Business Ethics:

Canonical views are called canonical because they are the most widely accepted views. **The Canonical view of Business Social Responsibility**/ firms aught only to maximize profits while obeying the law. This is built on the assumption that human beings are self interested and basically do not care about how their actions affect others.

In this case, the burden of stopping the unethical behaviors of business is placed solely on the government. So that manager should try to do anything to maximize profits as long as that is not illegal. So government is supposed to protect the interests of society, not business, not at all. Put another way, the Canonical view stipulates that business have no social responsibility.

"Good Citizen View" of Social Responsibility/ Businesses should behave like socially responsible citizens. They should implement livable wages, safe working conditions, protect domestic workers, not pollute etc.

One objection to the Canonical View is that those who are following it are not trying to be moral at all, they are trying to get away with anything they can to maximize profits under the law.

Some have pointed out that what is moral is not necessarily what is the law for there are bad laws, and that morality is actually a different thing than what is the law. They point out that laws are actually evaluated as good or bad by morality, and morality is used to generate laws.

Milton Freidman:

Milton Friedman is the leading proponent of the Canonical View. 1) Managers are part of the Agent/Principle model/ the principle, or shareholder, has hired the Agent, or manager who has special knowledge and skills to do a particular job which is to maximize profits.

So the business manger's single moral duty is to maximize the shareholders wealth within the constrains of the law. He states that this is similar to the Agent/Principle relationship that exists between a patient and a doctor. The patient has hired the doctor to effect a cure. So it's the doctor's single moral duty to effect this cure. 2) Companies are not people and so cannot have social responsibility. 3) If a company tries to behave in a socially responsible way, the interests of the shareholders will not be served and that the interests of society will be served as well.

It has also been maintained that a company is not a person and so cannot be morally responsible.

One objection to this is no matter if we call a company a person or not, it is still possible for a company to behave in a socially responsible manner. Also, the actions of a

company affect the lives of many people, unlike the actions of a doctor, so the Agent/Principle relationship that exists between a manager and a shareholder is not quite the same as that which exists between a patient and a doctor in terms of moral responsibility.

Finally (read page 38) it is not clear that in the attempt to be socially responsible, a company will actually damage the interests of society or even the interests of the shareholders. It is not inconceivable that some shareholders want a reasonable return and also want their companies to behave in a socially responsible manner.

Bribery:

If bribery of minor government officials is an accepted business practice in country X, does an American company refrain or not refrain from using bribery. If moral standards are in fact relative, then the argument for "when in Rome do as the Romans do" is pretty good for if a particular culture dictates its own morality though and through, then the only way that a foreign company gets to be moral is by following those moral standards.

Moreover, it would make no sense to evaluate the moral standards of another country. It is reasonable to suppose that at least some of the laws that a particular country has are local to that country, but if some moral standards are universal, then multinational companies have a moral reason for not following certain laws of a foreign nation.

Such laws could well be Deontological laws. This leads us to another question concerning the relations of multinational companies with other countries, are there in fact some universal moral standards that we ought to all follow?

The FCPA , or the Foreign Corrupt Practices Act, provides stiff fines for corporate officials involved in bribery when doing business in foreign countries. It draws distinctions between "bribery and extortion" on the one hand and "facilitating or expediting" on the other. The act does not permit "bribery or extortion" but it does permit "facilitating or expediting" or what is otherwise known as "greasing the skids."

This is in reference to the unique case of giving money to custom clerks so that ones goods will not be delayed through customs. It is ok to pay off a customs clerk, as long as you were entitled to receive that service (that your non-forbidden goods will pass though customs) in the first place, but the passage of the goods will in fact be delayed if the customs official is not paid off.

Note that in some countries, the customs clerk is not paid enough to live off of, and is expected to make up the difference with bribes, in the same way that waiters in this country can be paid below minimum wage and are expected to make up the difference in tips. However, any other kind of bribery is wrong according to this law.

For example, it would be wrong to bribe the clerk to let though forbidden items or to pay the clerks boss to interfere in the activities of the clerks. The FCPA was created

soon after the Watergate Scandal when it was publicly disclosed that most US companies doing business abroad were using bribery extensively. The politicians who promoted the enactment of these laws advertised "that bribery is just wrong." One must suppose that they meant this in the Deontological sense.

