A critique of compliance. Towards implementing a critical self-reflective perspective
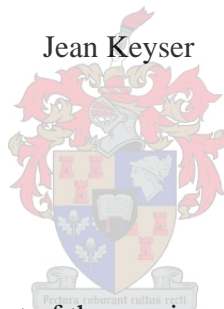
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Declaration

I, the undersigned, hereby declare that the work contained in this research assignment/thesis is my own original work and that I have not previously in its entirety or in part submitted it at any university for a degree.

Signature:...

Date:.....................................

ABSTRACT

A critique of compliance. Towards implementing a critical self-reflective perspective

This thesis entails a critical analysis of the concept of compliance. The latter can briefly be defined as rules and policies developed with regard to employee behaviour with the goal of controlling and monitoring unethical behaviour. This thesis presents a critical explication of compliance based on various levels of analysis. Firstly, this will be done by discussing the context of the historical development of compliance, stemming from and starting with the bureaucratization of the economy and the practical implementation thereof in business. The historical overview entails a discussion of the development of management models.

This provides the context for explicating the problem that these management models are geared towards the restriction of the autonomous individual for the purpose of control. This is achieved through the removal of the individual agent's responsibility over his/her work. The latter, however, elicits resistance from the employee which I discuss in terms of the implicit contract (between the employer and the employee). Initially, this problem of resistance was addressed by mechanization, but with the global shift towards a service-driven economy such methods were no longer applicable. Moreover, this shift brought about the development and implementation of post-Fordist models of management, focused on human capital. It is then within this management model that compliance was developed as the most commonly used method of control.

According to my argument then, compliance was initially implemented as a method of instilling ethical behaviour in business; however its practical application failed in achieving such promises. I argue that the reason for the failure of compliance pertains to the very definition thereof which does not make allowance for the individual moral agent. This is demonstrated by explicating the manner in which compliance is implemented,

with specific reference to culture lag. This refers to the exponential growth of information and communication technology in which ethical measures to address the problems causes by the latter, could not develop with parallel speed.

Compliance finds culture lag especially difficult to address, since the creativity of the individual moral agent that is cardinal to resolving the problem of culture lag, is not made allowance for in the structures of compliance. This is exacerbated by the importance given in the structures of compliance to controlling tacit knowledge, since the latter is increasingly considered as a form of capital within the service-driven economy.

In the final instance, I argue that compliance stands directly opposed to the principles of ethics and as such fails to address the problem of unethical behaviour. A possible solution to this is considered when looking at ideas with reference to trust, self-respect and responsibility. The latter, in turn, yields a possible solution to the original problem, namely that the individual moral agent is not acknowledged in the structures of compliance, and in some cases even totally discarded.

OPSOMMING

'n Kritiek op 'inskiklikheid'. Onderweg na die implementering van 'n krities self-reflektiewe perspektief.

Hierdie tesis behels 'n kritiese analise van die konsep van 'compliance.' *Compliance* kan in Afrikaans vertaal word as 'inskiklikheid' – maar word in 'n besigheidskonteks gebruik om te verwys na die implementering van 'n stel reëls, of 'n spesifieke beleid, wat daarop gemik is om onetiese gedrag van werknemers te monitor en te beheer. Hierdie tesis bied 'n kritiese ondersoek van 'inskiklikheid,' gegrond op verskillende vlakke van analise, wat insluit die historiese ontwikkeling van 'inskiklikheid', die burokratisering van die ekonomie, en die praktiese implikasies daarvan vir besigheid. In die historiese oorsig val die klem op die ontwikkeling van bestuursmodelle.

Dit verleen 'n konteks aan die probleem dat al die betrokke bestuursmodelle daarop gemik was om die outonomie van die individu te beperk, en daardeur beter beheer oor sy/haar aksies te verkry. Dit is gedoen deur die individu in die werksopset van sy/haar verantwoordelikheid te ontneem. Dit het egter die teenreaksie van weerstand by werknemers ontlok, wat bespreek word in die konteks van die implisiete kontrak (tussen werkgewer en werknemer). Hierdie probleem van weerstand, is aanvanklik deur toenemende meganisasie aangespreek. Maar in die konteks van die globale oorgang na 'n meer diens-gedrewe ekonomie, was meganisasie nie meer 'n volhoubare oplossing nie. Verder, binne 'n diens-gedrewe ekonomie word idees van menslike kapitaal op prys gestel, soos in die bestuursmodel wat hierdie fase kenmerk, naamlik 'post-Fordism'. Dit is binne hierdie konteks dat inskiklikheid ontwikkel het as die algemeenste manier waarop beheer oor werkers uitgeoefen word.

Volgens my argument is inskiklikheid aanvanklik ge-implementeer as 'n metode om etiese gedrag binne 'n besigheidskonteks te handhaaf. Inskiklikheid het egter nie aan

hierdie verwagting voldoen nie. Die rede hiervoor is dat inskiklikheid teenstrydig is met die konsep van die individuele morele agent. Dit word duidelik as die wyse waarop dit ge-implementeer word, ondersoek word, spesifiek aan die hand van die voorbeeld van die 'kultuurgaping' ['culture lag']. Laasgenoemde verwys na die gaping tussen nuwe tegnologie en etiese respos wat ontstaan as gevolge van die eksponensiële groei in kommunikasie- en informasietegnologie en die oënskynlike onvermoë van besighede om dit in hul etiese beleid aan te spreek. Bydraend tot die probleem is dat die kreatiwiteit van die individuele morele agent wat voortdurend benodig benodig word om hierdie gaping te oorkom, nie in die struktuur van inskiklikheid erken word nie. Dit is veral belangrik, inaggenome die toenemende belangrikheid wat in die struktuur van inskiklikheid verleen word aan die beheer van implisiete kennis ['tacit knowledge'], omdat dit in binne die diensgedrewe eknomie toenemend as kapitaal beskou kan word.

In die laaste instansie argumenteer ek dat 'inskiklikheid' direk teenstrydig is met die beginsels van etiek, en misluk dit as 'n metode om die probleem van 'culture lag' sowel as ander kwessies op te los. 'n Mootlike oplossing word ondersoek waneer idees rondom vertroue, self-respek en verantwoordelikheid verken word. Met verwysing na laasgenoemde is dit moontlik om die oospronklike rede vir weerstand aan te spreek, naamlik dat die individuele morele agent deur 'inskiklikheid' oor die hoof gesien word, en dit selfs in sekere opsigte heeltemal agterweë gelaat word.

Acknowledgments

<p style="text-align:center"><u>Content</u></p>

Introductory thoughts on compliance

The problem of addressing unethical business behaviour is not a new one, it stems back to the moment of the genesis of the corporation. Since then, there have been many different methods used to address unethical business behaviour, some of which I will look at briefly, but to narrow down the field of my research and to locate this problem in the current context, I will only take a closer look at compliance[1] in corporations, in particular compliance to ethical guidelines or codes.

There are three main questions I will look at in this regard: why has compliance failed; how can we resist the negative outcomes of compliance; and what might constitute a positive alternative? To clarify my problem statement, and keeping in mind the ultimate location of unethical business behaviour (namely the individual), compliance will be contextualized by means of a brief historical overview. What this will entail is looking at the historical development of business management models. The reason for this is twofold: Firstly, the development of compliance coincides with, and is linked to, the emergence of the corporation. As I will argue, compliance etiologically[2] stems from the economic bureaucratization process[3] that ushered in the corporation, of which

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[1] According to McDaniel, compliance at its most basic can be defined as "*meeting expectations of others*" or more specifically "[t]*o be in compliance is to be in agreement with specific guides relevant to organizations*" (2004: 62). In terms of a business context, this would refer to a set of policies regarding the behaviour of employees, focused specifically on deviant, or unethical behaviour, which it seeks to control.

[2] Etiology can be defined as "[t]*he study of causes or origins*" or "[a]*ssignment of a cause, an origin, or a reason for something*" (Available from: http://www.thefreedictionary.com/etiology). In this context I am referring to the origins of compliance.

[3] The defining characteristics of the bureaucratization process are "*administrative hierarchies, standardized work procedures, regularized timetable, uniform policies, and centralized control*" (Harshman and Harshman, 1999: 10). Bureaucratization tends to "*separate substance from appearance, action form responsibility, and language from meaning,*" one consequence of which is the disembedding of economy, which will be defined later in Chapter 1 (1999: 10). It does this through a process of institutionalization which is defined as "[t]*he process and development of the stable and formal patterns of behaviour that make up an institution* [or] [t]*he habituation of a person to the patterns within an institution, often to the extent that they may not be able of normal functioning outside*" (Rebber, 1985: 362). Compliance, it will be

compliance can also be regarded to be a symptom. Secondly, compliance is itself an element of a certain type of management, namely risk management[4], which will be better understood when considering its context historically.

In addition to this historical overview, and for the sake of a more balanced perspective, further reasons to focus on compliance specifically emerge when two recent organizational alternatives for addressing unethical behaviour in corporations are considered. They are identity and values programs on the one hand, as well as social outreach programs on the other hand. Identity and values programs "*usually draw inspiration form a list of company values that emphasizes positive concepts such as integrity, respect for others, teamwork and service to stakeholders* [and] *aim to express what the corporation stands for, to 'specify' an identity*" (Donaldson, 2000: online). The focus of value programs is different from compliance in that it "*emphasizes positive rather than negative concepts and self-motivation rather than external sanction*" (2000: online). Yet, many organizations launched such programs, "*only to see them wither*" (2000: online). The reasons for these failures being that either the program became outmoded from not getting renewed often enough, or that the organization did not use these value statements to justify business decisions (2000: online). In other words, the program was not followed through in a consistent manner.

The other program that could be followed is social outreach programs, which is the "*least common type*" (Donaldson, 2000: online). Form this perspective the organization views itself as a "*social citizen,*" which as such has responsibilities to society and its workers. Within the group of those companies and corporations that have implemented social

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argued, as a tool of institutionalization is a symptom of this bureaucratization process, especially in terms of uniform policies and standardized work procedures.

[4] Risk management is the recognition and evaluation of all foreseeable risk, "*the potential damage represented by each risk; and addressing these potentials in a systematic manner*" (Kahn and Blair, 2004: 45).

outreach programs, there are two factions: the "*social accounting movement*," which is rooted in Europe and has become a "*legal requirement in France*" (Donaldson, 2000: online), and the "*competency-based responsibility movements from Europe and the U.S*" (2000: online).

The accounting movement stipulates that one should account for social activities, much the same way you account for financial activities. Accordingly, the organization's relation with employees is to be included in accounting under what is referred to as social activities, assuming one can 'account' for employee behaviour like any other form of accounting in finance (2000: online). The question, however, becomes how does one measure ethical behaviour and according to what standards? In this regard, this form of social citizenship program fails as it seems to be based on the idea of utilitarian ethics[5] which assumes all things can be measured[6].

Turning to the second faction of social citizenship, competency programs emphasize the organization's "*core competency[7] in its attempt to contribute to society*" (Donaldson, 2000: online). In such programs organizations try and move beyond "*writing cheques for good causes*" and regard all the people in the organization as part of this movement. In

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[5] Utilitarianism is defined as "[a] *general term for any view that holds that an action should be evaluated on the basis of the benefits and costs they will impose*" (Velasquez, 2006: 61). More importantly, to this thesis, it is *"any theory that advocates selection of that action or policy that maximizes benefits (or minimizes cost)"* (2006: 61).

[6] The idea of social citizenship as something one can account for using accounting methods assumes that social responsibility can somehow be measured in financial terms. The supposition is that the benefits or costs of employees' and the corporation's behaviour in relation to their social responsibilities would be reflected in the final balance sheet of the company as positive, if they had fulfilled their responsibilities, or negatively if they had failed. According then to the outcomes of this balance sheet the organization will choose those behaviours most likely to cause a positive accounting balance in an attempt to maximize the corporation's benefits. In terms of the above then, it applies ideas of utilitarian ethics as defined on this page.

[7] Organizational competency will be explicated when discussing moral agency in Chapter 3.

other words, not only is the organization a social citizen, but all its employees are also social citizens, who should do more than donating money for causes.

The above-mentioned is certainly a good base for a positive work force[8]. But given that they are focused on groups, how either these social citizenship or competency programs will assist in truly addressing the employees' problems to overcome or prevent unethical behaviour is not clear. Furthermore, neither program is "*without risk*" as the outcome of the programs might be more negative for the organization than positive (2000: online). The main reason for these risks, as well as why these programs are likely to fail, is the assumption by the organization that it can know what society want, or even what it needs. If proper research is not done such assumptions are bound to cause problems[9]. Furthermore, such research costs organizations money in terms of time and resources allocated to it that the organization might have used for other purposes which might have had greater financial gain, as this research is not even always a guarantee against negative outcomes.

Some people may argue that programs such as these aren't even necessary, since when an organization does well, then the immediate society from which the organization drafts its

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[8] A positive work force refers to the cognitive involvement of employees with their work. A positive work force is only possible within a positive work environment as propounded by McDaniel in her book "*What employees want.*" Some of the key factors she points out in this regard is that "[m]*any indicators of quality workplaces, good places to work, or desirable sites for employees are ethical ones*" and the cornerstone to a positive work environment is that employees find "*meaning in their work and* [understand] *the relationship between employees' contribution and their organizations*" (McDaniel, 2004: 80). Correspondingly, employees appreciate that they should be treated as ends in themselves, not as means to achieving these, referring back to 'respect,' addressing one of their basic needs which is dignity at work. Basically a positive work environment is the opposite of labour alienation, in other words, employees see the worth of their labour, and how they fit into the production of the end product, and are integrated in the process of production.

[9] An example of this is the Monsanto organization which "*applied its scientific expertise in an initiative with the International Rice Institute, groups from Thailand and the Thai Government to educate poor farmers about how to improve crop yields using scientifically engineered seeds and modern chemicals. But Monsanto has since been the target of vigorous criticism in the media, much of it alleging that Monsanto's technology is a hazard to the environment*" (Donaldson, 2000: online).

workers, also profits. However, such criticisms do not consider the globalization of the labour market or mechanization. At the very least, this indicates that some form of business ethics is necessary. Yet, even though these other organizational possibilities exist, when considering these alternatives to compliance, they too seem to fail. Also, and above all, considering that none of these alternatives were as intensely implemented, or on such a large scale as compliance, the focus remains on compliance. The fact of the matter is that compliance is the "*most common*" means of addressing unethical behaviour today (Donaldson, 2000: online).

However, while compliance is the main focus of this thesis, it should be borne in mind that there are differing degrees of implementing compliance. In this thesis the focus is on *mere compliance*, which is an extreme example. The reason for using an extreme example is that through looking at the most obvious or extreme form of compliance, one more easily reveals the inner nuances of problems inherent in compliance, no matter what the degree of its application. Furthermore most compliance programs that have been implemented have been mere compliance programs, the reasons for which are explicated later in Chapter 2.

A definition applicable to mere compliance and all other forms of compliance is that it usually comes in the form of a "*formal legal document* [which] *specify employee behaviour in detail and are often written by lawyers*" (2000: online). In such instances "[e]*mployees are often asked to sign a document each year to indicate that they have read and understood the code*" (2000: online). However, as these codes are being written by legal professionals, they consist of a lot of legalese. It then becomes questionable whether your average employee is able to really understand such a document, which would be contradictory to the stipulations of an ethical contract. From an ethical point of view, contracts should include the moral constraints listed below:

1. There should be mutual full knowledge of "*the nature of the agreement they are entering*" by both parties (Velasquez, 2006: 78).

2. No "*party to a contract must*" deliberately feign the "*facts of the contractual situation to the other*" (2006: 78).

3. A "*contract must not bind the parties to an immoral act*" (2006: 78).

If a contract is written in a language that the employee does not understand, or only very vaguely so, it would be difficult to assume that all parties have full knowledge of the agreement being entered into. Employers have the power in this relation as the holders of employment, and as such many employees might feel pressured to sign without knowing exactly what they are signing. Also, employees do not even take such policies or contracts in relation to business behaviour seriously enough to read through them properly, or are not aware of what their implications are. In fact, most employees do not even really know what their ethical duties are, as will be indicated below.

More often however, when such a contract is written, steeped in legal jargon, few people understand it, not that the organization is necessarily hiding anything, just that the language used is very sophisticated. As such, employees might not be deliberately deceived about the facts of the contract, but the outcome is the same: employees are not being fully aware of the implication or responsibly given to them in terms of the contract. This brings us to the question, that if this is indeed the case, if employees seldom understand policies with reference to ethical behaviour, or just do not take that much notice of it, why do organizations implement them to begin with?

The organization's motives for such codes or policies can be said to be largely "*self interested: Companies hope to avoid legal and reputational harm by specifying and monitoring behaviour*" (Donaldson, 2000: online). Self-interest also played a pivotal role in the way in which compliance was implemented. After Enron in 2003 "*91% of public company executives had changes*" and implemented compliance programs or at least the

"*Sarbanes-Oxley Act (SOX)*" (Kahn and Blair, 2004: 65)[10]. According to Lennick and Kiel the manner in which compliance was implemented indicated that after Enron "*business practitioners were defensively eager to discuss compliance-based ethics*" (2005: xxxxvii)[11]. However if we refer back to the findings concerning the implementation of SOX, for example, it would seem that they only implemented compliance in their own interest (Lennick and Kiel, 2005: xxxxvii). This is supported by Donaldson's findings that the motivations of corporations for this increased implementation of compliance seem to stem mainly from "*the stronger focus by the media on corporate conduct, increased government pressure and growing maturity of business institutions*" rather than for the sake of greater business ethics (2000: online)[12]. But organizations did not take due diligence to consider what the full consequences of the implementation of compliance would entail especially if we consider that SOX would

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[10] SOX refers to the Sarbanes-Oxley Act, set in place by US President George W. Bush and is basically defined as a broad, in-depth legislation passed in July 2002 after Enron and sought "*to protect investors by improving the accuracy and reliability of corporate disclosure made pursuant to the security laws, and for other purposes*" (Available from:

http://fl1.findlaw.com/news.findlaw.com/hdocs/docs/gwbush/sarbanesoxley072302.pdf)

[11] Examples of this 'eagerness' is referred to in the findings of the article "*The Corporate Ethics Boom: Significant, or just for show?*" (Donaldson, 2000: online). The article makes reference to a study done by the London Business School and Arthur Anderson of the FTS 350 and other non-quoted companies of equivalent size, finding "*that 78% of corresponding companies had a code of conduct, compared with 57% three years ago*" (2000: online). Furthermore, in 2000 in the US across a broader scope of companies, the percentage with ethics codes had "*risen to 80%*" (2000: online). This was mirrored in South Africa, considering that in the three-year period of 1996–1999 with the new democratic government in place, 46% of the country's codes of ethics where written, while in the two years of 2000 and 2001 after Enron, an additional 36% were written (Davids, Malan, Merwe and Morland, 2002: 6).

