. On the other hand, we may be able to construct a generalization argument. We might argue that these companies depend on a prosperous and well-developed economy in North America and Europe for their profitability, and these parts of the world are successful economically in part because they are not destroying their environment. They have environmental regulations, and if they didn't, perhaps it would in fact destroy the first-world economy, and this company wouldn't be able to exist as we know it. So perhaps this degree of pollution, solely for reasons of profitability, doesn't generalize. If companies always violated ethical rules concerning environmentalism, they would not be able to achieve their purposes. So we can construct that kind of argument.

As for ethnocide, killing a culture is not the same as killing a person. The people may be fine individually; ethnocide destroys only their way of life, and now they are living a different way of life. The traditional Western point of view has been that indigenous people ought to be assimilated into the larger culture. The first U.S. school for assimilation was built in Carlisle, Pennsylvania. They rounded up native people in North America, brought their kids to the school, dressed them in Western clothes, cut their hair, taught them English, and insisted that they become just like Europeans. That was the view at that time. Today we have a different view, that indigenous cultures should be respected for their own sake. In fact, there is a strong indigenous rights movement around the world, particularly in Ecuador. They were among the first.

The traditional Western view is that agency only applies only to individuals. We don't have a doctrine about the agency of groups. You can't murder a culture, because we are traditionally focused on individualistic ethics. However, in



Conoco

- **Generalization test.**
 - Weak regulation
 - Conoco's practices would be illegal in its own country, and in most economically developed countries.
 - What does this prove?
 - It may prove ungeneralizability.
 - Without these laws, environmental decline would lead to economic decline.
 - Conoco relies on the world economy for profitability.
 - Goal of maintaining profitability would not be achieved if its pollution level were generalized.

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Conoco

- **Ethnocide**
 - 19th century U.S. view:
 - Indigenous people should be absorbed in Western culture

Carlisle Indian School, PA

First school of its kind in USA



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Conoco

- **Ethnocide**
 - Today's view
 - Indigenous cultures have intrinsic value.
 - Strong indigenous rights movement, particularly in Ecuador.
 - *U.N. Declaration on the Rights of Indigenous Peoples* (adopted 2007).

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Conoco

- **Ethnocide**
 - Agency
 - Homicide is wrong because it destroys agency.
 - But classical Western ethics regards only individuals as autonomous agents.
 - Communal cultures.
 - These regard community or family as the unit of human existence.
 - Disrupting its existence may be murder (ethnocide), even if individuals are unharmed.

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some cultures, in fact most cultures, there's a collectivist mentality. We in the West see ourselves as autonomous individuals, but in much of the world people see themselves primarily as members of the family or the village, rather than as individuals. The unit of existence is a collective, not an individual. There, autonomy applies to the collective and not the individual. Maybe it is possible to have ethnocide, at least if you have a different concept of who you are as a human being. This is an approach, incidentally, that one can take to cross-cultural ethics, obviously a topic I can't get into right now. From this broader point of view, perhaps there is a problem with ethnocide, something that Western ethics will have to have to look at in the future.

There is also a virtue ethics issue here. Even if we argue that the company can ethically go ahead and carry out its operations in Ecuador, the people who are managing it may find this contrary to who they are. They may say, "I just don't want to be involved in this. Someone else would do it if I weren't here, but personally, this is not the contribution I want to make in my career." These managers may have to move out for that reason. Here's a case in which the individual manager may have a different set of obligations than the owners of the company.



Conoco

- **Virtue ethics**
 - Professional mission
 - Conoco personnel may see themselves as making the world better by proving energy.
 - Excessive pollution is contrary to this mission.
 - Pollution necessary for competitiveness passes utilitarian test.
 - But it may fail virtue ethics test.
 - Not because people "feel bad" about it, but because of inconsistency.
 - Here, owners and executives may have different obligations.

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Conoco

- **Conclusion**
 - Conoco's level of pollution is unethical if...
 - It is illegal.
 - Or it is greater than that necessary to remain competitive in the region.
 - Or any profitability gain would be undermined if industries worldwide created a similar level of pollution.
 - Even granting that the government has a responsibility to control pollution.

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Conoco

- **Conclusion**
 - Destruction of an indigenous culture is unethical, even if the individuals in the culture benefit,...
 - if Western ethics is expanded to regard collectives as moral agents when it is culturally appropriate to do so.

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That is my last case. If you want to pursue these ideas, here is a list of references on the slides. You can have a look at my website, which has links to a large collection of materials. I hope you won't stop with this short tutorial, but take it is a starting point for thinking about how ethical issues can be analyzed. After all, they come up every day, and you can get lots of practice. Thank you very much.



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Ethics resources: <http://web.tepper.cmu.edu/jnh>

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