Opponents to this law point out that it damages US business, and relations with other countries. It damages US companies because bribery is necessary to do business in some countries where it is the norm, and it makes US companies less able to compete against foreign multinationals that have no restrictions on bribing multinationals. It damages US relations with other countries, for the American holier than thaw attitude seemingly embodied by this law is often offensive. Also, they point out that in most cases the bribe is extorted from US businessmen by foreigners and so the US business man is rather a victim rather than a wrong doer.

African Bribery Case:

Then discuses the case of bribery between an African airline and a US catering service. The African airline official Z takes the US official to the side and tells him that his contract for service will be accepted if I million dollars is sent to a particular account. Furthermore, he mentions that he expects that the US company will add 2 million to the price of the contract.

What he means is that he, and probably is partners, want a personal payment for 1 million, and that the US Company should recoup this loss by adding 2 million to its contract which will be paid by the African airline. Thus, the African official makes an extra million, and the US Company makes an extra million, but the African Airline ends up paying a bribe of a million dollars to both official Z and the US Company as it were.

Honduran Street Children and Contact Glue:

Then we move on to the case of Honduran street children becoming addicted and brain damaged from sniffing glue manufactured by H.B Fuller under the name of Resistol. Such children have the name of Resistolos in their country.

The glue is a contact solvent based glue used to manufacture and repair shoes and is widely available all over the country and is relatively cheap. The manufacturer did not make the glue with the intent to addict the children.

The children in question come from very poor families that do not have the means to support them. In fact the children usually make more money on the street begging and doing odd jobs like watching cars than they would in an actual job. They are sometimes the main bread earners of their families and are often beaten by their parents if they do not bring back enough money.

The glue they inhale gives them a feeling of being big and powerful, and is one of their

few sources of relief. Given their economic situation and lack of education, the future prospects of these children would be bleak even if they did not inhale glue.

This same type of product was sold in the US in the 70's and oil of mustard, same stuff used in mustard gas, was added to prevent abuse. This substance is so irritating and damaging, that it cannot be tolerated. In fact, just one exposure can permanently damage the whole repertory system including the lungs.

The Honduran government sought to enact a law that oil of mustard would be added to Resistol to prevent addiction to it, but officials from the manufacturer pointed out that oil of mustard is too toxic and many children would be hurt by this addition.

Furthermore, they pointed out that the abuse of this product was a social problem and not a problem with the product itself and if they left the market, some other company would supply a similar product. The US company did attempt to create a grassroots social program in Honduras involving public officials, educators, doctors common people to try to address this problem though education and assistance for these children. However, it is to be noted that they did not provide any direct monetary assistance for these children, they relied on the Hondurans for that. Honduras is a very poor country with few natural resources so this program had no real effectiveness.

The public quickly lost interest in it. The extremely unstable and weak government passed the law that oil of mustered had to be added to this product was never actually enacted. What should the company have done in this case. Discontinue their product in that country anyways?

Then we move on to the case in which Dow and Shell oil companies sold DBCP, a dangerous and carcinogenic pesticide that was banned in the US to Cost Rica. Fruit plant workers and fruit harvesters from Costa Rica came to Texas to sue these companies for damages to their health.

Dow and Shell and Pesticides:

Dow and Shell Pleaded "**forum non conveniens**" which can be defined as "a state will not exercise jurisdiction if it is a seriously inconvenient forum for the trial of the action provided that a more appropriate forum is available to the plaintiff." (71) In effect Dow and Shell were pleading that the Texas court would be very inconvenient for them and a better place for the case to be tried would be Costa Rica. This is certainly true for Dow and Shell, because Costa Rica has very lenient laws concerning such things and limits the amount that can be awarded in such cases.

The Texas court reacted to this case by outlawing forum non conveniens, and insisting that the case be tried in Costa Rica. The opponents to this ruling pointed out that this ruling will damage Texas because it sets a bad precedent, for other foreign nationals will now come to Texas to claim huge awards for damages don to them by US companies.

The court stated that accepting the plea of forum non conveniens would have been tantamount to abandoning the human race. They meant by this that they had to hear the case of the Costa Ricans harmed by US companies, for these people, human beings like us, did not deserve to have their health damaged anymore than we do.