[12] This self interested implementation of compliance is based on the fact that "*64% of all U.S. codes are dominated by self-interest or 'instrumental' motives*" (Donaldson, 2000: online). Additionally, this is supported by the 1994-2005 NBES report "*How Employees View Ethics in Their Organization*" (Ethics Resource Centre, 2005: online). The survey found that the formal elements such as ethics training, ethics standards, mechanisms to seek advice or information as well as means to report misconduct and discipline of employees who violated ethical standards had all increased significantly (each one of which pertains specifically to the organisation's interest). Conversely, there was a 7% decrease in the evaluation of individual employee's performance based on ethical conduct in the same years (Davids et al, 2005: online). In addition to this, a study done in South Africa found that even though 64% of correspondents indicated that their organization conducted risk assessment regularly, "*when asked to rate to what extent the organization included certain elements* [the results showed that] *ethics scored lowest of all*" (Davids et al, 2002: 11).

imply an "*average cost per company of $500 000 in the first year alone*"[13] (Kahn and Blair, 2004: 65). It would therefore seem that even though compliance was implemented for the sake of minimising risk to the organization, it was, as have been established, not for the sake of the individuals' agency vis-à-vis ethics or for the sake of ethics itself.

To further substantiate the above, it was established that "[d]*espite the rise in formal program activity* [such as compliance policies]*, positive outcomes expected from effective programs either remain unchanged or decline*[d]" (Ethics Resource Centre, 2005: online). The reason given for this failure is that in spite of this increase of ethics programmes "*organizational culture*[14] *has changed little over the years*" even though organizational culture is "*more influential in determining outcomes*" (2005: online). This latter refers back to management models which is supposed to structure corporate culture explicitly.

Considering the apparent ineffectivity of these formal ethical programs, it would seem that something must be wrong in terms of the implicit elements of corporate culture which is not being addressed in the explicit expression of corporate culture. Given the above statistics, I would argue that the reason for outcomes not being reached is that explicit expression of corporate culture in terms of ethical behaviour, in specifically compliance, seems disembedded from the everyday or implicit realities of work, and therefore has no real impact, however we will consider the latter in more detail in relation to *positive identity*. It therefore is the implicit elements of corporate culture that still has a large influence in ethical behaviour which leads us back to tensions in the implicit contract and individual agency specifically. This is supported by findings indicating that

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[13] Even though SOX is used as a specific example of compliance, these economic effects also apply to compliance in general.

[14] Organizational culture can be defined as "*the display of certain ethics-related actions at various levels in an organization, and accountability for actions*" (Ethics Resource Center, 2005: online). Organization – or corporate culture will be considered in-depth in Chapter 3, in terms of moral agency.

"*no one was focusing on the personal character, principles, and moral skills that must* [be instilled in] *every leader and every organization that wants to ensure long-term sustainable* [ethical] *results*" (Lennick and Kiel, 2005: xxxxvii).

This brings us to the second element of the failure of compliance implementation, referring to the very way in which it was implemented, especially in terms of the 'eagerness' to do so, mentioned above. As compliance was implemented in a hasty, self-serving manner, most compliance programs were "'s*top gap' measures*" (Kayes, Stirling, and Nielsen, 2007: 62)[15]. This is supported by findings indicating that "*in the wake of recent corporate debacles, fixing the rules and doubling the penalties is not fixing the problem. 'If we are to prevent these incidents from happening again, the real issue we should be examining is personal and organizational integrity'.* [Since] *'[u]pholding the rules in an organization* [require] *a strong ethical compass from both leaders and employees'*" (Ethics Resource Centre, 2002: online).

Problem statement

The problem then with mere compliance, such as the above implies, is that it entails attempts to institutionalize ethics as part of a process of bureaucratization – in which the goal is to control the behaviour of employees to such an extent that no room is left for individual discretion and personal responsibility and accountability which, as will be shown below in Chapter 3, is not only central to autonomy or moral agency, but also for the continual development of business corporations, and through that, the economy. The main task of this thesis is then to determine what exactly in this process of bureaucratic institutionalization renders mere compliance so problematic. Does the problem lie in that to which the bureaucratization process responds, does it lie in the structure and constitution of bureaucratization itself, or in the effects of this process – or is the problem

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[15] 'Stopgap measures' can be defined as makeshift procedures or "*something contrived to meet an urgent need or emergency*" (Available from: http://www.babylon.com/definition/stopgap/English).

of mere compliance found in a combination of all three of these aspects? And if it can be demonstrated what the origin, nature, extent, structure and effects of the problem of mere compliance is, what can be done positively to overcome it? An important element that will become apparent when looking at these questions, as well as being crucial in responding to them, is the origins of compliance in the bureaucratization process which establishes the foundation of compliance in utilitarianism and its apparent appeal to universalizability[16].

Methodology

With a view to answering these questions, I will use a "*critical self-reflective*" method of analysis in this thesis to explicate the reasons for the failure of compliance, the structure and mechanisms of this failure, and its negative consequences (Zaolnai, 2004: 17). This will give insight into problems inherent in compliance, as well as introduce the problem of loss of autonomy as it relates to personal responsibility and accountability. I use the term "critical self-reflection" since the problem with compliance seems to stem from the "*positive identity*"[17] that it tries to establish and to universalize – which is an identity that

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[16] A universal can basically be defined as "*a property or relation that can be instanced, or instantiated, by a number of different particular things: each yellow thing provides an instance of the property of yellowness*" (Blackburn, 1996: 386). In this instance, it refers to the insistence of compliance on being universalizible. The latter can be defined as a "*feature of moral judgment that whilst a moral judgment may concern a particular subject in a particular situation, it must supervene upon general features of the situation that can in principle occur in other cases. The principle is purely formal, since its application will depend upon a selection of what it is that makes other cases alike: this may be highly abstract features or highly specific concurrence of circumstances*" (1996: 386).

[17] Positive identity, in terms of Adorno's use of the term, refers to the process whereby "*human thought, in achieving identity and unity, has imposed these upon objects, suppressing or ignoring their differences and diversity*" (Zuidervaart, 2007: online). This, he believes, is because of people's "*societal formation whose exchange principle demands the equivalence (exchange value) of what is inherently nonequivalent (use value)*" (2007: online). What this means is that there is "*the "application" of a priori concepts to a priori intuitions via the "schematism" of the imagination (Einbildungskraf)*" (Zuidervaart, 2007: online). This is what Adorno calls "*constitutive subjectivity*" (Adorno, 1973: xx). This form of giving identity assumes that a 'thing's' identity is the "*thing in itself*" (2007: online). This view on the identity of things is supported by the "*affirmative character of Hegel's dialectic*" (Adorno: 143-161). Therefore this constitutive subjectivity causes people to give positive identity to things, which basically means assuming that a 'thing' has some *a priori* innate identity. This then is what Adorno refers to when he says that people have given or assumed something to have a positive identity.

the corporate employee apparently always finds to be already established and encapsulating the employee's "self"; an identity that it apparently can only experience "from the inside" (Zuidervaart, 2007: online). Accordingly, critical self-reflection "*does not merely present arguments – from the external perspective of applied ethics – in favor of ethical correctives against economic rationality, but instead does it – from the internal perspective of a self-reflective way of thinking*" (Zaolnai, 2004: 17). It does this by looking at the internal contradictions of thought, in other words it necessitates "'*determinate negations' pointing* [out] *specific contradictions between what thought claims and what it actually delivers*" – in other words, I will focus on how compliance as a concept[18] contradicts with what it actually delivers (Adorno qtd. in Zuidervaart, 2007 online). The reason for doing so, and the purpose of which, is given in that in "*current societal conditions, thought can only have access to the nonidentical via conceptual criticisms of false identifications*" (2007: online). The non-identical, in turn, can be described as the indirect identity of a sign.

What is meant by this is that by using the critical self-reflective perspective an object receives, "[t]*hrough determinate negation* [of] *those aspects of the object which thought misidentifies* [an] *indirect, conceptual articulation*" (2007: online) its non-identical identity. In terms of this thesis, this is done to demystify the actual reality of compliance and give indirect identity to the individual moral agent, especially in terms of its relation to compliance. In fact, throughout my thesis I will emphasize the importance of focusing

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[18] This according to Zuidervaart refers to as a signs phenomenological promises. In the context of this thesis this means we will consider how compliance, consisting of a positive identity, as concept developed as tool of control with the eye on greater business ethics, actually fairs when it is practically applied. In other words, its phenomenological promise was, its conceptual reason for being, which refers to compliance as a method of increasing corporate ethics. This thesis then looks at the 'promise' of compliance in terms of how it fairs when it is implemented in the nominal i.e. social and economical reality for which it was conceptually created. It refers then back to positive identity defined on page 20.

on the individual moral agent[19], and how its agency is put under threat by different manifestations of compliance.

<u>Structure</u>

Having considered the initial definition and problems with compliance, and stipulated the method of analysis that will be implemented, the structure of this thesis is as follows: In Chapter 1 I start with an explication of the broad historical development of compliance, as well as the initial facts in terms of why it seemed to have failed in addressing unethical behaviour. The reasons for its failure will by shown to be connected with compliance as part of risk management which is a part of the bureaucratization process. The question then is: what was this risk that had to be addressed and caused the increase in implementation of compliance. What is to follow will signify that compliance failure not only relates back to the above-mentioned facts concerning its positive identity and as part of risk management, but also the manner in which compliance was implemented, given the historical contingencies that necessitated its development and implementation. The latter in-turn refers to the specific historical development of compliance that will be discussed, following the broader historical overview, leading into considerations of the question for whose purpose compliance was developed.

The initial goal then comprises gaining an understanding of compliance in its social context, including the ways in which it is most commonly implemented. As the argument develops however, the key causes of the problem will be demonstrated as lying with the way in which compliance is constituted. The above brings us to the next part on why compliance has failed, and provides a reason for the increased implementation of compliance, which caused it to be used as a 'stop gap measure'. The problems then

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[19] When speaking of the individual moral agent, I am referring specifically to the individual's moral agency in terms of his or her capability for 'creativity', regarding discretionary judgement and taking responsibility for moral decisions as determinant of their moral agency, as will be defined later in Chapter 3.

highlighted in Chapter 1 will be brought into a contemporary context in Chapter 2 by way of explicating a specific mode of compliance, namely IMC[20], Information Management Compliance that aims to address contemporary problems raised by the advent of knowledge capital[21] and a focus shift towards a service industry which will be shown as the main elements that caused the necessity for a stop gap measure in terms of employee control, bring about IMC. The latter reflects the reality that in the knowledge driven economy, more than ever in the past, companies and specifically individual employees are confronted on a daily basis with ethical dilemmas.

The source of many of these ethical dilemmas apparently is the phenomenon of culture lag[22], i.e. the gap created by the staggering pace at which communication and information technology develops and the slow pace at which individuals and corporations seem to respond to its challenges. While IMC was created as a reaction to this culture lag, in other words as a tool to bridge or stop the gap caused by it, I will argue that IMC fails to address the problems it was designed to resolve, given that it is, like its predecessors, a

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[20] IMC continues to build on the given definition of compliance, adding that information management is an umbrella term concerning "*determining which information created and received by your organization is valuable in some way, based on its content; making sure that this information is properly protected, stored, shared, and transmitted; and making it easily available to people who need it, when they need it, and in a format that they can rely on*" (Kahn and Blair, 2004: 13).

[21] Knowledge capital can be defined as "*knowledge that a company possesses and can put to profitable use*" (Available from: http:www.dictionary.bnet.com). More specifically it refers to the fact that one needs to "*[k]now how that results from the experience, information, knowledge, learning, and skills of the employees of an organization. Of all the factors of production, knowledge capital creates the longest lasting competitive advantage. It may consist entirely of technical information (as in chemical and electronics industries) or may reside in the actual experience or skills acquired by the individuals (as in construction and steel industries). Knowledge capital is an essential component of human capital*" (Available from: http://www.businessdictionary.com).

[22] Culture lag is defined as the "*time period between invention and diffusion of material culture traits in the adaptive culture,*" the latter referring to the social adjustment process by which these inventions are "*absorbed into culture, through adjustments* [and with this also] *the culture system adapt,*" referring to the nonmaterial elements of culture (Marshall, 1999: 84). More specifically, in terms of the case study that will be used in Chapter 2, this refers to the gap that is "*inherent between technological advances and the development of ethical guidelines to govern their use*, [but] *this gap is growing, perhaps exponentially*" in terms of the pace at which information communication technology is developing (1999: 82).

form of compliance that does not take the individual, who is of paramount importance to knowledge capital, into consideration.

In the discussion of IMC it will be indicated that even though the reality of the contingent nature of ethical problems in business had always been a part of how corporations and individual employees interacted and functioned, the advent of knowledge capital in the current economic environment, gives greater importance to the individual than ever before – since the individual holds this form of capital. The reason then for the focus on IMC is threefold: it brings the argument regarding compliance, ethics and the individual more clearly to the fore; it transports the thesis into a more contemporary context, and lastly, given the focus that will emerge in this Chapter on the importance of the individual moral agent, it serves as a passage into the next Chapter.

Chapter 3 will entail a discussion of moral agency, especially the individual moral agent. First I will discuss moral agency in the business context in general, before looking more specifically into individual moral agency. I will use three different perspectives on moral agency in the business context in general, but will show how, after discussing each, they all fail – either because of a lack of balance between individual moral agency and the corporation as a moral agent, or because of the implementation of compliance. I will continue this Chapter by pointing out that individual moral agency is not only irreconcilable with ideas of compliance, but that the latter has a negative impact on the individual moral agent.

This will bring us back to our main problem of this thesis which is: how can we resist the negative outcomes of compliance and what might constitute a positive alternative? This question is the focus of Chapter 4. In this Chapter I will make it clear that even if my primary focus is on compliance, that I am not positioning myself as against all forms of

compliance, but am of strong opinion that the notion of compliance must be reconsidered, paying specific attention to its oversights and unforeseen effects.

Having now considered what will ensue in the following Chapters, let us start by considering the historical trajectory which, not only sets the foundation for this thesis, but also determined the internal structure of compliance, since by doing this we can gain insight into its constitution (its internal structure, as it were), and only by looking at the latter can we understand the negative effects and limitations of compliance.

Chapter 1

The historical emergence of compliance

In keeping with the Introduction, the problems of compliance can be traced to its etiology. This Chapter will begin with an overview of the bureaucratization process as the source of management models as they are formulated today, before looking at each of the different management models in particular. After doing so, I will ask the question why these models were developed in the first place. Importantly, management models have been developed around the idea to control the individual to various degrees, *inter alia* through the removal of the individual's responsibility. And as will be demonstrated, responsibility is central to the notion of autonomy – or moral agency, in which the self stands central. As will be explicated, this has to do with the implicit contract[23] and resistance[24] in the face of the institutionalization of work in the process of bureaucratization. This gives context and reason for the development of risk management, and with this, of compliance. The question that therefore needs to be asked now is what is the bureaucratization process?

1. The bureaucratization process

The bureaucratization process of the Western economy, historically took place in the process of replacing the Protestant work ethic. According to writers such as Jackall, the affluence and emergence of a consumer society did away with aspects of an old Protestant ethics, namely "*the imperatives for saving and investment*" (qtd. in Harshman and Harshman, 1999: 10). The implication of this was that the "*core of the ethic, even in*

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[23] The implicit contract can be understood in brief, in context of the unwritten understandings and tensions between employer and employee, that "*tend to centre on two main issues: the amount of material rewards available to the employee and the extent of control over employees conceded to the employer*" and the conflict that this entails (Watson, 1989: 306).

[24] Resistance refers to acts taken by employees to assert some measure of autonomy given the tension inherent in the implicit contract, as will be explained.

its later, secularized form – self-reliance, unremitting devotion to work, and a morality that postulated just rewards for work well done – was undermined by the complete transformation of the organizational form of work itself" (Harshman and Harshman, 1999: 10)[25]. This transformation introduced the new "*modern production and distribution system – in a word, the bureaucratization of economy*" (1999: 10).

The practical implementation of this process in business took place via the development of industrial management models. These models of management can, according to the literature of Webster, historically be divided into three main exponents[26], listed as:

1   Scientific Management
2   Fordism
3   Post-Fordism.

With the eye on explicating compliance it will be necessary to explain each of these models briefly, as this will give context to its implementation and the problems experienced with this. The first two models of management were more geared toward blue collar workers. It is important to notice here that the main reasons for this focus are that the corporation was in its early history predominantly focused towards the production industry. Furthermore, they usually only partook in local, and/or national markets, being restricted technologically in comparison to today and the coming of age of globalization, computers, communication technology and the imperative to compete on a global market. As will be demonstrated when coming to Post-Fordism, with the shift towards the service industry, management structure and theory came to include all

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[25] Bauman gives a similar argument regarding just rewards for work well done in terms of employers who were loyal to their employees and vice versa, but this has changed with the advent and increased globalization of economics, as propounded in his 1998 book, *Globalization: The human consequences*.

[26] Of these mentioned approaches, Scientific Management and Fordism includes the following subdivisions, namely "[t]*he process (or administrative approach)* [and] *the bureaucratic approach*" (Smit and Cronje, 2004: 38-32). When it comes to Post-Fordist models, "*the systems approach, the contingency approach, total quality management, the learning organization* [and lastly] *re-engineering*" can also be included under this style of management (2004: 45-52). Given the spatial constraints of this thesis however, I will only consider the three listed basic exponents in depth, as they are the most relevant in terms of the problem I am investigating.

workers, including white collar workers, as well as the shift towards the idea of 'humane' management which introduced the idea of human capital[27]. With these considerations on the topic of the differences between the two older management models in terms of the newer model in mind, let us begin to explicate the first of these models: Scientific Management.

1.1 Scientific Management

This model was started by Fredrick Taylor, who believed that "*an absolute necessity for adequate management,* [is] *the diction to the worker of the precise manner in which work was to be performed*" (Webster, Buhlungu and Bezuidenhout, 2004: 13). Taylor wanted to maximize performance, but a big obstacle to achieving this end was that employers did not know how long it took to perform a task, while workers who had this knowledge kept "*this knowledge from their employers* [which in turn formed] *the heart of the system for worker regulation of output, described as 'soldiering'* " (2004: 13). In other words, soldiering was the process by which worker kept the knowledge concerning the time it took to perform a task from the employer, consequently the worker regulated output. In this manner then, workers retained some amount of control over their work, as well as the responsibility taken for it.