Did the court of Texas do the right thing? Are the Costa Rican laws that permit the use of dangerous pesticides a relative law, or just a bad laws as measured by some set of human rights or universal laws?

How to Decide if to do Business in Other Countries:

First Method:

Thomas Donaldson proposes that three conditions must be true for a law to be a human right 1) the right must protect something of great importance, 2) the right must be subject to substantial and recurrent threats, and 3) the obligations or burdens imposed by the right must satisfy fairness-affordability.

Then, Thomas Donaldson has proposed a list of ten human rights that international business should recognize. 1: the right to freedom of physical movement, 2: the right to ownership of property, 3: the right to freedom from torture, 4: the right to a fair trial, 5: the right to nondiscriminatory treatment, 6:the right to physical security, 7) the right to freedom of speech and association, 8: the right to minimal education, 9: the right to political participation, and 10: the right to subsistence, to make a minimal living.

He then states that there are three duties attending these rights, 1) to avoid depriving, 2) to help protect from deprivation and 3) to aid the deprived. He states that since a governments primary interest is to further the welfare of its interests, then it must observe all three of these duties in relation to the 10 human rights.

However companies that have a much narrower primary interest, namely the interest to maximize profits, do not have duty #3, to aid the deprived, but do have duty #1 regarding rights 1-4 and duties 1-2 regarding rights 5-10.

He proposes the following decision process for companies when deciding an international moral dilemma.

First Question:

"(A) the moral reasons underlying the host country's view that the practice is permissible refer to the host country's relative level of economic development; or
(B) the moral reasons underlying the host country's view that the practice is permissible are independent of the host country's relative level of economic development."(79)

>In other words, are they doing it because they are poor, or because they are cooked. If 1) is the case "the practice is permissible if and only if the members of the home country would under conditions of development similar to those of the host country, regard the practice as permissible." (79)

Second Question:

If is the case then we must ask if it is necessary to do business, if not, then we can do business and not do it. However if the practice is necessary and violates a human right than we aught not to do business in that country.

Second Method:

Ellen Frankel Paul looks for three moral traditions to find the solution to the problem of doing business in foreign countries. She dismisses Kantism because it is too inflexible to deal with real world situations. She instead looks towards Utilitarianism, and Lock, another English philosopher idea of natural laws.

His theory emphasized the importance of human individualism and the protection of this individualism from the government. According to this theory, people have the freedom to obtain property and exercise their liberty. Moreover, the government exists for the protection of property, life, liberty, and estates. And if a government does not do this, then it should be overthrown.

Her decision process for doing business with other countries is the following,

"1) Establish whether Company X has legitimate claim to its resources; that is, did it acquire them by non coercive means…"(89)If the answer is yes, you cannot do business with them, otherwise continue to question 2

2) "Inquire into the status of the government within whose territory Company A wishes to do business. Is the government a massive violator of rights of life' liberty, and the property of its citizens?" (89) If yes do not do business with them. If they are a gray government that violates some rights but is not murderous, Continue to question 3. If it's a rights observing government, you can do business with them.

3) Us Utilitarian cost benefit analyses to determine if it's ok to do business with them.

Unilateral Shutdowns:

Judith Lichtenberg argues against the practice of companies shutting down factories in one location where labor is expensive and opening new factories where labor is cheap.

People who think that this practice is correct, point out that a company owns its property, takes all the risks, and so can do with it as it will. Opponents to this idea would point out that the worker ought to have some say about a decision that will profoundly affect his

life.

Lichtenberg points out that even though factories do belong to the stockholders, " workers may acquire a kind of moral property right, a moral claim to some control over their workplace. After all, they have invested much of themselves in the company.

And though their relationships over time with workers, firms have incurred obligations to them that preclude unilateral shutdown decisions. She gives as an example the analogy of a kid who brings a box of monopoly, and starts a game with the other children, and when he starts losing the game, takes the board away stopping the game.

Companies who shut down factories without taking the worker's interests into consideration are like this kid, unfair and spoiled.