Before Scientific Management, employees' autonomy was secure in this knowledge, as retaining the information on the time needed to perform tasks guarded them from being exploited to some extent, even though they worked for someone else (2004: 13). In this

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[27] Human capital is defined as "*[h]ealth, knowledge, motivation, and skills, the attainment of which is regarded as an end in itself (irrespective of their income potential) because they yield fulfillment and satisfaction to the possessor. In an organizational context, human capital refers to the collective value of the organization's intellectual capital (competencies, knowledge, and skills). This capital is the organization's constantly renewable source of creativity and innovativeness (and imparts it the ability to change) but is not reflected in its financial statements. Unlike structural capital, human capital is always owned by the individuals who have it, and can 'walk out the door' unless it is recorded in a tangible form, or is incorporated in the organization's procedures and structure*" (Available from: http://www.businessdictionary.com/definition/human-capital.html).

way they managed to hold on to some of their autonomy, freedom and control in terms of job scope[28]. They took the responsibility for the time of production upon themselves, as keepers of the privileged knowledge they had on production time. Taylor, however, wanted to strengthen management's control over production in order to speed it up (Webster et al, 2004: 13). Yet in doing so, he would unwittingly remove the individual's responsibility and power, by separating the workers from their work. This leads to what Marx calls labour alienation[29], through the institutionalization of employee behaviour. The goal then of Scientific Management was the systematic, or scientific, removal of the individual's responsibility over production time, for the sake of higher profitability. How did he propose to do this?

Taylor believed that through studying individual jobs in detail and careful selection of incentives and bonuses, employers could structure work so that soldiering, and therefore also the responsibility and control it gives to workers over their work, could be eliminated (2004: 14). To this end he proposed the following three principles:

1. To gather the "*traditional skills and experience (tacit skills)*[30] *that workers possess and reduce them to a series of rules, the first principle is to separate*

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[28] Job scope can be defined as "*how long it takes a worker to complete the total task*" (Grobler and Wärnich et al, 2006: 140).

[29] Alienation refers to "*something being separate form or strange to something else*" (Blackburn, 1996: 12). In the context of the self, as treated in this paper, this refers to being inauthentic. The latter is refers to self-alienation and is defined as "*a state in which life, stripped of purpose and responsibility, is depersonalized and dehumanized*" (1996: 30) In terms of labour, alienation refers to the way in which "*I am alienated from the results of my labour in so far as they become commodities; and I am alienated from my society in so far as I feel controlled by it, rather than part of a social unit that creates it*" (1996: 12). In Marxist thinking this labour commodity can be defined as "*the process whereby the products of labour come to appear to have an independent value separated from the labour of the people who created them. The role commodities have in exchange disguise the way that their value ought to be entirely derivative from the labour that produces them*" (1996: 69). For a more in-depth definition of labour alienation see McLellan's book *Karl Marx. Selected Writings* (1977: 77-86; 364-387; 393-395; 508-510; 526-528).

[30] Tacit is defined as "[i]*mplied by or inferred from actions or statement*" (Ilson, et al, 1984: 1688). More specifically in this context as a type of law it means "[a]*rising by operation of the law, rather than through direct expression*" (1984: 1688). Basically, here it refers to those aspects of the production operation over which employees had intrinsic knowledge and control in terms of tacit skills.

the knowledge that the worker have from the workplace" (Webster et al, 2004: 14).

2. With this, one is also to "*remove all brainwork form the shop floor and put it in management's hands*" (2004: 14). In other words, the employee is "paid not to think" (2004: 14).

3. Lastly, after this has been achieved, management must make "*use of this monopoly of knowledge to control each step of the work process and its mode of execution*" (2004: 14).

The goal of these principles was to create a monopoly on the side of management, which would enable control over the actions of employees. If we follow Sir Francis Bacon's argument that knowledge is power (Blackburn, 1996: 36), the whole idea here is to remove any power from the employees through the removal of their responsibility. Why then is responsibility important?

Responsibility can be understood socially as "*those things for which* [people] *are accountable; failure to discharge a responsibility renders one liable to some censure or penalty*" (1996: 329). The importance of this lies in "[u]*nderstanding the nature of our causal responsibility for our own thoughts, nature, and actions* [which] *is the main problem in any theory of action*" (1996: 329). This relates with the problem of free will, referring to the manner in which we "*reconcile our everyday consciousness of ourselves as agents, with best view of what science* [or in this case Scientific Management] *tells us that we are*" (1996: 147). This daily conflict within one's consciousness will be explicated in terms of the individual moral agent and responsibility in Chapter 3. For now it is worth noting that responsibility is linked with our ideas of ourselves, and that it conflicts with the scientific view of what it believes we 'ought to be'. And as such, responsibility is directly linked to 'our everyday view of ourselves as agents'. Thus, the removal of one's responsibility in terms of the workplace, started with Scientific Management, as demonstrated. This removal of responsibility, however, also entails the removal of one's individual agency or autonomy.

As opposed to the view implied in Scientific Management, that work and self can be separated, consider the following argument by Van Peursen, that work is to be regarded as part of the constitution of the self. Van Peursen argues that work can no longer be "*regarded as a thing, a kind of substance, which one can negotiate and trade in. Working is a way of realizing our distinctive being as men*" (Van Peursen, 1974: 90). Therefore removal of work responsibility is to remove some part of the self, or the individual's autonomy. Though the relation between the autonomy and responsibility will be explicated in greater detail in Chapter 3, it suffices that one could briefly state that autonomy is socially granted to the individual on the premise that they can manage it responsibly (as will be demonstrated in Chapter 3). The latter requires the individual to have personal responsibility for their decisions and actions. Subsequently, if responsibility is removed from the individual it causes cognitive dissonance[31], which is the foundation for not only labour alienation, but self-alienation as well. Accordingly, the direct implication of this removal of autonomy is resistance. In brief, resistance comes about as a reaction to the process of the removal of autonomy. The ways in which this resistance manifests, will be discussed shortly with reference to the implicit contract. For now, however, it is sufficient to return to the discussion about the removal of responsibility by Scientific Management.

At this point I have mentioned that the principles of Scientific Management entailed the removal of the employee's sense of autonomy, and that this caused resistance. Scientific Management was able to address this resistance by means of increased mechanical sophistication and implementation, enabled by the information acquired through the application of these principles. This enabled management to replace individual workers with machinery, which was self-regulatory, as will be explained below. This, however,

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[31] Cognitive dissonance is defined as "[a]*n emotional state set up when two simultaneously held attitudes or cognitions are inconsistent or when there is a conflict between belief and overt behaviour. The resolution of the conflict is assumed to serve as a basis for attitude change in that belief patterns are generally modified so as to be consistent with behaviour*" (Rebber, 1985: 129).

started a further cycle of resistance from employees, and further reaction from the organization which escalated in Fordism.

To return to the discussion of Scientific Management, the implementation thereof caused the lengthening of the working day and machine-based piecework[32], through which profit was generated and increased. Put differently, "[u]*nder machine-based production, control over labour* [control] *is once again more firmly in the hands of the employer*" (Webster et al, 2004: 14). Thus Scientific Management set the stage for future models and recognized the need for machinery, however the use of machinery, combined with even stronger forms of bureaucratization, focused progressively more on removing the worker's autonomy and responsibility from work. This process of bureaucratization was taken even further and reached fruition in the next phase of management models.

1.2 Fordism

This step in the development of management models lead to the complete replacement of craftsmen with further mechanization, more separation of mental work form manual labour "*and the use of machines as a weapon in the struggle between workers and employees*" (Webster et al, 2004: 14). The relations instituted by management models between the organization and the individual employee thus far, becomes one of struggle under this form of management – a battle for power over control of employees and their work. Fordism can hence be seen as a more intense implementation of Scientific Management, but also on a much larger scale. It "*resulted in a dramatic rise in both productivity of labour and the alienation of labour*" (2004: 14).

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[32] Piecework is defined as "[w]*ork paid for according to the number of items produced*" (Ilson et al, 1985: 1288)

Braverman summarized the employee's experience of the Fordism process as follows:

> "*The quickening rate of production depends not only on the change in the organization of labour but on the control which management, at a single strike, attain over the pace of assembly, so that it could now double or triple the rate at which operations had been performed and thus subject its workers to an extremely intense form of work*" (qtd. in Webster et al, 2004: 14).

Fordism is ruled by the notion of speed, in other words "[t]*he ideal is* [that a] *man must have every second necessary, but not a single unnecessary second*" (Beynon, qtd. in Webster et al, 2004: 14). Fordism surpasses Taylorism by deepening management structure and character with the following two principles: "*the integration of different parts of labour by a system of conveyors; and fixing of the worker's jobs and positions determined by the assembly line. The individual worker thus lost all control over his or her work*" (2004: 15). The distribution of responsibility of work now went fully to management.

Paradoxically, even though Fordism was geared towards increased control, this system also gave rise to the first group action against this process of institutionalization, what we now know as unions. The reason for this was that individuals knew that they no longer could bargain with management as separate, autonomous agents, since the individual is too insignificant, the management structure too large vertically, and the power relation too asymmetrical. 'Resistance' had therefore become group-based, with the hope that organized forms of solidarity will help reduce the reasons for resistance and make explicit why it takes place, in order to find less destructive alternatives to both the worker's self and the organization for which he or she works.

It is therefore ironic to see that this form of management, too, does not resolve the problem of resistance, carried over from and caused by Scientific Management. The

reason for this failure can be attributed to the fact that both management styles mentioned thus far, are geared towards gaining control of the individual's autonomy, this in turn gives rise to resistance, which only leads to increased measures of control, creating a vicious cycle. The more control these management models exert over the individual's autonomy, the more resistance this causes, and thus the more these management models find it necessary to have control over the individuals' autonomy to lessen resistance. Accordingly, even though unions developed as a result of the struggle between individuals' lack of autonomy in relation to companies increased demand on control over the latter, unions proved insufficient in the long run, given that they tried to solve the question of autonomy in a group-based way, which still did not address the original problematic of individual autonomy[33].

Up until this point, management had not considered the employee as an asset; however, with both products and clients growing more sophisticated, the Fordist idea of employee-employer relations seemed increasingly insufficient. In the next phase of management models, action on the part of the employer rather than merely focusing on control of the employee becomes important in addressing problems arising from this systematic alienation of the employee. And it is then especially in terms of these, more contemporary management models, that compliance, and the problem of compliance, increasingly comes to the fore. Although compliance has always been an integral part of management's methods of control, it is within contemporary management models that we find the focus on compliance increased, as turning to Post-Fordism in the section below will demonstrate.

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[33] The basic argument for this failure on the part of unions, is that "*changes occurring in the occupational structure and social composition of labour forces across the world have been largely detrimental to union organization and, in particular, the growth of new occupational groups with scarce skills (which may lead to a preference for individual, rather than collective, labour market strategies) which makes it difficult for unions to recruit such workers, while the growing number of employees in private service with low-paid and insecure jobs may lack the resources and cohesion to undertake collective action*" (Watson, 1989: 325-326). This refers specifically to the global move towards the service industry, which is discussed in the section below on Post-Fordism. Lastly "[i]*f union power is looked at in terms of outcomes, we see, in the British manufacturing case, that real wages grew less slowly and productivity more rapidly in non-unionised plants*" (1989: 326).

1.3 Post-Fordism

As Post-Fordism guides most current forms of management, this section will be discussed in far more detail. Also, as stated above, this is the section in which the notion of compliance is more fully introduced. As a point of departure, it is important to note that the present economic and labour market is driven by the service industry, as statistically "[p]*erformance in the service sector accounts for 79 percent of the jobs in the non-agricultural sector in the United States. Furthermore, more than 90 percent of new jobs in 2000 were in the service sector, while the number of goods-producing jobs steadily declined*" (Webster et al, 2004: 18).

Within the service industry, there is a move on the side of management towards focusing on human capital, and consequently control methods are shifting from mechanical solutions to compliance based solutions. The implication of this shift in focus is the creation of two types of jobs in the service sector: "*highly skilled knowledge workers; and the routine service sector worker*" (2004: 18). Knowledge workers, as the key component of human capital, can be defined as "*workers who possess either job or organizational knowledge that are recognized as essential to the organizational effectiveness.* [These] *employees are* [fundamental elements] *in the developing of an organization's unique, valuable, scarce and inimitable competencies* (Barney qtd. in Pinnington, Macklin, Campbell, 2007: 43). All of this is driven by globalization and the greater need for flexibility that arose with it, since one of its implications is the greater sophistication of the customer. This leads to "*mass customization*" creating what some call "*markets of one*," emphasizing customer individuality (Cant et al, 2006: 21).

The biggest change in terms of the global shift to a service driven economy for employees is that "[i]*n the service industry control is now exercised over workers'*

appearance and their feelings," labeled emotional labour (Webster et al, 2004: 16)[34]. The bureaucratization process, in this regard, comes to bear on a different element of work which it seeks to separate from the employee. This is not their skills, but how they represent themselves and make others feel in public. However, according to Pior and Sabal, in this Post-Fordist phase the "*work organization is being restructured along much more flexible and less alienating lines*" (qtd. in Webster et al, 2004: 16).

This is a necessity in a service driven global market where inflexibility means that production becomes unable to respond to changes, something unacceptable if considering mass customization. Furthermore, with technology growing more sophisticated at a nearly exponential pace, being inflexible means falling behind. The latter we will consider in Chapter 2 in terms of the notion of "culture lag". What is to follow are ideas on the subject of flexibility in the Post-Fordist model of management, and as concepts they seem to address some of the problems of the previous models. However as Zaolnai (Zaolnai, 2004: 13) and Castells (qtd. in Webster et al, 2004: 17point out in their critiques, as it will be argued is also the case in compliance, when applied practically, these concepts seem to have the opposite impact. In other words, rather than addressing the problems of alienation and emotional labour, these ideas regarding flexibility seem to divide labour, and with this, increase the difficulty of addressing the problems of the employee. This said, let us consider flexibility, as at least one of its conceptions is something to strive for.

Flexibility has two forms: firstly, there is "*functional flexibility* [which] *does away with rigid job descriptions so workers can perform a number of different tasks*" (Webster et al, 2004: 16). This involves the reintegration[35] of the worker in his/her work, by making

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[34] Emotional labour refers to "*the conscious manipulation of the worker's self-presentation, either to display feeling states and /or to create feelings in others*" and receiving monetary reimbursement for these displays (MacDonald and Sirianni qtd. in Webster et al, 2004: 18).

[35] Integration of employees is cardinal to the positive work force and refers, eessentially, to "*the integration of personality and organization*" which is central to the self-esteem of employees (McDaniel, 2004: 80).

them more creatively[36] involved with their work. However how practical this is in specified fields is questionable, and this may involve "*increasing the number of skills a worker has* (*multi-skilling*), *or involve increasing the number of tasks to be done* (*multi-tasking*)", which costs organizations time and money that they are seldom willing to spend (Webster et al, 2004: 16). However it does relate to one of the more important ideas that we will explicate in this Chapter specifically: job depth[37].

The other form of flexibility is "*numerical flexibility* [which] *creates groups of workers who have no job security*" (2004: 16). These workers are employed on a temporary, contract, casual, or part-time basis, with the specific focus on making labour more 'flexible'. This means that in times of greater production labour can be brought into the workplace on a temporary basis. The crux "*of the new work order, then, is the idea of a*

The latter is important because it refers to one of the basic needs of employees, which is dignity at work. What is more, research has found that workers view dignity as "*a foundation for a fully realized life*" (2004: 90). We can briefly describe "[w]*orking with dignity* [as connecting] *with ethics through its synonym, self-respect*" (Webster et al, 2004: 89). Therefore to integrate employees is to allow and even give incentive for as much cognitive involvement and self expression as to promote productivity of the highest optimum level and through this treat the employee with dignity.

[36] Creativity is defined as the "*mental processes that lead to solutions, ideas, conceptualization, artistic forms, theories or products that are unique and novel*" (Reber, 1985: 165), it is something then that necessitates higher cognitive processes such as imagination, which in turn is only possible given the existence of the individual, since imagination is the "*process of recombining memories of past experience and previously formed images into novel constructions*" (1985: 345). In other words, there is no creativity without the individual who has the imagination to create novel solutions, and the latter is reliant on the individuals' capacity to recombine memories, both elements of which necessitates having cognisance of once behaviour independent of any one or any thing else. It is important to mention the latter since this becomes a point of contestation in Chapter 3 regarding the corporation as a moral agent, however here we can reasonably safely say that no corporation as of yet is in position of a memory, as the capability to put the latter together in novel ways, without relying on the people that works within its structures and via this gives it a vicarious existence.

[37] Job depth refers "*to how much planning, decision-making and controlling the worker does on the total job*" (Grobler and Wärnich et al, 2006: 140). This said, "[t]*his dimension is difficult to determine because it cannot be measured in easily identifiable terms*" (2006: 140). I use job depth to explicate what can be understood under creativity, which has to do with employees' capability to make discretionary judgment. To understand the latter it is important to look at work motivational factors which are "*job depth*" and "*job scope*" (2006: 140). Job scope can be defined as "*how long it takes a worker to complete the total task*," for example, it can take a worker at a radio factory five minutes to wire one radio thus the job cycle was five minutes (2006: 140). In the context of this thesis I am then referring to creativity as part of the job depth of the individual employee, especially in terms of his or her capacity at work to make moral decisions.

dual labour market divided between the core and the non-core [where the] *core work force is, often, involved in the informational economy based on knowledge and innovation in new industries of computers, telecommunications, and biotechnology*" (2004: 16).

Knowledge, as mentioned, is then the main product of a service industry and "*these so-called 'knowledge workers' focus on the design and conceptualization of the product and are based in the advanced industrialized countries*" (Webster et al, 2004: 16). There has been a shift, however, in some of these markets, such as the shift towards computers in emerging economies like India, for example, where knowledge work can be performed, based on the idea of numerical flexibility. This said, "*the actual production of goods* [still] *takes place in 'sweatshops' in developing countries. It is subcontracted to production sites in the export processing zones (EPZs)* [such as those] *of South Asia*" (Webster et al, 2004: 16).

All of the above-mentioned ideas on increased flexibility considered, critics have stated that within "'*Post-Fordism' the most common form of work in this new phase is the growth of routine*" (2004: 17). This idea harks back to Marx's idea of alienation of the labourer, who is totally inundated by mindless routine and never creatively involved. However, what is not disputed is that "[a]*t the heart of the globalization of production is a new form of competition that focuses on innovation and flexibility. An interval characterized by the transformation of our 'material culture' by the works of a new technological paradigm organized around new information technology.* [Creating a] *'network society'*" (Castells qtd. in Webster et al, 2004: 17).

Castells believes that while "*the old was hierarchical, the new is based on moving, more horizontal networks. A network is a temporary collaboration between companies or parts of companies shaped around a particular project*" (qtd. in Webster et al, 2004: 17). This makes the organization very flexible, and assists in innovation as a new collaboration can

be formed for a new project, immediately after the old is disbanded. This phase is a new form of capitalism, "*informational capitalism*" (Webster et al, 2004: 17). The most important elements of information capitalism to employers and employees are the concepts of knowledge capital and tacit knowledge[38], and the biggest threat in this context is that of knowledge spillage[39] (the importance of which will be explained later in this study).

Castells maintains that the new social relations of production have become "*disconnected* (qtd. in Webster et al, 2004: 17). He reasons that capital is able to "*move freely and invisibly through the Internet and email across the globe eroding the idea of labour as a collective actor. Workers are scattered and isolated in small and, sometime hidden, workplaces concerned with individual survival*" (Webster et al, 2004: 17). It could be said that with the realization of this phase of free-moving capital and scattered labour, one of the consequence of the bureaucratization process has come to fruition. Zaolnai calls this "*the 'great transformation'* [which] *disembedded* [economics] *from its social, environment and cultural context*" (2004: 2). What is more, the "*economy is no longer embedded in social interrelationships but society is embedded in business relation*[s]" (2004: 14). The consequence for economics is that it is severed "*from, nearly all traditional normative constraints and becomes the dominant societal norm*" (Webster et al, 2004: 14). It could therefore be said that in this phase bureaucratization's separation of *substance from appearance, action from responsibility, and language from meaning* have

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[38] The idea of tacit knowledge arose from the recognition "*that people constitute 'human capital*'" and with this the "*resurgence of interest in how to 'manage' this resource in order to maximize benefits to the organization*" (Pinnington et al, 2007: 254). In this context then tacit knowledge in terms of human capital recognizes the "*skills and knowledge people bring to the organization have value in and of themselves*" (2007: 254). This is based in the idea that "*knowledge is so intricately intertwined with the knowledge-creators that it is meaningless to contemplate the need for a separate process of appropriating such knowledge*" (2007: 255).

[39] Knowledge spillage can shortly be defined as the '*dissipation*' of organizational knowledge by or through an employee (Pinnington, et al, 2007: 255). This is built on the idea of tacit knowledge defined previously, that 'knowledge is so intricately intertwined with the knowledge-creators that it is meaningless to contemplate the need for a separate process of appropriating such knowledge'. This makes the curbing of knowledge spillage especially difficult since one cannot in terms of tacit knowledge separate the individual from the knowledge he or she possesses.

come to pass through the process of disembedding economics, what Zaolnai refers to as "'*emancipation' of economic rationality from moral philosophy*" (2004: 2).

Thus, even though Post-Fordism as a concept seems to resolve some of the problems surrounding alienation and the subsequent loss of autonomy, as demonstrated in the observations by Castells and Zoalnai, its practical implications seems to be contradictory. This disembedding process will be considered in greater depth in Chapter 3, on the subject of moral agency. For now we need to turn our focus back to management models and ask why there was an intensification of bureaucratization for reasons other than profit. In other words, what is the human element in this process, or what is the employee's role in the intensification of bureaucratic institutionalization? The answer to this can be found if we briefly consider the notion of risk, or, considered in terms of employee behaviour, *resistance* as stated earlier. The latter will now be discussed in greater detail in the context of the implicit contract.

2. Resistance and the implicit contract

To understand what is meant by *resistance*, as well as its importance to the attempts of the management models referred to above to assimilate it formally, it is necessary to explicate what is meant by the implicit contract. The definitions that follow concerning the implicit contract come from the work of Watson (1989), but are widely accepted as the standard definition thereof. Although the implicit contract was originally a development of the first management model (Scientific Management), all subsequent models was tasked with having to find ways to assimilate resistance into their management structures, hoping to negate it in some way or another. What can then be understood under the implicit contract?

The implicit contract can be seen as a subdivision of the social contract. The social contract can be defined as the:

"*basis for legitimate legal power in the idea of a contract. Contracts* [create] *obligation, hence if we can view society as organized 'as if' a contract had been formed between the citizen and the sovereign power, this will ground the nature of the obligation of each other.* [Social contracts] *need to explain whether the contract is thought of as having actually taken place, or as implied socially, or are merely hypothetical, the idea being that a legitimate body politic is one that a suitably placed agent could rationally have contracted into*" (Blackburn, 1996: 354).

In terms of this, the implicit contract refers to an unwritten understanding between employer and employee regarding the tensions that *tend to centre on two main issues: the amount of material rewards available to the employee, the extent of control over employees conceded to the employer* and the conflict that this entails (as defined in this Chapter, page 26). Here control is understood as the amount of autonomy one possesses over one's work. Such tensions therefore arise because the agreements based on the implicit contract are constituted on "*an agreement between unequal parties in which the employee, in the light of his or her particular motives, expectations and interest, attempts to make the best deal possible, given his or her personal resources*" (Watson, 1989: 221). An important element of this is what is called the psychological contract.

The latter can be defined as "*the foundation of employment relationships*" and entails the "**beliefs** *about what employees believe they are entitled to receive or should receive because they perceived that their employer conveyed* **promises** *to provide these things. Only* **expectations** *that emanate from* **perceived** *implicit or explicit promises by the employer are part of the psychological contract*" (my emphasis) (Grobler and Wärnich et al, 2006: 221). In regards to this it is important to state that "*the psychological contract is inherently perceptual* [and] *dynamic as it is affected by changes in society in general and the work environment*" (Grobler and Wärnich et al, 2006: 221). As such it is "*part of the glue that binds employees to organizations*" as well as the binding component of the implicit contract (2006: 221).

The tensions inherent within the implicit contract becomes important, as this is what gives rise to resistance. As mentioned, these centre around the amount of rewards the employee receives for the degree to which they relinquish some of their autonomy to the employer, through the continual alienation and separation of the employee from their work. To understand the implicit contract, we therefore need to ask the following questions: what are those everyday acts of resistance, what conditions cause them, and how are they used?

In other words, to understand the implicit contract is to try and understand *resistance* in the workplace. This can be found when looking at the implementation of the implicit contract, which I believe is a more realistic view of actions taking place on an everyday basis. This is what constitutes the real corporate culture, not just referring to concepts such as management models which apparently define the corporate character. In other words, not just concepts on how to resolve and manage resistance are needed, but what resistance is on an individual, everyday level, and why it takes place also needs to be addressed. Importantly, because the implicit contract focuses on the individual, unlike other forms of resistance, those that result because of the implicit contract are the most persistent.

The first part of the following will therefore define the context of the implicit contract. Then I will focus on those parts which are of importance in the context of this study. This is followed by a discussion of the reasons for resistance and examples thereof, which could be regarded as reactions to the defined context, namely the institutionalization of control through the management models in question.

2.1 Effort bargains

In order to define the context of the implicit contract, it is necessary to first discuss the effort bargain. This refers to the fact that the wages to be paid to the employee stands in

contrast to the profit-driven interests of management. This inherent conflict forms the basis of the implicit contract. As stated by Edwards and Baldamus, "*wages are cost to the firm, and the deprivations inherent in effort mean 'cost' to the employee, the interest of management and wage earner are diametrically opposed*" (qtd. in Watson, 1989: 220). This conflict of interests manifests in the struggle which takes place to achieve wage disparity in favor of either the employer or the employee. Typically, in a capitalist economy, the trend is toward disparity in the favor of the employer. The following are possible reasons for this:

1. Employees have been "*socialized into accepting a certain level of work obligation 'as a duty', thus conceding some effort to the employer 'free of compensation'*" (1989: 220). Such socialized acceptance of this level of obligation would be akin to a degree of socially "*learned helplessness*" (Louw and Edwards, 1998: 232-233)[40].

2. Crucially, "*the employer, in the context of a capitalist market economy, simply cannot afford – in the long run – to concede wages disparity in favor of employees*" (Watson, 1989: 220). Capitalism and competition obligates the employer to "*intensify the work effort derived from the employee at a given cost*" (1989: 220).

3. This creates a low trust environment[41], which "*entails what economists call 'transaction cost*'" (Fukuyama, 1996: 27-28).

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[40] To understand learned helplessness I cite the following example that if a dog is in a situation where it gets shocked from time to time and there is no escape or avoiding it, it eventually reaches a stage where it seems to give up, and lie down, accepting the shock passively, without doing anything to resist. This is learned helplessness, and once learned, is hard to unlearn. It also appears in humans, for example a girl being abused by a family member, who gets caught in what she perceives to be an inescapable and unbearable situation (Translated) (Louw and Edwards, 1998: 232-233).

[41] In situations were trust is low, people will end up cooperating only under a system of formal rules and regulations, "*which have to be negotiated, agreed to, litigated, and enforced, sometimes by coercive means*" (Fukuyama, 1996: 27-28). This is caused by the "[w]*idespread distrust in society, in other words* [this] *imposes a kind of tax on all forms of economic activity, a tax that high-trust societies do not have to pay*" (1996: 27-28). This tax comes from the cost incurred in the process of trying to get people to work together that do not trust each other and therefore have to constantly rely on ways, such as contracts to assure no party is treated unfairly. In such a system one's innocence and dignity are constantly in question which one in turn constantly has to prove.

To broaden the understanding of the effort bargaining and the mentioned ongoing conflict it creates, as defined so far, the following is useful to clarify the history of this conflict.

People tend to form coalitions based on shared interests, in order to further their pursuit or defense of these, given that there are only limited recourses. A consequence of this is that "*over time, some groups win out over others in the competition for scarce resources and attempt to consolidate their advantage through their control of institutions and through the propagation of ideology*" (Watson, 1989: 221). The industrial capitalist, 'bourgeois' is most successful in this competition "*but the advantages which* [the bourgeois] *accrue from their use of such formally rational means as bureaucracy, technical division of labour, wage-labour, advanced technology and the rest are constantly threatened*" (Watson, 1989: 221). These are threatened, not only by the less privileged, but also because of various contradictions in the industrial capitalist system itself (1989: 221). Because of these threats, employees will try to ensure their position, by attempting to make the best deal possible, in terms of "*employee inputs of effort, impairment and surrender of autonomy*," which is exchanged for "*employee rewards of cash payment and fringe benefits, job satisfaction, social rewards, security, power status, career potential*" (1989: 221). Yet, these above-mentioned means of compensation are largely indeterminate, as their qualitative nature is hard to define in concrete terms.

The notion of benefits and the bargain that is agreed upon in this implicit (social) contract are therefore inherently "*unstable, especially as a result of the market context in which it is made*" (1989: 221). Market capability "*on the part of the employer creates a constant pressure to minimize cost – in turn* [leading] *to pressure to either cut the rewards or increase the effort of the employee – either way to the employee's disadvantage*" (1989: 221). Employees in turn will defend themselves, especially since they buy goods and services on the same market, and are as such also customers to their employers. Paradoxically, "*the advertising and marketing efforts of employing organizations create a pressure on their employees to increase, or at least hold stable, their rewards (employees and customer being ultimately the same people)*" (1989: 222).

As employees are constantly in search of means to generate and assure greater economic viability, organizational and technological changes to this end are introduced by the employer, but "*any such change, however minor it may seem, potentially invites opposition from employees whose implicit contract may be seen to be threatened*" (1989: 222). The reasons for them feeling threatened is because these changes tend to involve a "*tendency to reduce 'rewards' like job satisfaction or opportunity to use craft skills, or because of a tendency to call for increased employee 'input' in the form of increased effort or further reduction in the amount of autonomy, which the employee has at work*" (1989: 222).

In a reaction to this competition, negotiating and encroachment the following can be observed:

1. To protect and improve their market position, employees form coalitions such as unions, except if they have unique skills, of which there is an increase in a service market, which is increasingly technologically driven (Watson, 1989: 222).
2. There is a constant renegotiation on agreements on what is defined as rewards, a fraction of which is formal and which is always threatened by volatile external market conditions, which threatens the stability of any such agreements (1989: 222).

Knowing this, it becomes clear that "*a grievance situation arises whenever a particular implicit contract is perceived to go out of balance*" (1989: 222). Arguably, this balance is disturbed most of the time because the implicit contract removes too much autonomy. This is compounded by the fact that the implicit contract, considered in terms of what constitutes an ethical contract, defined in the introduction and what has been considered on the subject of the implicit contract thus far, is inherently asymmetrical, in favor of the employer. In turn this imbalance can lead to workers reacting in a range of ways, such as going slow and strikes (which we consider next), however "[a] *grievance can be settled or accommodated not only by a return to the prior status quo but by rebalancing of the*

implicit contract in a new form; an increase in cash being agreed to compensate for a loss in autonomy resulting from a technical change" (1989: 222-223). Such a technical change could be introducing new automated machinery, making old forms of working obsolete.

2.2 Reasons for and examples of resistance

Given the context of the implicit contract, resistance can now be explored and examples given of what type of resistance necessitates the implementation of management controls, which in the Post-Fordist model leads to increased focus on compliance as a control tool. From the outset, the main problem with management theories had been that workers constantly try to subvert control by acts of resistance. The before-mentioned merely referred to an individual level, but these are supported by the social working environment of the workers. These acts of resistance also indicate the main problem, which is too great a loss of autonomy. As the implicit contract entails the tension between autonomy lost and the remuneration given, the argument is then not so much focused on remuneration or other rewards, since poor remuneration or too little rewards equals unfair remuneration for the amount of autonomy sacrificed for a given task – thus it still is a question of lost autonomy. These acts of resistance have persisted historically, and still continue today.

2.2.1 Accommodation, subjectivity and values

Accommodation, subjectivity and values refer to the most basic reasons for resistance, given the above-mentioned focus on the loss of autonomy. Accommodation can be understood when considering the "*adjustments*"[42] made on the part of the employee, all involving degrees of resistance to the patterns of power in which employees are involved

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[42] Adjustment here briefly refers to the fact that during the "*cooperative action in a social context*" needed for the existence of an organization, people "*take the perspective of the attitude of others in the development of their conduct*" adjusting their behaviour accordingly (Buchholz and Rosenthal, 2006: 235). "*Not only can selves exist only in relationship to other selves, but no absolute line can be drawn between our own selves and the selves of others, since our selves develop only insofar as other enter into our experience*" (2006: 235).

(Watson, 1989: 220). Resistance here involves a "*defense of self – an attempt to maintain the individual's sense of personal integrity[43]. Paradoxically, it is precisely the key concern of these 'oppositional practices' with the 'self' and with the adjustment to circumstances that reduces the extent to which what is done is significant resistance*" (Watson, 1989: 219). Furthermore, it can be said that when "*people [are] defending their sense of self in the face of a more powerful 'other', there is not a fixed 'self' which is wholly separate form its structural context. Self-identities 'are always in process' and power 'provides the conditions of possibility' for the self-formation of identities*" (1989: 219). Watson argues that this process involves a "*perpetual tension between power and resistance or subjectivity and identity*" (1989: 219).

To extend this point, "[w]*e also must remember that a person's 'self-identity' involves them holding values and beliefs which will always in part differ from those implicit in the 'subjectivities' which are pressed upon them in the discourses current in their employment setting*" (1989: 219). A consequence of this tension between subjectivity and identity, between power and resistance, leads to the following two sets of symptoms, namely withdrawal, instrumentalism and the management of boredom on the one hand, as well as escalated resistance on the other.

2.2.2 Withdrawal, instrumentalism and the management of boredom

The most obvious way to react to the deprivations of a given work situation is to leave. Labour turnover is usually a good indicator of the level of conflict within an organization. The "*importance of the idea of 'jacking'* [or leaving] *in the navies*"[44] *occupational*

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[43] Integrity can be defined as "[m]*ost simply a synonym for honesty*" (Blackburn, 1996: 195). However in the context of this thesis it refers to "*the more complicated notion of harmony of the self, associated with a proper conception of the self as someone whose life would lose unity, or be violated by doing various things*" (1996: 195). Notably an argument related to this thesis was made by "*Williams* [stating] *that utilitarianism can make no sense of the range of thoughts this properly engenders*" (1996: 195). This refers to utilitarianism's measurement problem, which is basically that some things are immeasurable, such as integrity and one's moral agency connected with this. Secondly, that one cannot measure all foreseeable outcomes of one's action as utilitarianism assumes.

[44] A "navie" is defined by Waite as an "*unskilled labourer*" (Buchholz and Rosenthal, 2006: 585).

ideology reflects the men's strong desire to feel and be seen as independent of any particular employer and as indicating a basic hostility to employers in general" (Watson, 1989: 223). Some forms of absenteeism or collective submission of formal sanctions might also be seen in a similar way and "[e]*ven accidents may reflect industrial discontent*" (1989: 223). However, this said, "*the different forms of conflict behaviour have to be understood in the context of the specific work control structure* [or character] *of which they are a part*" (1989: 225). For example they "*show how absenteeism among a set of woman workers was acceptable to their managers. These same managers, however, would have found a similar level among male workers – who were much more directly and intensely controlled than the woman – far less acceptable*" (1989: 225). Yet, keeping this in mind, such cases still has to be assessed as an indication of the problem of resistance.

An important way in which employees comes to terms with work deprivation is by taking their identity not from their occupation, but from home life. This has become problematic in the service economy, however, because of the concept of emotional work, where the employee is paid to reflect certain types of emotions. It is thus questionable if employees engaged in this type of work can leave the effects of deprivation at work. When such a coping method is used, work deprivation is usually managed by rationalizing work as a necessary means to other ends. Sennett and Cobb argue "*that for people to accept a circumstance whereby they are constantly given orders by others they may have to adjust by viewing themselves in a self-disparaging way and even by feeling secretly ashamed of what they are*" (qtd. in Watson, 1989: 225).

Another view is that "*the simplest expedient of getting through an unfulfilling day's work is for the individual to allow themselves to be 'drawn along' by technology which they are operating,* [what] *Baldamus calls 'traction'*" (Watson, 1989: 225-226). For an employee to cope with long periods of unchallenging work and make it psychologically manageable, "*the experience has to be structured and broken down into manageable components*" (1989: 226). Again, the individual are separated from their actions, referring

to the disconnecting process of bureaucratization. To help them cope, workers "*create games*," pseudo-brakes or "*work back up the line*" to create or "*buy time for themselves*" through finishing tasks before hand (Watson, 1989: 226). And although these appear to be reasonably innocent, if perpetrated on a large scale, they may cost an organization in terms of poor product or service quality, when haste rather than quality of production becomes more important. And when considering traction, time is wasted through poor production, because of low motivation. Furthermore, in such a situation, safety might become compromised for the sake of expedience or not being focused on the job at hand.

Until now, we have considered minor forms of resistance in terms of material cost, however, there are also lesser form of resistance that carries emotional, or psychological costs. Some of these forms of resistance are joking, cursing and horseplay. Humor is constituted from incongruence and

> "… *a key incongruity in organizations is that between the serious side of life* [the work that has to be done] *and the 'pettiness, chaos, fallibility and uncertainty of any human endeavor'. Laughter helps us 'cope emotionally with that which could frighten us into madness: the fragility of our identities and the contingency of our social location'*" (Watson, 1989: 226).

Humor in all forms helps individuals in potential conflict situations, accommodating each other, enabling employees to co-operate and interact successfully and can "*play a* [leading] *role in people's adjustment to work circumstances*" (1989: 226).