The practical reason for letting companies make unilateral shutdown decisions is that this increases the efficiency of these companies and the economy as a whole. This is refuted by the following economic theorem "…if the two parties (in this case, owners and workers) are free to bargain with each other, and each is guided only by economic motives, the most efficient outcome will be reached no matter who possesses the legal entitlement.

For whichever side stands to benefit most will simply buy out the other side's entitlement if it doesn't possess the entitlement itself. Thus, to get the most efficient result, you must include the workers in the decision to shut down. "(157)

Another reason given for why companies ought to be allowed to shut down factories when they want, is that they will redistribute the wealth by creating jobs in poorer economies where the workers need the money more.

But this is just a short term benefit, for as the local economy improves, so will the standard of living increase, so will the worker's paychecks need to increase, and so at some point, their factory will be shut down and they will be abandoned. But this practice is damaging in the long run, for it dismisses any interests that workers have in a factory.

Fire at Will:

Another interesting tradition in this country is the Employment At Will Doctrine, or EAW which maintains that "employers have the ability to hire, fire, promote, or demote 'at will' unless some specific exception to the general assumption is applicable."(111)

Such exceptions would be firing someone because of their gender, religion, ethnicity etc. The 'at will' part means that employers can fire someone for no reason, or even a bad reason so long as this reason does not fall under one of the legally stipulated exceptions.

Some companies do offer contracts in which some form of due process is offered to the employees where they are given pink slips before being fired and or hearing etc, but EAW

is the norm. In countries like Germany, France and Italy, due process is the law, and in Germany, employees actually earn a right to their jobs.

Against Fire at Will:

4) **Patricia H. Werhane** argues against the Employment At Will Doctrine and for due process in the work place. She point out that there are three main reasons given to support EAW. *1) Places of Employment should not be under the same restrictions that government and public institutions are under for they are privately owned and the people working their chose to work there.6)* Put otherwise, private owners have the right to use and improve their possessions as they see fit and employers have the right to create voluntary associations and employees have willingly submitted themselves to the employment conditions that the employer has provided. *2) Employers have the right to fire employees who negatively affect production.3) EAW is necessary to be competitive, efficient and productive.*

Due process is some method by which someone can appeal " a decision or action in order to get a rational explanation of the decision" (119) and very important, a disinterested analyses of this decision in order to determine if it was correct. In the work place, this means that in the event of a demotion or firing, you would have a right to a rational explanation and to a hearing where such actions could be judged.

Let's look at reason 1). The first part states that each person has a right to own property and to dispose of that property as they see fit, and so by analogy so does a corporation have the right to own and dispose of its property. However it does not follow from the posited right that companies have of disposing of their property, that they have the right to dispose of people.

People do work for companies and but people are not the property of companies. The second part states that employers in a free society have the right to set up voluntary associations (one's in which people have agreed to participate) and to be free as much as possible from outside coercion.

The government or state imposing the right of due process on companies is seen as outside coercion. Even though companies are voluntary associations in which the employees are fee to leave, the position of power between the employee and the employer is very much in the favor of the employer.

The employer, with his superior power, can and does harm the employee when the employee is fired or demoted. The employee does not only lose his job, but end up with his reputation damaged and finds it much more difficult to find a new job.

The employee, when he quits, rarely has a realistic opportunity to harm the employer. Furthermore, it does not matter if the employee deserved to be fired or not, still his reputation is damaged. So if a EAW company is a voluntary association, it is hardly a fair voluntary association.
The EAW is supposed to protect the employers right to not be unduly coerced, but

what about the employees right to not be unduly coerced by being unfairly fired or demoted. What sense does it make to say that there is an institution that is supported by some right of people to not be unduly coerced which itself sanctions the unjustified coercion of people.

So implying that the employee is somehow on equal ground with the employer because he is free to quit whenever he wants is simply not the case.

In the case of reason 2) it is not reasonable to dispute that employers have the right to fire employees who negatively affect production.

Reason 3) The third reason in support of the EAW is that it is necessary to maximize efficiency. But it seems that The EAW could invite abuses on the part of management.

With the EAW, what's going to stop an employer from getting rid of a good employee in order to replace him with an unqualified sun in law for example? "Due process does not alter the employee-employer hierarchical arrangement of an organization"(212)

Due process does not "infringe on an employer's prima facie right to dispose of its business or what happens to that business. The right to due process merely restricts the employer's alleged right to treat employees arbitrarily. And such due process might even help with employee moral and efficiency.