Workplace humor is defined as "[a]*ll forms of communication accruing in the work situation which creates within people feelings of amusement and predisposition to express that emotion through laughter*" (1989: 228). However, it has been observed that although sometimes a joke is "*said 'in a friendly manner it did conceal reprimand'*" and it tends to be ambiguous, in that it can also "*simultaneously channel hostility and elicit feelings of friendship and solidarity*" (1989: 227). It was observed that managers "*use*

humor in two ways" (1989: 226). One is to "*influence and persuade, to motivate and unite, to say the unspeakable and facilitate change*" (Watson, 1989: 228). They also use it as a "*shield, to deflect criticism, to cope with failure, to defuse tension and to make their working life more bearable*" (1989: 226). It is then "*the serious, structured, rational side of business* [which] *provides a poignant backdrop for humor*" (1989: 226). Humor could therefore be used for sustaining either a good or bad corporate culture.

It is thus clear that "*humor serves a dual function,*" the bad side of which is that it helps "*people to accept structure whilst avoiding their surrender of self,* " constituting, as Karl Marx would say, an opiate in that as such, "*humor helps maintain an organizational culture*" (1989: 227). Yet, what is more worrying and at the same time more important in this thesis, is the point that Meissner makes when he states that "[t]*he perfunctory nature of much workplace communication portrays workplace humor as a rather alienated form of activity in itself, as opposed to brave resistance to alienation*" (Meissner, qtd. in Watson, 1989: 227). For example "*obscene joking frequently observed among female manual workers is practiced more 'as a matter of defense against male presumptions and dominance than for fun'. If it is at all funny, he notes, it is only in a 'self-destructive sense'*" (Meissner, qtd. in Watson, 1989: 228). These elements of humor are self destructive and tend to assist in the emotional separation of the individual with their true emotion towards their work. It is hard to imagine that this could be good for any person in the long run and their sense of autonomy and identity.

2.2.3 Escalated resistance

The following examples are more serious than those mentioned above, as it represents the escalation of resistance, even involving actual criminal aspects. Work counter-culture might offer resistance "*but usually only serves to help the less privileged to adjust to their lack of freedom and privilege at work, and serve then as an integrating mechanism* [indicating again that] *organizations are constituted by the interplay between official and unofficial practices of participants*" (Watson, 1989: 229). Activities that are strictly 'against the rules' or which are illegal in the narrowest sense, can often be seen as

integral to "*the way work is organized rather than as aberrant and constituting an unambiguous threat to dominant interest*" (1989: 229).

Considering cheating, fiddling and breaking things, as observed by Mars and Nicod "*among hotel waiters,*" for example:

> "*… it is clear that the money made – which is seen as part of wages – is a form of theft from the employer we need to bear in mind that these losses by theft may constitute very reasonable 'cost' from the employers' point of view. This is not only because they enable wages to be kept low, but also because they constitute a form of reward which is not conducted to official negotiation* [i.e. implicit]. *Because of this, unionization is unlikely*" (qtd. in Watson, 1989: 229).

Thus "[b]*y maintaining a particularly individualistic form of activity, the potential for collective organization and opposition to managerial control is effectively reduced*" (1989: 229). With reference to the above, Watson also submits the fact that similar behaviour was observed by Ditton in his participant study of bread salesmen. In this study, illegal actions are sometimes integrated into the implicit contract, in this case "*money gained from customers through fiddling is part of how wages are interpreted by the firm, and also how it is entered and trained; geared towards explicitly teaching recruits to rob customers regularly and invisibly, and fiddling also helps certain managerial problems*" (Watson, 1989: 228-229). Illegal action then is sometimes part of the implicit contract and certainly promoted by it, furthermore it is sometimes group based.

Watson strongly emphasizes the social function of illegal activities in the workplace, arguing that "*the general trading in pilfered goods which goes on in many workplaces and constitute a 'hidden economy' involves deals which often have less to do with material worth of the goods and more to do with fulfilling the expectations and moral obligations of the friendly relationship*" (1989: 230). As explained by Watson, general

trading has to do with gaining favor with colleagues rather than making money. This supports the contention made earlier that of the two reasons for resistance the loss of autonomy is more important than increased remuneration or rewards. This suggests that the seeking of safety in numbers takes place in reaction to a feeling of individual helplessness, in an attempt to seek psychological safety.

As such, these types of fiddling activities are devised, primarily to benefit both individuals and groups at work, as their key purpose, however, is not to threaten the dominant interest of the organization.[45] When, however, we speak of "*sabotage* [at work], *such a purpose is more central*" (Watson, 1989: 230). Sabotage is defined as "[t]*he deliberate disruption of work flows within an organization or the undermining of the conditions whereby dominant management purposes are readily achieved*" (1989: 230).

Sabotage is not meaningless, however, "*Taylor and Walton identify three types of physical sabotage, each with a different degree of immediate disruptive intent*" (1989: 230). These motivations refer to, in the first place, efforts to diminish "*tension and frustration*," secondly, attempts to ease the work process – such as putting things in place out of one's turn on the assembly line, and thirdly, "[a]*ttempts to assert control,* [such as] *'collective bargaining by riot'*" (1989: 230).

Destructive behaviour such as sabotage can also be seen as part of "*the process whereby realities are negotiated, interest are defined, and the problems of 'getting through' the day at work are coped with*" (1989: 230). All these acts can be rationally appreciated only when focusing not just on the conflict; "*but also the element of reciprocity between employer and employee expectations which develop in many 'low-trust' employment*

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[45] These prove harmful to the organization and to society in the long run, however, as the organization's reputation will suffer if fiddling is found out. This will cause lack of trust in terms of the organization's relationship to society, not to mention legal costs if these are pursued.

situations" (1989: 231). Furthermore, sabotage is not isolated to low status work, such as routine workers alone and can take other than physical forms. This is especially the case where "*managers and technocrats find themselves subjected to the types of control normally associated with manual workers*" (1989: 231). In regard to the changing global market, the latter form of sabotage is becoming increasingly noticed, in particular in contexts where horizontal type management models are being followed, and the number of middle management is reduced.

It has been observed by La Nuez and Jermier that we may find disgruntled managers acting in the following ways (qtd. in Watson, 1989: 231):

1. Letting machines break down.
2. Permitting quality decrease.
3. The "[w]*ithholding* [of] *critical information*" (1989: 231).
4. The "*revealing* [of] *information to competitors*" or knowledge spillage (1989: 231).
5. Debasing the product.
6. Speaking "*negatively about the organization to employees*" (1989: 231).
7. Forging organizational data.
8. The "*engaging in physical destruction, for example, destroying information*" (1989: 231).

The above-mentioned has treated resistance broadly, and mostly in terms of a production type economy. In the next section, given the importance of the service industry within the current economic context, we will look specifically at the types of resistance that occurs within it as a separate section.

2.3 Resistance specific to the service industry and the defense of self

In terms of the service industry, "[g]*iven the strong cultural value put upon independence, autonomy and self-expression, problems are as likely to arise for many of*

those in work which involves taking instructions from customers or clients as they are for
people who take orders from bosses" (1989: 232). The problem is that "[t]*he more*
potentially demeaning the service given might be to the service worker, the more there is
the tendency for contempt for the client to become an element of the particular work
culture" (1989: 232). What happens is, because of the emotional work involved, people
in the service industry react by referring to the client in "*a variety of depersonalizing*
titles [such as] *the mark, john, patsy, trick or punt*" (Watson, 1989: 232).

Employees are, by depersonalizing the client, trying to displace[46] or project their sense of
loss of autonomy, as well as the anger this causes them. This is exacerbated by, and
comes from their sense of *learned helplessness*. Through this displacement the client is
made to seem inferior "*and hence an implied superiority on the part of the worker, one*
which compensates for his or her superficial subservience" (1989: 319). Client labeling is
"*not simply a mechanism used by service workers to maintain their self-respect in the*
face of implied servant status. The refining of the [employees'] *labeling process* [of
customer] *and the development of typologies of clients can play a useful technical role*
and help the individual cope with the exigencies of the job" (1989: 319).

Added to these mentioned elements, is the pressure of emotional work, with the possible
consequences of poor service delivery, or more specifically, as have been mentioned,
knowledge spillage as an act of resistance. Both are unacceptable behaviours in an

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[46] Displacement is a "*theory* [which contends] *that frustrated drives do not simply go away but rather*
surface in disguised form. In other words, if a need cannot be satisfied directly, it is displaced and satisfied
indirectly (Hergenhahn and Olson, 2003: 324-327). In this case the reason for displacement is because the
client is in a sense the employee's 'boss' and it is they who are the cause of their sense of learned
helplessness stemming from their autonomy being in jeopardy. As such the frustration of experiencing
helplessness causes it to be projected onto the client, but it is a passive aggression, as explained earlier in
learned helplessness. I am also referring to displacement with reference to Nietzsche, who believed such
thwarted drives become internalized and is the basis for how Good and Evil Morality became dominant, as
propounded by Leiter in his book, *Nietzsche on Morality* (2002).

organization, costing it profit in terms of customer relations through poor performance, at the very least. Not to mention the effect this depersonalizing of people has on the individual employee's emotional and psychological well-being, which will also effect production. In terms of knowledge spillage we move towards the loss of corporate secrets and/or advantages.

The instances of resistance mentioned thus far, give a broad overview of what is commonly seen from the point of view of management as "deviant" behaviour at work. Deviant behaviour in turn, is what gives rise to the implementation of compliance. It should however be considered that individual deviant behaviour also depends on "*the way the individual deals with a particular 'role conflict'* ", but also how the person is built into the occupation and conflicts "*between an orientation to professional values on the one hand and business values on the other*" (Watson 1989: 318). According to the implicit contract, "*workplace deviance is* [a] *subculture rather than contra-culture: it reflects dominant values and norms as much as (or more than) opposing them*" (1989: 318). Compliance is thus a measure taken in the face of these forms of deviant behaviour, in an attempt to address these in an explicit manner. This will now be discussed in greater detail.

3. The problem of compliance

Against the background of these acts of resistance, compliance can be seen as a humanitarian strategy used by organizations to resolve resistance, or 'negative' employee behaviour, as opposed to using machinery, as is done under Scientific Management. When speaking of an organization's internal environment, compliance was created to address the risks these acts posed, more specifically, those acts which put the organization at risk. However, as I will indicate, compliance was not created to address the reasons for these acts of resistance, since that is not its focus and in this lies the innate problems of compliance. These innate problems will become clear when considering for whose benefit compliance is implemented.

However, before we can look at this question I will first look at and conclude the historical overview of compliance by looking at its recent development, and more specifically how it differs from country to country, moving beyond the broad historical origins of compliance in management models mentioned earlier. Thus recognizing there are different ideas geographically regarding business ethics and the compliance models that developed along with them. This will give insight into what method or model of compliance is uppermost globally. This will then lead our discussion on the historical development of compliance into the current day and age, and bring us to a more in-depth definition of the contemporary problem of compliance. The latter will be vital when considering issues like culture lag, knowledge spillage and Information Management Compliance (IMC) in Chapter 2.

3.1 The recent historical development of Compliance in the USA and Europe

Compliance developed historically, according to the literature of Palazzo, in the USA during the 1980s as an attempt to increase ethics in business. The USA focused a lot on "*due diligence*" and used an incentive-prosecuting method or "*carrot and stick principle* [to] *encourage many companies to install business ethics programs*" (Palazzo, 2002: 196). In terms of this, compliance policies were, and are, most often used as it is the minimum requirement as stipulated by the law.

While these concerns spread from the USA to Europe the latter was more concerned with the academic questions on the subject of business ethics (Palazzo 2002: 197-197). This indicates a typical difference between American understanding of business ethics and that of Europe (2002: 195-196). In Europe, "[c]*ounties and cultures often differ sensibly in their style of philosophical reflection*", on ethical behaviour and compliance (Van Luijk, 1997: 1585). Europe treats ethics mainly as "*a question for justification: how can norms and values be justified, more than as the treatment of specific dilemmas*" (1997: 1585). A consequence of this approach is that there is no unitary thought concerning ethical business behaviour; accordingly their greatest problem in this regard is to find unity and

co-operation between the different ideas from different countries regarding ethical behaviour (1997: 1585). This is made all the more pertinent given the ever expanding European Union (EU) which is increasingly including former central and Eastern-European countries who differ even more in terms of culture and philosophy than Western European countries.

A good example of this difference between European and American views on ethical behaviour can be explicated in terms of a comparison between Germany and Switzerland (who implement a similar model) and the USA. The former two rely nearly exclusively on traditional methods such as the "*mission statement*" as its "*business ethics instrument*" (Palazzo, 2002: 196). As such ethics and ethical business behaviour is dealt with more "*implicitly in the context of a general more holistic program in organizational development or corporate culture*" (2002: 196). On the other hand the USA had always followed a pragmatic or "[j]*ust-do-it*"[47] approach, less concerned with the academic question but more focused on practical application, one such practical solution was compliance (2002: 197).

Neither the USA or Europe though, seems to take the idea of moral agency seriously, nor do they consider the individual moral agent. This we can infer from the fact that in both cases there is a clear omission, with regards to the individual moral agent, from their

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[47] To clarify, the significant difference between the two models are: European models are more concerned with the academic philosophical question of agency, how it should be defined and whether or not one should even talk about moral agency in terms of business. Consequently, till this question is adequately resolved, (and possibly to prevent possible unnecessary cost in creating business ethics programs that might not even be practically applicable or even real) their approach to business ethics is more holistic relying on traditional methods to address business ethics. As such business ethics should be dealt with in terms of already existing structures and methods of control, hence the use of mission statements. While the USA, which is less concerned with tradition, views ethics, not so much as a question of moral agency, but as a part of the possible cost of doing business. Consequently some tool or structure should be created to deal with business ethics to minimize potential cost from unethical behaviour, which is why they created compliance and use it as control method in terms of ethical business behaviour.

theories of business ethics as something important enough to consider separately, or at all, when speaking of business ethics. The European model does not even yet acknowledge that moral agency in relation to the business context can exist, or at least what it should be defined as, so the question of individual moral agency is totally missing in terms of its practical reality. While the USA only views moral agency in terms of financial cost, which again ignores the unique characteristics of the individual moral agent that is not equitable in financial terms. In either case the individual moral agent or even moral agency in general, is viewed as something to be controlled by some quantifiable means, but not as something to be acknowledged in its own right. However, the less traditional just-do-it approach of the USA, which is easily employed and makes more accounting sense (especially in New World countries who maybe lack the same depth of tradition as Europe and are probably more reliant on America), has meant that this model is the most global applied form of control in terms of moral behaviour, i.e. compliance.

3.2 The recent historical development of compliance in South Africa

A third view on business ethics and the historical development of compliance that I chose to consider is one developed in South Africa. The reason for including South Africa is that it is one of the few (if not only) developing countries that has developed a program for the implementation of greater ethical business behaviour. Furthermore, South Africa's view on business ethics and compliance is important, because it is not merely a copy of either the American or European model. Business ethics and compliance is reasonably new in South Africa and tends towards a combination of American ideas on best practice, and European ideas on the matters of agency. In contrast, however to the American model which uses the carrot and stick method, compliance in South Africa tends towards a comply and explain approach[48], given the way it defines the goal of compliance within the country. The reason for this can be found if one considers that in terms of South

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[48] See page 60 below for a discussion of this approach.

Africa the biggest problem it faces in regards to business ethics, "*is the building of a moral business culture*" (Rossouw, 1997: 1540).

This is reflected in the "*high incidence of corruption*" especially considering that "*white collar crime doubled during the first year of the newly formed democratic government*" (1997: 1540). This is important because it indicates that people perpetrating corrupt acts are people in some position of power or know-how, who either did not learn ethical business practice, or chose to ignore it. In any case, the argument is that: merely giving businesses incentives for ethical behaviour and prosecuting transgressors for unethical behaviour will not promote a culture of learning ethical behaviour and thus not resolve the longer term problem of creating an ethical business culture. The latter challenge lead to the first and the second King Reports, the first of which was heavily inspired by "*the Cadbury report in the U.K.*" (1997: 1543). It consisted of an extensive code of practices on corporate governance, which "*included the drawing up of a code of ethical practices for business enterprise*" (1997: 1544). It considered issues like "*duties and responsibilities of executive and non-executive board members respectively, professional and ethical standards of external and internal auditing, affirmative action and stakeholder communication*" (1997: 1544).

King I was written in 1994 and brought about the "*institutionalization of corporate governance in South Africa*" (Available from: https://www.saica.co.za). It was aimed at promoting "*corporate governance in South Africa and established recommended standards of conduct for boards and directors*" emphasizing predominantly "*the need for companies to become a responsible part of the societies in which they operate*" (Available from: https://www.saica.co.za). To this end the first King Report was deliberately written to have a "*wide interpretation of stakeholders,*" who where, in turn the responsibility of the organization's directors (Rossouw, 1997: 1544). In 2002 the second King Report was published which contained a "*Code of Corporate Practices and Conduct*" (Available from: https://www.saica.co.za) and "*took the inclusive approach*"

regarding stakeholdership, defined in King I, "*even further*" (Available from: http://www.prconversations.com/?p=466).

It included the seven characteristics of good governance[49], anticipating the "*Triple Bottom Line*" used in King II to measure a corporation's degree of responsibility towards stakeholders (Available from: http://www.prconversations.com/?p=466). King II wanted to expand on the ideas of stockholders in King I, while at the same time specifying and giving guidance on how boards and directors of companies are to behave responsibly towards the various stakeholders. Finally King II had to be revised given changes in South Africa's "*economic, political and regulatory landscape*" which lead us to King III to be published in 2010 (Available from: https://www.saica.co.za).

Currently South African companies are increasingly driven to implement "*corporate governance practices due to much publicized corporate failures and fraud*" (Available from: https://www.saica.co.za). The leading factor in regards to the creation of King III is the development of the "*South African Companies Bill together with the recently passed Corporate Laws Amendment Act*" which together form the basis of King III (Available from: https://www.saica.co.za). King III "*deals extensively with director's remuneration* [as well as] *IT governance* [which is] *dealt with in detail for the first time*" (Available from: http://www.thetimes.co.za). The latter's inclusion into King III is in recognition that "[c]*ommunication – including negative comments – could take place in an instant*"

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[49] These where Discipline: "*a commitment to behaviour that is universally recognized and accepted as correct and proper*" (Available from: https://www.saica.co.za). Secondly, independence: "*the ease with which an outsider is able to analyze a company's actions* (Available from: https://www.saica.co.za). Thirdly, transparency: "*the mechanisms to avoid or manage conflict*" (Available from: https://www.saica.co.za). Fourthly, accountability: "*the existence of mechanisms to ensure accountability*" (Available from: https://www.saica.co.za). Fifthly, responsibility: "*processes that allow for corrective action and acting responsibly towards stakeholders*" (Available from: https://www.saica.co.za). Sixthly, fairness: "*Balancing competing interest*" (Available from: https://www.saica.co.za). Seventh and lastly, social Responsibility: "*being aware of and responding to social issues*" (Available from: https://www.saica.co.za)

which is important given the Report's view that "[a] *company's reputation is its most important asset, which any board has to safeguard*" (Available from: http://www.thetimes.co.za). This comes with the realization from "*senior management that proper management of the Communication Function can make a strategic difference to the Triple Bottom Line*" (Available from: http://www.prconversations.com/?p=466). Consequently in King III there is a separate Chapter on "*Stakeholder Relationship Management*" which looks specifically at communication of the board or directors with the various stakeholders (http://www.prconversations.com/?p=466).