A final reason might be given in support of the EAW is that we have a free market economy and the government should not interfere with this economy. But this is hypocritical because corporations have never hesitated to call upon the government or the law to protect their interests. "Due process is an essential political right in any society that respects just treatment of every person."(122)

For Fire at Will:

Ian Maitland then argues against instituting substantive rights for the workers in the workplace. He defines these as "duties to provide workers with **meaningful/fulfilling/self-actualizing work**, some degree of control over work conditions, advance notice of plant closures or layoffs, due process before dismissal etc.

He maintains that such rights would be detrimental in a competitive market place and moreover interfere with workers rights to choose their terms of work. First he points out that more meaningful /fulfilling/self-actualizing work will lead to reduced efficiency.

Maitland asks who will bear the cost of providing more meaningful /fulfilling/self-actualizing work? If it's the individual employer, then he will be placing himself at a competitive disadvantage and will be risking going out of business.
If all employers then recognize the right to more meaningful /fulfilling/selfactualizing

work, then the consumer will pay the price for this inefficiency. Perhaps then, the employee would be willing to receive a smaller paycheck in so that the employer can recoup what he has lost by providing more meaningful /fulfilling/self-actualizing work.

Some employees today, do in fact do this. But the point is that an employee should have the right to pick between a job that offers a bigger pay check in return for less self fulfilling work, or one that offers less for more meaningful /fulfilling/selfactualizing work.

It has been pointed out that a rational people would not agree to being fired arbitrarily in an employment contract. But only 36 percent of the workforce have due process as part of their work contract, and if the price is right, that is high enough, some workers would be willing to work under EAW.

Also, some Employers might desire the greater freedom to higher and fire afforded by the EAW. Both the employers and the employees should be allowed freedom of choice in this matter.

Guarantees of due process are more likely to be found in big firms that can afford it where employees acquire firm specific skills and continuing employment is more important. Finally, he points out that if a substantial number of workers were willing to receive a smaller paycheck in return for more rights in the workplace, then there would be demand on the employers for such a thing.

But the prevalence of EAW seems to argue against this. It seems that the majority of employees are willing to receive a bigger paycheck and live under the EAW.

Temporary Employment is Bad:

Brian K. Steverson discusses the subject of temporary employment, and wants to point out that Temporary employment is wrong. He wishes to use the social contract approach to business ethics, namely that when businesses employ people, they have engaged in a social contract in which they are duty bound to look after the welfare of these people to some degree.

For him, temporary employment subverts this social contract. It may be true that "a potential employee has no moral claim to be hired, or if hired, to be guaranteed forty years of employment, receive a certain level of health insurance" (134) etc.

But this ignores the historical reality that, for many people, companies are the only source for "a range of social goods and opportunities. So the diminishment of such employment opportunities " entails the loss of those goods or opportunities."(134)

Such goods and opportunities are necessary for a person to build anything like " a stable and satisfying life."(134) To say that one has a right to such goods and opportunities is to say that one has the right to pursue what the ideal of free-market

capitalism is supposed to provide us with.

Such things as:
- Promise of advancement if one does good
- Health Insurance
- Fringe Benefits
- Retirement

This does not seem unreasonable. So maybe companies do need to provide some kinds of guarantees concerning these goods and opportunities, for they are the primary source of such things. Most people cannot become priests or go into business for themselves.

The expectations that employees have that if they do their jobs well, they will be continued to be employed and that they will be promoted, and that they will be entitled to fringe benefits "have emerged as part of the evolution of employment in our society, and have come to occupy a prominent place in the 'American Dream.'"(134)

Given the above considerations, we have a good bases to employment a social contract approach to business ethics, namely that when businesses employ people, they have engaged in a social contract in which they are duty bound to look after the welfare of these people to some degree.

*Temporary Workers Do Not Have***:**

36) Temporary workers have less prospects of continued employment and advancement if they do well and less access to fringe benefits if any.

37) Proponents of Temporary work point out that it is good for the flexibility that it provides. By this they mean, more flexible work hours perhaps and the fact that you are not permanently tied down to that job.