One common element of all three King Reports is the importance given to the responsibility of the board or directors towards stakeholder's interests. As such it could be said that the King Reports are geared towards the creation of ethical leaders. The reason for this is twofold: it hopes that these leaders will serve as examples for up-coming leaders, but also serve as mentors to these people, hoping through this to create an ethical culture. Even the first King Report consists of what Sir Adrian Cadbury, Chair of the Cadbury Committee, referred to as "*the most comprehensive code* [of its type] *that I have seen*" (1997: 1544). To summarize, it attempts, through a wide definition of stakeholder theory, to inscribe a code of practices that would be practically implemented to create a culture of business integrity. To its credit then, the King Reports are viewed in terms of their "*awareness of the issues and sophistication of the discussion* [on corporate governance as] *advanced, compared with Europe and North America*" (Available from: http://www.thetimes.co.za).

There is, however, problems with the all three King Reports, most significantly is their predominant focus on directors and director reports, especially given that I have argued thus far from the perspective of the employee. The question is whether a director's perspective would be sufficient to really take into account the everyday ethical experiences of employees. Such a top-down director's experience would not only not promote ethical learning among employees, but is counter-intuitive to such a learning

process as there is a real difference in the employees experience of business ethics and that of a directors experience of such events (which will also become clearer in Chapter 2 when considering communication problems).

Furthermore, referring back to South Africa's biggest business ethics problems, it is usually the leaders (directors) in South Africa who are the greatest perpetrators of unethical business behaviour[50]. Therefore, there should really be a shift of focus on the next generation of leaders to become the ethical leaders the country needs to make this idea of compliance and creation of ethical culture practical. One could conclude then that, even though their intentions are good and rightly focuses on the importance of ethical leaders, given what they wish to achieve, the South African model of compliance within its present context is really focused on the wrong end of the corporate hierarchy.

One could even go so far as to say that the King Reports seems to follow a compliance model with all of the problems related to it, only elevating it from the context of the employee to that of the director. There is one big difference though, and that is that King I, II and III leave some room for the moral agency of directors. While the King Reports all provide a very comprehensive and detailed set of guidelines to which directors need to comply in many different areas of corporate governance, they are allowed to determine which of these guidelines they are willing to follow and which not, but, and here is where the sting in the tail of the King Reports lie, they are then required to explain to their

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[50] This fact was once again established by the auditor-general Terence Nombembe's report that a "*significant numbers of senior public servants awarded contracts for hundreds of millions of rands to themselves, family or associates from August 2007 to*" 2008 (Hartley, 2009: Available from: http://www.businessday.co.za/articles/Content.aspx?id=75257) . Furthermore it was found that" [a]*bout R600m was involved and more than 2000 officials were found to be directors of companies or members of close corporations doing business with the state,*" in other words the very same people on which King one, two and three focuses on primarily as the supposed leaders who will help South Africa create an ethical corporate culture (Available from: http://www.businessday.co.za/articles/Content.aspx?id=75257).

shareholders in the first place, and also their other stakeholders in the second place why they have made that choice[51]. The requirement to come clean about that which you do not comply with in a code of good practice, and to explain the reasons why in public, is of course in itself a very strong control measure put upon directors. The extent to which they are free to choose in this context clearly acknowledges the autonomy of directors as moral agents, and this clearly raises the question whether some guidelines can be found here to help us think about the autonomy and moral agency of employees in corporate and organizational settings. To these issues we return in Chapter 3.

These historical facts considered, all forms of compliance we have mentioned are influenced in some way by American ideas on the subject of business ethics, therefore we can extrapolate that on this basis it is the most dominant view concerning business ethics and therefore also, that the model of compliance it supports is uppermost. I will now continue by considering these ideas on compliance to throw light on the question: for whom is compliance implemented?

3.3 For whose benefit is compliance used?

Having considered different historical models of compliance and certain recent developments of it in Europe, the USA and South Africa, as well as having established that the American model based on *incentive-prosecuting* compliance is the most influential one to consider, we need to analyze this idea of compliance in more depth. For this project we need a more concise definition of compliance. I have already given a brief definition of compliance as *meeting the expectations of others* and that this refers to a set of policies concerning the behaviour of employees, focused specifically on deviant, or unethical behaviour, which it seeks to control. In terms of what has been considered on the topic of the implicit contract and its inherent unequal power-relation, the question

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[51] This is what the so called "comply or explain" approach entails, as explicated on page 60.

arises: For whose benefit is compliance used? With this I mean looking at the *meaning* of compliance where meaning denotes its motive (Leiter, 2002: 208)[52].

This can partly be understood through enquiring into a combination of the following two characteristics of compliance. Firstly, it is "*regulatory and financial with significant functional distinction*" (McDaniel, 2004: 64). Secondly, the specific guidelines mentioned, relevant to the organization are "*any kind of criteria, including business goals, performance measurements, laws, regulation, or quality targets*" (2004: 64). The criteria for structuring these organizational guidelines are always decided by the following process: "[d]*etermining what the criteria should be; and [d]eveloping techniques (often called 'controls') to ensure that the criteria are followed*" (Kahn and Blair, 2004: 43). These criteria usually coincide with business quality targets, goals and performance measures in terms of finance. The implication of these two characteristics is that the main focus of compliance is regulatory and financial. What is more, these regulations, as demonstrated, are mainly financial.

Relating to these criteria, compliance has five functions, according to the International Compliance Association, of which three apply in this context, namely:

1. "*To identify the risk that an organization face*s" (Kahn and Blair, 2004: 44) and to provide guidance in regards to such identified risks.
2. Designing and implementing "*controls to protect an organization from those risks*" (2004: 44).
3. Monitoring and reporting "*on the effectiveness of those controls*" (2004: 44)

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[52] With this I am referring to Nietzsche's' distinction of the meaning of morality in terms of its chronological development (which in terms of compliance we have already considered) and its motives, or more specifically, in whose favor is a set of morals (which I am now considering in relation to compliance) (Leiter, 2002: 208). This is then related to his argument of "*Good and Bad Morality*" on the one hand and "*Good and Evil Morality*" on the other, in his argument regarding will to power, which I discuss further in Chapter 2, page 110 (Leiter, 2002: 208).

Compliance is therefore a "*risk management based approach*" (2004: 45). Its scope, in terms of the stipulations above, is focused on the "*minimum standards*" for behaviour and etiologically "*compliance relies upon a fundamental power basis*" (McDaniel, 2004: 65). If implemented, compliance "*suggests behaviour about which one has little, if any, choice*" (McDaniel, 2004: 64). Compliance then has an external locus of control[53] and "*its etiology is typically another regulatory body*" (2004: 65).

According to the International Compliance Association, the following factors need to be considered when creating compliance programs:

1. The complexity and nature of the organization (2004: 45)
2. The diversity "*of its operations*" (2004: 45)
3. The scale, value, and volume of the organization's transactions (2004: 45)
4. "*The quantities or kinds of litigation*" (2004: 45), i.e. when looking at the organization's past, how many, and what kind of litigations, if any, had the corporation undergone historically to see if there are any possible patterns or trends.
5. "*Regulatory environment and oversight*" (2004: 45)
6. Nature and magnitude of risk and related activities (2004: 45).

The problem with compliance as sub-division of risk management is better understood when we define what is meant with risk. Risk is defined as *a* "[p]*robability or threat of a damage, injury, liability, loss, or other negative occurrence, caused by external or internal vulnerabilities, and which may be neutralized through pre-mediated action*" (Available from: http://www.businessdictionary.com/definition/risk.html). Though this

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[53] 'Locus of control' is "[a] *general term in social psychology used to refer to the perceived source of control over one's behaviour* [divided into] *internal* [and] *external, with an internally-motivated person being one who tends to take responsibility for his own actions and views himself as having control over his 'destiny', and external*[ly motivated person] *as one who tends to see control as residing elsewhere and to attribute success or failure to outside forces*" (Rebber, 1985: 407). In term of an organization an external locus of control usually means another regulatory body, as in the case of SOX in the USA which relies on the justice system for its base of influence and power.

formulation makes perfect accounting and marketing sense, in terms of human ethical behaviour this would equate to having the extra sensory ability of predicting an individual's risky behaviour. As such, such an idea of risk in terms of people is inapplicable since risky ethical behaviour is usually per-definition, something contingent and not something that can be quantified or measured, at least not to the degree and manner suggested above.

The problem then with the aforementioned is its dependence on the organization's ability to identify 'all possible risks' which in terms of people is not possible. This idea of a 'measured risk' comes from using an accounting formulation to define risk. This can be related back to investment financing, and calculation such as the Net Present Value (NPV) of an investment decision. NPV is defined as "*a method of appraisal that considers all of the costs and benefits of each investment opportunity and makes a logical allowance for the timing of the cost and benefit*" (Atrill and McLaney. 2006: 340). This appraisal method is viewed as the most reliable because it takes the timing factor into consideration which represents "*interest lost; risk* [and] *effects of inflation*" (2006: 340).

Risk is then seen as a subdivision of investment appraisal methods, or at least as something that should be considered and measured when making investments. With reference to points made earlier in this Chapter, this element of risk management (and so also compliance) can possibly be attributed to its development in the USA. The implication of which is that the origins of compliance in risk management lend it a typically utilitarian dominated perspective, based on cost-benefit analyses that tries to calculate "*the cost and benefits for all the effects* [an action] *will have on the present and future environment and on present and future populations*" (Velasquez, 2006: 63). From this utilitarian analysis it can be argued that corporations wish to apply the minimum standards for behaviour in terms of ethical risk, since appealing to economic cost-benefit analyses, means "*to determine the desirability of investing in a project by figuring whether its present and future economic benefits outweighs its present and future cost*"

(2006: 63). A consequence of the above mentioned is that: one will only do as much as is economically viable given present and future economic considerations (such as measurable risk), but no more since this would incur an extra cost in terms of considering an alternative above and beyond the requirement, which would not make financial sense. Consequently, when this formulation is taken into conjunction with the development of compliance, it gives reason for the rules used in compliance, since the implication of the genesis of compliance in risk management is that only as many rules that are economically viable in terms of the above formulation are created, and no more, in other words, the bare minimum. Therefore, we can conclude that compliance is mainly influenced by utilitarian ethics, as it is geared towards profit and generates controls in order to ensure 'best possible investment' ends. In other words, compliance decisions are based on the outcome that will benefit the most people, or in this case the organization, considering all other alternatives. While the organization's goal is to maximize profit, consequently compliance ultimately seeks to assist in maximizing profit.

This considered it could be argued that although compliance draws on utilitarian ethics, the reasons for the implementation of compliance seem, is its strong reliance on contracts and focus on 'investment outcomes', driven by ethical egoism (if we refer back to its development in the USA). To clarify why I cite this reasoning behind compliance implementation, we need only consider that ethical egoism states that "[o]*ur property, our families, and even our lives are at continual risk*" (as is also implied in risk management). As such according to ethical egoism "[s]*elfishness alone will motivate each agent to adopt a basic set of rules which will allow for a civilized community*" (Fieser, 2006: online). This statement is similar to the classical argument for implementing compliance which asserts that only when corporate ethics is implemented for self serving reasons will it survive. This seems in correlation with what we have mentioned as the self-interested nature of compliance, or compliance applied for self gain. According to ethical egoism "*these rules would include prohibitions against lying, stealing and killing. However, these rules will ensure safety for each agent only if the rules are enforced. As selfish creatures, each of us would plunder our neighbours'*

property once their guards were down" (2006: online). Compliance then seems to imply this through its extensive reliance on contracts as tool of control.

The genesis of compliance in risk management means that, at least in terms of ethical business conduct, in the last instance implies ethical egoism in that similar to the latter "[e]*ach agent* [is a possible] *risk from his neighbor*" or to the organization (2006: online). Accordingly "*for selfish reasons alone, we* [in this case the organization], *devise a means of enforcing these rules: we create a policing agency* [or controls] *which punishes us,* [the employees], *if we violate these rules*" (Fieser, 2006: online). The close relation of compliance to ethical egoism seems to suggest that it follows similar views on the subject of reasons for implementation, and that compliance is used as the dominant tool in business for 'policing' and punishing employees if they violate these compliancy rules or policies. This not only explains ethical egoism, but also alludes to the reasons for why compliance only implements controls self-centeredly, which refers back to eliminating risks to the organization's well-being. However a consequent of this focus on risk is that such a social environment, as depicted in ethical egoism, assumes and constitutes a low trust society[54]. Returning to utilitarian ethics, it can be said that it is outcome-based; it focuses only on the actions and consequences of the moral agent, but not at the moral agent itself.

On a deeper level, if we accept the before-mentioned as an explication of the positive identity of compliance, i.e. compliance is implementing or being implanted as part of a utilitarian ethics as the control element of risk management, there seems to be two arguments often used to justify and perpetuate this positive identity[55].

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[54] As defined in Chapter 1, page 43.

[55] According to the definition of Adorno, a sign has positive identity when *human thought, in achieving identity and unity, has imposed these upon* "[a] *object, suppressing or ignoring their differences and diversity*. Furthermore this process exists because of *societal formation whose exchange principle demands*

The first argument that is often offered to enhance the positive identity of compliance is its affinity with utilitarianism and the latter's historical genesis. Historically utilitarianism has its roots in "*the British empiricism[56] of John Locke, George Berkeley and David Hume[57]*" also related to logical positivism[58] which believed one can come to a universal truth through rational debilitation of signs, gained through experience; ultimately their theories strived towards being universalizable (Available from: http://www. plato.stanford.edu/entries/mill/). Like the empiricist, philosophers propagating utilitarianism sought a rational argument to move away form the metaphysics concerning moral deliberation. They did this by way of developing a rational formula that, like the empiricist was based on the senses and could give an answer that was universalizable to all moral dilemmas[59]. Applied to the area of business the argumentation that would

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the equivalence (exchange value) of what is inherently nonequivalent (use value)" (Zuidervaart, 2007: online)

[56] Empiricism is defined as a "*permanent strand in philosophy that attempts to tie knowledge to experience. Experience is thought of either as the sensory contents of consciousness, or as whatever is expressed in some designated class of statements that can observed to be true.* [It] *denies that there is any knowledge outside this class, or at least outside whatever is given by legitimate theorization*" (Blackburn, 1996: 119). It denies that there is any innate truth or "*a priory knowledge, or knowledge of necessary truth*" (1996: 119). The implication of this in context of this thesis is that such a model of philosophy can per-definition not believe in things such as character, virtue or individual moral agency since they are not observable or easily expressed in some designated class that, can be observed as true, they are too contingent to fulfill such requirements.

[57] Aodorno's negative dialectic is in fact a direct reaction to Hume's positivist views.

[58] Positivism is defined as a philosophy that states that "*the highest or only form of knowledge is the description of sensory phenomena.* [Holding that] *there are three stages of human belief: the theological, the metaphysical, and finally the positive, so-called because it confined it self to what is positively given, avoiding speculation*" (Blackburn, 1996: 294)

[59] This type of thinking concerning moral deliberation would make the most sense in business, given that one could then 'account' moral behaviour, since this formulation of morality is based on the idea of measurable, 'observable' behaviour. The reason then why moral behaviour should be accountable in business is that traditionally accounting has been used as the tool of measuring control; as such any control method employed, such as compliance, needs to conform to the principles of accounting (Atril and McLaney, 2006: 2). Subsequently if one was to create a control method in business according to the basic definition (2006, 13-14) and conventions of accounting, a requirement should be that it can be quantifiable in financial terms, therefore why not use utilitarian ethics in conjunction with accounting to develop a control method from (2005, 46-50). One such accounting convention that can be used, as I have mentioned, can be found in terms of calculating return on investment using formulas such as NPV defined in this Chapter on page 66. One need then only expand upon one element, namely the definition of risk, within this formula, all being equal, and one has a way of determining the effect of employee's observable, measurable behaviour on the corporation.

typically be followed is: since employee behaviour is hard to measure it can be viewed as a risk, and should be measured and controlled as such in the most cost-effective manner. Ultimately then, to conceptualize compliance as a mode of risk management, is to place it squarely in the realm of a utilitarian framework.

The second reason often offered to enhance the positive identity of compliance, is its purported *universality*. Following from its reliance on utilitarian ethics with its etiology in empiricism and positivism, it is evident that compliance seeks to be universal in a similar fashion as empiricism and positivism. Additionally, proof of the positive identify of compliance can be inferred form the fact that utilitarian ethics (on which I have argued compliance is based) presumes that all things can be measured, in other words all things has an equivalent to which it can be measured. This idea of equivalence and uniformity within utilitarian thinking resonates with Adorno's idea of social conformation needed for positive identity, what he called the exchange principle as defined in the Introduction, page 20 regarding positive identity (Zuidervaart, 2007: online) .

In combination with one another, both of these arguments have far reaching implications for the implementation of compliance. Both of these arguments seem to justify the stipulation of some uniform rule (or set of rules) that can be used define all ethical behaviour, as well as measures to correct all deviations from it. On the one hand, this follows from the strive towards universalizability, referred to above, that in effect ignores differences on at least two levels: differences in terms of other modes of ethical thinking or views, and differences between individuals in terms of character or virtue. Within a utilitarian framework, these differences are seen as a disarray of identities that have to be overcome in some kind of unity. On the other hand, this emphasis of compliance on a uniform rule follows from the belief in utilitarian ethics that ethical behaviour can be measured in terms of some kind of objective standard. Thus, in combination with one another, the measuring of ethical behaviour, the striving towards universality, and the

establishment of a uniform rule, all within a utilitarian framework, establishes the positive identity of compliance as a control method. The trouble with this positive identity, however, as it will be demonstrated in the Chapters that follow, is that compliance ignores everything that falls outside the parameters of its own standards.

A proof that this positive identity of compliance indeed exists, can be found in the statement (referred to in the definition of compliance above) that once implemented, compliance allows for *little, if any, choice*. Implicit in the latter is that the rules or policies written in terms of compliance appealing to universalizability, assume that these rules and rights[60] on which policies of compliance are based, are themselves equal. This is problematic, for as Adorno points out that: in the case of positive identity, the problem with such an appeal to equality can be found when looking at the difference between a thought as a phenomenological substance (in this case compliance as a concept), compared to "*thought in practice*"[61] (Zuidervaart, 2007: online). In this case, even though the idea of equality seems good and constitute a large part of rights, it ignore the reality that, as Young pointed out, the right to autonomy and individual liberty is the most important right, without which all other rights are baseless (as I will explicate in more detail in Chapter 3, page 161) (qtd. in LaFollette, 2002: 511). This difference between the reality of rights in practice and the implementation of the notion of the equality of rights conceptually, is all the more important in the context of compliance, and the

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[60] A right, in its most basic terms "*is a justified claim against another person's behaviour - such as my right to not be harmed by you. Rights and duties are related in such a way that the right of one person implies the duties of another person*" (Fieser, 2006: online). Positive rights are "[d]*uties of other agents (it is not always clear who) to provide the holder of the rights with whatever he or she needs to freely pursue his or her interest* [therefore] *do more than impose negative duties. They also imply that some other agent* [in our case business management as holders of the most power to implement change, and holders of special offices etc.] *have the positive duty of providing the holders of the right with whatever they need to freely pursue their positive rights*" (Velasquez, 2006: 76). There is also negative rights which can be defined as "[d]*uties others have not to interfere in certain activities of the person who holds the right distinguishing the fact that its members can be defined wholly in terms of the duties others have not to interfere in certain activities of the other person who holds a given rights*" (2007: 76).

[61] This refers to the application of a phenomenological idea, or concept, to the nouminal world, in other words, applying it within the social contingencies of politics, economics and society at large. This is a determinant of a phonological ideas "*historical fruitfulness*" or truthfulness (Zuidervaart, 2007: online).

consequences of its use are of minimum scope in terms of discretionary judgment, which translates into job specialization[62] with respect to ethical behaviour.

The reason why the above is important can be explicated when we understand discretionary judgment in relation to the individual moral agent. Discretionary judgment has two elements, its depth and scope[63]. The argument then is that compliance restricts the range in terms of depth, of individual judgment concerning moral deliberation, "*risking constraining discretionary decisions* [individuals] *make*" (McDaniel, 2004: 66). Put differently, "[i]*f an organization encourages conformance,* [as is the case with compliance]*, it also reduce*[s] *the level of creativity and innovation sought in a productive forward-looking system*" (2004: 67). Therefore in doing so, via its difficulty with contingencies such as creativity or autonomy, compliance negates the agency[64] of individual moral agents[65].

To give credence to the above contrast between compliance as a concept and compliance as thought in practice, i.e. as implemented in reality, and to bring the argument into what Adorno would call its social and economical realty, I cite the findings by National Business Ethics Survey (NBES) of 2007 that examined the practical reality of the proper

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[62] Job specialization "*evolved from a preoccupation with command and control systems*" as part of bureaucratization (Grobler and Wärnich et al, 2006: 139). In this process jobs are broken down into smaller specialized segments (2006: 139). As a concept it has benefits for production, but when implemented practically such specialization all too often leads to "*oversimplification – or going to extremes,*" leading to an increase in job dissatisfaction and boredom (2006: 140).

[63] The argument in this thesis is for increased depth, not just scope.

[64] This is counter productive if we reconsider the biggest cause for 'resistance' in the implicit contract being the undermining of expression of autonomy, of which creativity and discretionary judgment key, referring back to the relations I have pointed out between autonomy and the latter two earlier in Chapter 1, page 37.

[65] The negation of the individual moral agent then refers to the negation of the capacity of the individual to make discretionary 'creative' judgements regarding moral dilemmas, which in turn influences how the individual acts in terms of moral dilemmas. The importance of the individual's capacity to make discretionary judgements will be discussed in Chapter 3 in terms of the organization as a community and responsibility.

implementation of compliance. They found that "[o]*nly 1 in 4 companies has a well-implemented ethics and compliance program*" (Desio, 2007: online). More importantly, no matter how sincere or well-intended the new interest in compliance was after ENRON, the fact of the matter is that "*ethical misconduct is back at pre-Enron levels*" (2007: online)[66]. What makes this all the more pertinent is that this is the case in spite of the fact mentioned earlier that 91% of public companies had implemented *SOX,* but as stated then, they had not taken due diligence considering the initial costs this would incur. Thus, although with SOX a lot of companies were implementing compliance, they did not consider its practical financial costs, nor does it seem was its practicality in terms of actual effects on moral behaviour, properly considered. The above examples considered, it seems that compliance as thought in practice did not fulfil its phenomenological or conceptual ideal for which it was created, i.e. greater ethical behaviour in business and the curbing of costs regarding unethical behaviour. Moreover, these statistics seem to indicate that compliance as a means to control ethical misconduct has not succeeded.

Before we can however, look the question of how can we resist the negative outcomes of compliance and what might constitute a positive alternative, as outlined in the introduction, we need to consider compliance in terms of its contemporary problems. This will go some way into indicating current problems on the subject of compliance and individual moral agency and also bring the thesis into the current historical time frame. What this implies is discussing the problems of compliances and its difficulties in terms of culture lag and knowledge spillage, in other words explicating the challenges related to compliance within the context of Information Management Compliance (IMC).

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[66]However, it was also found that in terms of compliance legislation, that "*the rate of misconduct is cut by three-fourths at companies with strong ethical cultures, and reporting is doubled at companies with comprehensive ethical programs,*" in which compliance surely has a part to play (Desio, 2007: online). Also, where well-implemented ethical programs existed, "*only 29 percent of employees failed to report misconduct*" (2007: online). This is significant in comparison to "*companies with no program,* [where] *61 percent do not speak up*" (2007: online).

<h1 style="text-align:center"><u>Chapter 2</u></h1>

<h2 style="text-align:center"><u>Compliance, Information Management Compliance (IMC), Culture Lag and Ethics</u></h2>

<u>1. Introduction</u>

In the previous Chapter we looked at the historical reasons for and development of compliance. It was shown to stem etiologically from risk management as a Post-Fordist, American model, attempting to address resistance. However, I have indicated by way of example and philosophical argument that this attempt had failed. To bring this argument then into the present-day context we need to consider the current form of economics and the type of resistance most pertinent in the current business context. As has been indicated in Chapter 1 the latter refers to the move towards a service driven economy and the importance within this context to knowledge capital. The problems that accompany this shift are: culture lag stemming from developments in communication information technology, and knowledge spillage which goes together with the latter, giving rise to IMC.

In keeping with the critical self-reflective perspective, in discussing these problems, this Chapter will be divided into two parts: the first half will be devoted to discussions regarding the reasons for the development of IMC and its failures with respect to its own intrinsic structure and its practicality as a form of communication management. This half ends in section 4 with a look at the problems with IMC's reliance on best practice and the problem of the integrity of the source of information. The second half stems from the first, which will indicate that one of the biggest innate problems facing IMC is the individual moral agent and ethics, which in turn, are key to the problem of information management. As such, sections 5 and 6 focus on the individual moral agent and ethics

with respect to their relations to IMC. Lastly I conclude with a summery of the Chapter in section 7[67].

With these two parts in mind, I will begin by first arguing that to understand IMC we need to first look at communication and ethics and how they relate to the individual moral agent in the business context in general as these are in themselves ethical topics, but also to give context to the rest of the Chapter. This relation will further be considered in terms of old and new modes of organizational communication. Subsequently I will need to look at the problem of culture lag[68] which is exacerbated when these general problems of communication are further complicated by communication information technology. During this discussion of information and communication technology we will also see that knowledge is uppermost, the implication of which is that knowledge becomes a form of capital, which is a important for the rest of this Chapter. However, as I will indicate, since IMC is a specific form of compliance, created as a reaction to the problems related to culture lag, it too fails because more then ever the individual is principal in this from of capital.

This Chapter then also show how in the current service driven economy based on information capital there is a greater focus on the individual moral agent. This lends further credence to why in the current day and age the individual moral agent is of utmost concern to business and business ethics. Furthermore, we need to consider IMC specifically since it is important to explicate how it relates to the individual moral agent

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[67] In other words, the first half is a look at IMC's relation towards itself and the corporation, while the second half looks at the individual and ethics as the key components to information management with which IMC has the greatest difficulty with. Thus, IMC will be shown to not only fail as a form of information management – because of the nature of information and its innate structure, but this very nature of information, I will argue, necessitates that any form of information management will have to be built or include the individual moral agent and ethics.

[68] Culture lag is defined in the Introduction 1, page 23.

and the ethical implications thereof, especially considering the problems of culture lag and knowledge spillage.

As I will start by considering the relation between communication and ethics it is important to note that they are vital components of each other and neither can function properly without the other, as will become clear from the discussion that will follow. The latter becomes more and more pertinent with the advent of communication technology, its pace of development, which brings us back to the matter of culture lag. Moreover, communication in business is a topic in itself in ethics, but this will not be explicated in too much detail. Since business communication is a specific form of communication it is important to first define what is meant by business communication before looking at its relation to ethics. This will lead us into the discussion mentioned before concerning communication problems exacerbated by culture lag and knowledge spillage.

2. The relation between communication and ethics: compliance implementation as an answer to culture lag

Communication is of specific importance, not only because of the service driven global market, but because it "*is one factor that influences how well an organization performs*" (Harshman and Harshman, 1999: 5). It is "*one of the vital processes that gives an organization life*" (1999: 5). This is important since there is a "*high positive correlation between performance problems and communication problems*" (1999: 5). This is supported by Harshman and Harshman's findings over seventeen years of analysis of private and public organizations, which found that "*faulty communication strategies in organizations contribute to large organizational performance issues and problems*" (1999: 5). According to them, communication is not just a by-product of management decision-making, but "*represents the fundamental values of the organization*" (1999: 5).

They found that "[w]*hen the content and process of communication begins to conflict with the fundamental values of the workforce or commonly accepted ethical principles, people tend to respond negatively rather than just to ignore the dissonance*" (1999: 5). In business, communication is always connected to information, since "[a]*ll business communication is directed at informing, persuading and reminding a person or a group of persons to react in a specific way*" (Klopper, 2006: 1). Since the focus is on culture lag caused by the exponential growth of information communication technology, I will provide some figures to illustrate the pace and the extent at which this is happening. This, in turn, gives one a broad idea of the importance of information and communication technology, not only in the organization, but in society. This gives credence to the idea of a network society mentioned in Chapter 1.

An estimate from 2004 stated that "[t]*he number of email messages sent per day will grow from 31 billion in 2002 to 60 billion by 2006*" and this is excluding the "[r]*oughly 250 billion text messages sent worldwide using wireless devices in 2001*" (Kahn and Blair, 2004: 9). From the above-mentioned it is clear that communication technology is not only accelerating, but its scope is extremely vast. Therefore, invariably, it influences business on a macro and micro level. Moreover, as this acceleration continues, the distance between the influence of communication technology on business, and vice versa, are increasingly ambiguous, as are the distinctions between these different levels (2004: 9).

Communication is related to ethics, given that, as put by Harshman and Harshman, "[i]*nherent* [in] *relations between an organization and its workers is an ethical dimension which affect the content and structure of the organization's formal and informal internal communication*" (1999: 3). They continue by saying that "*Levinas tells us that inviting one into discourse creates an ethical demand*" and thus "*it is imperative to consider the ethical demand that arises when employers hire workers and accept their contributions to the organization*" (qtd. in 1999: 3). As indicated in the beginning of this Chapter, the

relation then between ethics, communication and the individual moral agent will now further be considered in terms of old and new modes of organizational communication.

Typically, old modes of communication are vertically structured, wherein internal communication is a "*variation of the classic public relations model for communicating externally*" (1999: 3). This type of communication has certain intrinsic values, such as that "*control of the organization is to be held by a small group at the top and employees are viewed and treated paternalistically as if they have little or no personal commitment to the organizations' well-being*" (1999: 4). This, as I have argued thus far, is what compliance seeks to uphold – if not explicitly, then implicitly. Such a system is supported by traditional bureaucratic structures in the organization. In terms of internal communication, IMC is the part of compliance that links and institutionalizes communication in the bureaucratic structures.

Conversely, more modern forms of business communication has a "*new view of the relationship with the worker*" and the organization (1999: 4). In this system workers are informed by management in order "*to support participation of the workforce in decision-making*" (1999: 4). The process of communication and its content is based on, and demonstrates "*values such as respect, dignity, trust, and shared authority* [as well as] *being clear about the values that guide the organization*" (1999: 4). It focuses on integrity in that "[c]*ommunication will be effective only if workers perceive it to have integrity*" (Harshman and Harshman, 1999: 4).

These newer strategies are part of the democratization of the organization. With 'democracy' I am not referring to "*permissive or 'laissez fair'* [ideals]*, but a system of values – a 'climate of beliefs' governing behaviour – which people are internally compelled to affirm by deeds as well as words*" (1999: 5). This includes values such as "*full and free communication, regardless of rank and power*" (1999: 5). Democracy, in

this sense, is a "*functional necessity wherever a system is competing for survival*" (1999: 5). The latter is seen in the context of Chapter 1, page 36 with reference to flexibility in the service industry.

When considering that ethics should be integral to communication, one should evaluate "*the ethical implications of new technologies* [as it] *is a necessary part of the process of social change and adaptation*" (Marshall, 1999: 81). Subsequently, the effectiveness of developing successful ethical guidelines and social consensus "*will affect* [the] *social cohesion and solidarity*" of the corporation (1999: 82). Even though the old values of honesty, respect for human rights, respect for the environment and fairness still apply, "*experience and honest intellectual discussion are needed to clarify the complex issues raised by technological advances*" (1999: 82). But, in this regard, there is an "*inherent gap between technological advances and the development of ethical guidelines to govern their use, and this gap is growing, perhaps exponentially*" (1999: 82). This hinders such ethical discussions, since it render their importance post-hoc in terms of newer technological developments (1999: 82). Before the problem of this exponential growth is tackled, let us first consider the basic problems with communication in general, since these problems are exacerbated by the increased use and scope of communication and information technology.

3. Communication problems complicated by technology

Turning to communication problems, these are often related to problems of transmission and reception. According to Harshman and Harshman, transmission problems include:

1. A downward, "*one-sided communication process*" (1999: 5).

2. Censorship of information (1999: 5).

3. Faulty facts or "*mistakes in facts*" (1999: 5).

4. Circulation of rumors (1999: 5).

5. "[P]*urposeful or accidental distortion*" of information (1999: 6).

The last of these types of problems is also the most applicable in the context of IMC and the problems it purports to address.

The second set of problems encountered, relates to the "*point* [where] *communication is received*" (1999: 6). Of these, the most basic are:

1. The misperception of information by the receiver "*as a function of personal filters that translate incorrectly*" (1999: 6).

2. The information may simply be ignored or refused by the receiver (1999: 6).

Having considered communication problems in general, the correlation between poor communication and individual employee behaviour is complicated by new information technologies, as illustrated by examples of the implications of poor information control. To begin with, in 2002 "*the Security and Exchange Commission* [SEC] [fined] *five broker-dealers a total of $8.25 million for failure to preserve email communication*" and also required them to review their procedures, ensuring compliance with "*recordkeeping statutes and rules*" (Kahn and Blair, 2004: 57). More in line with the focus of this paper as it is closely linked to the notion of knowledge spillage, is the example of the CEO of a pharmaceutical company who was found guilty in 2002 of obstruction of justice and other charges because he "*directed another individual to delete certain computer files containing phone messages he received and documents evidencing* [his] *instructions,"* although he full "*well knew that at the time he directed destruction of documents such documents were material to the SEC's investigation regarding insider trading*" (2004: 57). The CEO was fined $3 million and had to serve a seven year jail term (2004: 57).

Considering the above, the following question needs to be asked. Given that the problems concerning internal communication have persisted in the face of the greater

implementation of compliance, especially IMC, why have they persisted? One of the most important reasons for this is that:

> "*managers at the top of the organization, who 'own' the information and who control the information system, are not likely to perceive the situation the same as others lower in the hierarchy.* [Therefore] *the level at which an individual works in the organization is correlated to how adequate and credible he/she perceives the information received*" (Harshman and Harshman, 1999: 8).

This is complicated by the current neo-liberal economy[69] and globalization, where more and more sophisticated employees have greater access to information. Therefore, while the top management perceives no problem with regard to lack of information, the employees at the bottom perceives the lack of information as a lack of honesty, truthful communication and integrity (Harshman and Harshman, 1999: 6). It is this discrepancy between the different levels which is perceived to be the problem. All these problems arise, however, because of the bureaucratization process within the organization, as they all relate back to the individual's difficulties that arise from their interaction with the organization's communication system and the values it implies, as set forth by bureaucratization. Therefore we can argue that although part of what comes with this development towards greater control and specializing is increased reliance on technology, that "[t]*he complexity of technical devices which have come to facilitate the process of communication in large organizations tend to divert attention from the essential truth that effective communication is more a matter of minds than of machines*" (1999: 9).

This brings us back to considering the way in which compliance is used as a *stop gap measure*, especially IMC in the context of culture lag. The need to control[70] the gap

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[69] Neo-liberal economics is part of neo-liberal policies which can be defined as: "[e]*conomic policies that stress reduction in the size and influence of the state combined with free market reforms*" (Balaam and Veseth, 2001: 465).

[70] Ironically, where machines were once the 'weapons of control' it has become a problem in the relations of the employee with the employer, given information technology's individualistic nature, which now needs to be controlled. However this form of machinery requires a certain amount of knowledge that is tacit to the

between technology and ethics, created by the fast pace in the development of communication and information technology, becomes clear against the background of the reasons for the existence of this gap.

The reason for culture lag is three-fold: Firstly the costs involved in research and development of new technology means that the intellectual focus is on "*concentration of equipment, resources and information, and the social control over the developers and the development process*," breeding a single-minded, purpose-geared mentality towards technical development and research (which is where IMC comes into play) (Marshall, 1999: 84). No room or capital is left for the intellectual development of the ethics involved, which ought to go hand in hand with such development.

Secondly, such technological developments promises high "economic returns, but in a highly competitive environment," which means that "[b]*eing first on the market is not a guarantee of market dominance, but it can be a competitive advantage*" (Marhsall, 1999: 84). This problem relates to the third reason for culture lag; that material culture seeks to use and discover natural laws that can be studied and engineered "in [a] controlled, experimental environment" (1999: 84). The implication of which is that technological development can occur more structured, needing only one or a few people making its development faster than non-material culture which does not develop in a controlled environment and relies on social cohesion, which takes a lot longer, if ever, to happen. Again this widens the gap between the material and non-material culture, increasing the amount of culture lag. In this case the pace at which communication technology develops exacerbates this fact to the point where it seems unlikely that the non-martial culture, such as ethics, will ever catch-up.

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individual, which re-introduces the problem of soldiering, but in a far more complex way, including the fact that in terms of communication technology newer machines won't resolve or increase management control, and only gives rise to the use of other forms of institutionalization such as compliance, but also increased surveillance given the intangible nature of knowledge capital. This refers back to the problem of knowledge spillage, exacerbated by this newer form of tacit knowledge.