They cite the rising number of younger people, and retirees and working mothers as the people who might prefer such employment as the driving force behind the increase in temporary jobs.

This argument operates on the assumption that there is more demand for temporary work. But actual studies show that the rise in temporary jobs has nothing to do with employees desire for temporary jobs, and everything to do with employer's desire to have temporary work.(135) In fact, employees surveyed have indicated that they would prefer a permanent job to a temporary one. (136)

Another justification put forth for temporary work, is the idea that competition requires that companies to cut costs whenever they can. But it is not necessarily so that hiring temporary workers save money. Independent workers sometimes command a higher salary depending on their skill level.

And, in general, temporary workers require training and need to be managed differently. And this means more money and more managerial time. If these measures are not taken, then, "excessive turn over and low productivity often result."(136)

On the social contract approach to business, we can imagine that people start at a state of individual production, or SIP, that is that they work for themselves. It only makes sense for such people to leave the SIP, if the corporation can offer them a better state of existence.

To be a valid contact on this view it must have three elements,

- "1) They should enhance the long term welfare of the employees and consumers.
- 2) They should minimize the drawbacks associated with moving beyond the state of nature to the state of productive organizations, and
- 3) They should refrain from violating the minimum standards of justice and human rights"(138) But this is precisely what temporary work is designed to subvert.

Employers desire temporary workers because they want more control over the costs and obligations imposed on them by permanent employment. For the employee, temporary work "represents a greatly undesirable manipulation of one of the most basic features of employment, the social contract. Moreover, temporary workers are often looked down upon by their fellow workers. They are seen as unable to get permanent jobs and as second rate.

If temporary work is not good for the employee, is temporary work good for anyone? Some say "consumers benefit economically from the presence of mass temporary employment" (139) and that such benefits outweigh the negative impact for employees. This is because temporary workers can make companies more flexible and efficient, thus better able to respond to consumer demand more quickly.

Also the cost of maintaining a permanent is quite high, for the employer must pay for such fringe benefits as insurance and retirement. Cutting these costs would lower prices for consumers. But the truth is that consumers have not experienced a noticeable lowering of prices in the past 15 years.

If temporary work is not advantageous to the consumer, the is it in fact good for the employers? Studies show that having large temporary work forces does not guarantee increases in productivity and efficiency and it is in many cases damages productivity. In 1991, only 46% of companies met their target of lowering costs, only 32% increased their profits, only 22% became more productive and only 19% became more competitive. (140)

So it seems that having temporary workers is in fact bad for everyone, and it violates the social contract and it seems to violate the employees right to a decent life.

Questions For the Class:

1) Why does Milton Friedman say that a company does not have moral responsibility? a) agent/principle relationship, b) company is not a person, c) The share holders and societies interests will not be served if the company behaves in a socially responsible manner.

2) Is it really the case that if a company does not do all that it can to maximize profits within the law that the interests of the share holders and the interests of society will not be served? A) We can think of examples in which the interests of society might actually be damaged by a company following the Canonical view. For example, a company moves a factory to another country where wages are lower, thus putting many people out of business. A company makes its living off a toxic chemical, asbestos for example, knowing full well that it is toxic. Also, at least some share holders are probably interested in the ethical behavior of the companies they have invested in.

3) In Thomas Donaldson's view, it is permissible to do business in a country that violates human rights as long as "*the moral reasons underlying the host country's view that the practice is permissible refer to the host country's relative level of economic development"* and that business can function in that country without violating human rights. What does he mean?

4) Given the above, if we can do business in a country without violating human rights, does it mater if that country violates human rights or not for whatever reason?

5) Why does Judith Lichtenberg say that multilateral shut downs ought not to be permitted? 1) Employees ought to have a say because they have a moral property right sense they have invested much of themselves in the company. You get the most efficient outcome if you include the employees. 3) It only provides a temporary benefit to the region to which the company moves.

6) According to Brian K. Steverson, what does temporary work violate? (the social contract between the employee and the company)

7) What does this contract stipulate? 1) The promise to enhance employees welfare if they do well, 2) Minimize the drawbacks of working under mass employment conditions, 3) Promise not to violate justice and human rights.