On the other hand, as opposed to these technological promises, the development process of ethical systems is slower for several reasons. Ethical developments "*does not take place in a focused controlled environment*" (1999: 84). Nor is there "*a competitive market structure that financially rewards the introduction of a dominant ethical perspective*" (1999: 84). Lastly the "*social forces that an ethical system would seek to influence are not as controllable and manageable as physical aspects of the world,* [also] *developing broad social consensus around ethical guidelines in general must await the introduction and diffusion of new technology*" (1999: 84).

In the presence of culture lag and the lack of an ethical system, "*legislators and the courts have become involved before social consensus has been reached regarding ethical guidelines for appropriate and inappropriate use*" of information and communication technology, as has been the case in the creation of SOX, for example (1999: 85). This, indeed, was the very reason for the eagerness in implementing compliance: it was done in order to create social consensus in the face of this ever-expanding threat posed by culture lag. As expressed in the following statement, quoted by Marshall, the belief behind this, that "[g]*overnment may be* [and should be a] *more effective institutionalizer of social consensus than the creator and enforcer of social consensus*," has a ring of 'totalitarianism'[71] (1999: 85).

Marshall continues to point out that while technological concerns and its influence on society were speculative in the past, by the end of the nineties already it had advanced "*to the point that concerns are real and immediate*" (1999:86). If we then refer back to Adorno, especially pertaining to compliance failure in terms of positive identity as

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[71] Totalitarianism is defined as "[t]*he principle of government according to which all institutional and private arrangements are subject to control by the state. There are thus not autonomous associations*" (Blackburn, 1996: 379). In the case of compliance, companies in their eagerness and need for controlling the risks regarding information technology and the gap it creates, has turned to government for assistance in enforcing some measure of control to create consensus, compliance being one of the outcomes of this.

thought in practice[72], the implication is that the time has come to move beyond conceptual solutions to the problems concerning technology (such as compliance). Rather we need to look at these problems with regard to technology as it appears in the nouminal world, in other words, to use Adorno: as they occur in their social-economic context[73].

What makes the above mentioned even more important is if we follow Marshall in that, until ethical guidelines that delineate technologies' use are not fully socially defined and accepted, "*social conflict*," such as defined in the implicit contract, "*may be expected*" (1999: 86). In other words, till society at large has not gone through the social adjustment[74] process needed to create the non-material culture (in terms of moral standards, norms and values), equal to the developments in material culture, the gap between the two will always cause conflict between different parties in society. This is based on the argument that "[t]*here is the expectation that through contributing to the common good* [in this context technological development] *the individual will receive reciprocity in the form of community improvement relevant to the taxpayer. In effect a social contract is operating*" (Marshall, 1999: 83). This is why, when the latter is not

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[72] See this Chapter, page 78 for references to recent fraud in spite of the wide implementation of compliance, and more specifically SOX.

[73] See the definition of positive identity in the Introduction, page 20.

[74] The social adjustment process is defined in the Introduction on page 23 in terms of culture lag. It basically refers to the process by which inventions in the material culture are 'absorbed into culture, through adjustments' which through its diffusion into society necessitates the forming of new values, norms and moral, which causes 'the culture system to adapt,' referring to the non-material elements of culture (Marshall, 1999: 84). In other words "[t]*hrough the adjustments in the adaptive culture, inventions are socially defined and the methods which govern their use are specified* [consequently] *the process of developing broad social consensus around ethical guidelines in general* [in respect to new technology] *must await the introduction and diffusion of new technology*" in society (1999: 84). It is important that I also indicate here the relation of this process to ethics, in which ethics can briefly be defined as "*guidelines to influence human social behaviour in a manner intended to protect and fulfil the rights of individuals in society*" (1999: 82). However, we need to keep in mind that "[w]*hile social consensus is not a requirement for an ethical perspective, social consensus must be developed if an ethical perspective is to have broad, practical impact in the social world*" (1999: 88). This concept is taken further within the context of business concerning the organization as a community, discussed in Chapter 3.

respected, social consensus and cohesion will "*deteriorate and social conflict will increase as individual taxpayers resist further contribution as inequitable*" (1999: 84)[75].

In regards to this, government and compliance has a role to play in minimizing conflict, but not, as is currently the case, as the sole definers of such ethical guidelines. In addition, this social conflict "*creates a moral and financial atmosphere of risk for the business who wishes to contribute to the development and diffusion of new technology*" (1999: 86). And in today's technologically reliant society, this includes nearly all businesses. This furthermore substantiates why compliance was written and structured around risk and the management thereof.

Even though culture lag is a normal part of social change, the speed at which technology is developing means that the "*gap between the development of technologies and the development of corresponding ethical guidelines for their use is widening*" (Marshall, 1999: 86). The reason for this is that the acceleration of technological development does not equal a correlating acceleration in the "*mechanisms for developing social consensus*" (1999: 86). On top of this, the individual and social creativity needed to equal such

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[75] A reason for this conflict may be the perception that such a gap will always leave space for misunderstanding, misuse or exploitation by those who use these martial developments for their own gain. Broadly speaking, this conflict will persist between parties who have already formed their morals, values and norms in relation to technology and those who have not, since the latter is an indication of aforementioned individuals poor exposure to developments in technology. This may be because of economical, geographical, political and social reasons. This could elicit the feeling or perception under these poorly exposed individuals, of being in a dual class system in society, for two main reasons: Firstly, there is a clear distinction between those able and those unable to adjust to technological developments (as this is an indicator of access to development). Secondly, those implementing and using these technologies for gain, and those who are merely dragged along with it. It is usually the case that the latter represents the bulk of society. However, even the lowest ranking employee has become more technologically sophisticated; we need only look inside the context of the office space to see examples of people who are 'well developed', and those who are not as technologically developed, but are still able to use the basics. As such, these 'technologically second class' people are more then ever able to realize this difference in technological classes, especially in terms of communication and information technology, which in turn, ironically, is an equalizing factor in terms of access to information.

acceleration is stifled through the implementation of minimum standards and homogenizing of behaviour prescribed by compliance. The latter will become more pertinent in Chapter 3 when discussing moral agency in the business context, specifically in terms of the corporation as a community. However, an example of this conflict between the corporation and the individual in terms of communication can be extended on the private and individual level to matters of "*workers' rights to privacy,* [for example] *regarding e-mails and worker monitoring*" (1999: 87). This is enforced by compliance, which supports – and in some cases even requires – the monitoring of employees. Such excessive monitoring restricts the social processes needed for the development of the necessary non-material culture which, if allowed to develop, would probably do away with the need for such control methods as explicitly formulated compliance measures.

In this section then we saw how compliance was implemented as a stop gap measure to address the problems of culture lag. We also saw that the manner and the type of compliance implemented contributed to its failure in addressing culture lag. As I have indicated, nowhere else is this culture lag more prevalent than in terms of the information communication technology, which resulted in the implementation of Information Management Compliance (IMC). As such, IMC can be characterized as the most important sub-division of mere compliance.

In the next section, the focus will shift from a general discussion of culture lag and the relationship between ethics and communication, to the relationship of the individual to IMC. This will foreground further characteristics of compliance, and also bring into focus the importance of the individual moral agent in focus that is placed increasingly on knowledge capital in the current global economy.

4. Specifics regarding Information Management Compliance (IMC)

Having indicated that the culture lag between information technology and ethics as part of non-material culture constitutes a huge problem, this section will build on the considerations pertaining to why Information Management Compliance IMC was implemented in the first place. The reason for this investigation is to gain greater perspective on the question how this culture lag is related to the individual moral agent. I am thus shifting the focus more specifically, to the relation of IMC to knowledge capital, tacit knowledge and knowledge spillage, so that we can eventually look at how these elements come to bear on the individual moral agent who operates in this gap. In this section then, we will move from the general problems of IMC with regard to cultural lag and communication to an in-depth analysis of the relationship between the individual moral agent and (IMC). As such this section can be viewed as a sub-division of the previous section, but because of its importance to the thesis and the next Chapter, I will deal with it separately. In the following paragraphs then I create a bridge between the discussion in the previous section of communication in general, and the relation between communication and information technology and IMC in particular, and the discussion of the individual moral agent in this relation, to which I will turn in the next Chapter.

Let us commence with the fact that in general, IMC is connected to business communication as a reaction to elements which has caused a "[r]*apid change in the social and economical climates correlate*[d] *with, and contributing to, changes in the nature of work*" (Harshman and Harshman, 1999: 3). This refers to the development of information communication technology in the context of bureaucratization. Underlying this move towards the bureaucratic corporation is a "*new attention to organizational values which influence how organizations are structured and how they function*" (1999: 3).

One of the most important performative functions that this change has influenced is organizational communication. In terms of communication, IMC is an umbrella definition

for *determining which information created and received by an organization via its different communication channels, is valuable in some way, based on its content*, as stated earlier[76]. Based then on the content of the information communicated, it has to make sure that this information is properly protected, stored, shared, and transmitted or communicated, to make the right information easily accessible to the right people. Thus, in terms of these stipulations, IMC refers to information management programs which are developed for the sake of "*achieving a reasonable level of assurance that information will be effectively managed, with a minimum of overhead*" (McDaniel, 2004: 45). They attempt to achieve this through the concept of *best practices*, which basically means that an organization tries to achieve the above-mentioned objective by "*implementing a series of recommendations and practices that are generally accepted*" (2004: 45).

Kahn and Blair states, however, that if we consider communication technology in terms of IMC and how this relates to culture lag, historically, IMC had failed as a tool for managing or controlling communication and information. According to them, there are different reasons for this. Firstly, the failure of IMC was part of the natural result of market correction. The basic argument is that during the "*1990s, compliance was not a high priority in all organization*s" (Kahn and Blair, 2004: 58). During this period, "*everyone was making money, and competitive pressure to build market share and compete for a place in 'the new economy' were extremely high*" (2004: 58). Regulators could not keep up with the number of new "*companies, the new kinds of business activities, and rapid pace of technology adoption*" (2004: 58). With the change in markets and with greater focus on "*corporate accountability, compliance, transparency, ethics, and good governance,*" however, new accounting laws were written and passed (Kahn and Blair, 2004: 59). Now the mistakes of the 'boom years' "*are catching up with many companies as IMC activities they neglected and shortcomings they overlooked in the past is coming to light*" (2004: 59).

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[76] As defined in the Introduction, page 23.

Importantly, as a result, this shift towards a new economy has also meant an increase in software and hardware technology centered mostly on the "*ubiquity and low-cost of network connectivity offer*[ed] *by the Internet*" (2004: 59). As a result, in this rush for newer, faster technology in order to stay competitive, "*boring old Information Management issues such as records retention often fell by the wayside*" (2004: 59). Consequently, the failure to address these last-mentioned issues from the outset is now causing problems. Furthermore, during this decade organizations were not too concerned with IMC, which meant that "*most enterprising technology was not designed with IMC in mind*" (Kahn and Blair, 2004: 59). Above and beyond this "[d]*igital storage media have relatively short life spans and* [are] *subject to corruption*" as such, the design of these technologies itself is insufficient in terms of proper IMC (2004: 59).

In the second place this reliance on information and communication technology and the problems surrounding it, introduces the next big problem. In IMC, like all mere compliance programs, there is a problem in terms of authority and responsibility. Since an increasing number of "*company records and information were created and stored in electronic form, it became increasingly unclear exactly whose job it was to take responsibility for electronic records*" (2004: 60). Furthermore, this raises the question "*who had authority to design, implement, fund, and operate a program that addressed both the old and new world issues*" (2004: 60)?

In terms of this, IMC attempts to try to resolve the issue sketched above – which one can call the problem of many hands[77]. However, compliance fails to do so, since its focus is

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[77] The dilemma of many hands is understood within the context that "[g]*iven the number of individuals involved and the effects of collective action, it becomes difficult to locate the responsibility for the activities undertaken*" (Zaolnai, 2004: 143). This happens as part of the division of labour, and other related requirements of coordination and cooperation that is required for the functioning of any organization. This is important not only for the location of responsibility regarding actions and decisions taken, but also the allocation of praise and remuneration, and so it is also part of allocating proper incentives. If a person feels their work is going unnoticed they are less likely to work harder, which is made more difficult if it is unclear who did what and is responsible for what part of the product.

on the corporation, i.e. the collective or the group: it tries to resolve this uncertainty concerning responsibility, mentioned above, per-definition in a group-focused manner. In other words, though it tries to resolve the problem of many hands in relation to who should be responsible for programs, addressing old and new information management problems, compliance cannot do so, because its focus is on groups, not individuals. As such it fails to indicate the specific individual(s) responsibilities which is the original cause of the problem of 'many hands' to begin with. According to Kahn and Blair, because of this counter productive approach, the problem concerning responsibility for information management programs has never been addressed properly. Therefore, according to the authors, not only does this problem of uncertainty persist, but as a result it furthermore prevents information management problems from being addressed and as such, these problems "*slips through the cracks*" (2004: 60). Lastly, most companies have not evolved with this increased reliance on electronic information, and "[t]*he result is a lack of a holistic view*" needed to implement a comprehensive IMC program, as well as comprehensive ethical implementation (Kahn and Blair, 2004: 60).

The latter problem, of failing to address the question of individual responsibility on the subject of information management, becomes more pertinent with regard to the focus of this thesis, namely the implications of compliance for moral agency. A better understanding of this problem can be gained if we consider three elements that complicate IMC. As already mentioned, these are knowledge capital, tacit knowledge, and knowledge spillage[78]. In terms of IMC, knowledge capital and tacit knowledge is of great importance and use value – given the global service economy, as they are implicit in the diffusion of information that drives such an economy – yet in terms of information management it also implies the possible risk of knowledge spillage. Traditionally, the answer to this problem for information management was, as in the implementation of IMC, to increase the amount of monitoring rules in respect of compliance. The problem

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[78] Knowledge capital is defined and explicated in the Introduction, page 23, while tacit knowledge and knowledge spillage is defined and explicated in Chapter 1, page 39.

with the latter is it still ignores the individual moral agent (as was explicated in terms of problems of responsibility in the context of information management) while at the same time increases institutionalization. This further exacerbates the perception of removal of the autonomy of the individual moral agent, which is even more counter productive in the current economy than was historically the case, given the current economic focus on knowledge capital, as will be indicated in the paragraph that follows.

This problem of information management is especially relevant considering the following example, namely the disturbing trend of electronic payment fraud, which has "*surged toward a record high*" (Colleen, 2003: 1). This is symptomatic of the fact that "[a]*s business becomes more reliant on electronic payment than before, the associated fraud risk has increased exponentially*" (2003: 1). Colleen also highlights the "*fact that* [even if] *the amount* [swindled in fraud cases] *is smaller does not lessen the impact on the company's reputation, share price or the sheer amount of management time to deal with it*" (2003: 2). She continues to say that it is usually individuals who perpetrate these newer, if smaller, acts of fraud. This is a problem linked with how to control information and communication technology, complicated by the fact that these elements are tacit to the individual employee. This is a basic example of the problem of information management, which shows that it is individuals who commit these acts of fraud and even though the amounts are smaller than in the past, these acts of fraud can clearly be linked to the misuse of customer information[79].

The problem then is that there is an ever increasing reliance on information and communication technology for a wide variety of tasks, some of whom entail sensitive

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[79] The implication is that: such cases of unethical behaviour are only possible through the misuse of information, which an individual could only have gained by working at a given financial institution, and where information is poorly managed. Though it need not be restricted to the financial sector, this is applicable to any corporation using computerized data systems.

information, but this also means more accessible information. Though this, readily accessible information is good for management decisions, one need only give the example of data capturing, which is done at a relatively low ranking position, to explicate the problem with this: The person capturing the information handles possibly sensitive information and could, for example, try to commit identity fraud from the information he/she obtains – which raises the question how much more this problem could increase as one moves higher up in the corporation's structure.

However, if the problem of information management is addressed by increasing mere compliance, the practical problems of it as concept and as practice becomes evident through increased costs, mainly through increasing the time spent on managing electronic communication, such as monitoring the e-mails of employees, while that time could have been used more productively and profitably elsewhere. Additionally, on an individual level, this increased monitoring will only deepen the individual's sense of general distrust and removal of their individual moral agency, which will not increase job dissatisfaction, and will not only decrease productivity, but may also cause some unhappy employees to commit 'lesser acts of fraud' in resistance. This is supported by Harshman and Harshman who found that "[w]*hen the content and process of communication begin to conflict with the fundamental values of the workforce or with commonly accepted ethical principles, people tend to respond negatively rather than just to ignore the dissonance*" (1999:8). This is then the case I am making, that increasing monitoring is in conflict with the idea of trust which is not only part of the ethical contract, but is usually also a commonly accepted ethical principle. This elicits a negative response, or resistance, which in the context of information management, could lead to knowledge spillage.

This considered, a more pertinent point to deliberate is that this control or monitoring is a nearly impossible task when taking into account that the information needed (i.e. tacit knowledge) to commit such crimes cannot be disconnected from the employees, or other individuals who commit such crimes. If we then take all of these factors together the

inference we can make is that the policies and rules that are typically laid down to ensure secure information management (as defined in terms of IMC) are often, if not mostly, *disembedded*, in the same way economics have become[80]. By way of the examples given above of the failures of IMC in the context of information management, and the nouminal reality of modern communication, information technology and its relation to the individual employee, I have indicated the innate contradiction of IMC as a way of managing unethical behaviour, rendering it in practical terms ineffective.

The problem of information management becomes even more pressing, given that the process of knowledge diffusion and sharing is needed between all the organization's actors in today's economy to stay flexible[81], viable and to survive. This system of information diffusion, however, is the context in which the very actors that partake in it (the employees), can become a risk factor that leads to dissipation and/or debauchery of knowledge, especially when an employee leave to work for another organization or competitor (or works for him- or herself, in which case the ex- employee could also become a competitor with his previous employer). Worse still, is if an employee is disgruntled enough with their work because of their sense of dissonance at work, that they are willing to divulge organizational information publicly as an act of resistance, or 'pay back'.

In such cases, it is hard or near impossible to stop knowledge spillage because of the tacit nature thereof. Even if patent laws or other physical restraints are used, they are only applicable if the source of the 'spillage' can factually be traced back to its origins. Conversely, it is hard to restrain or anticipate what a person might say during private conversation, or determine accurately what a person might divulge within another working-environment (especially when the employee left to work for a competitor). As

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[80] See definition of "disembedded economy" in Chapter 1, page 39.

[81] See definition in Chapter 1, page 36.

one cannot remove the information a person has gained at work from the person himself, it thwarts legal measures of control of unwanted flow of information (on which compliance and the American model is based). As such, even though these legal measures, such as patent laws, are in place it relies by and large, on the integrity of the individual, how much they as individuals are intimidated by laws and policies, and their sense of personal responsibility and dignity. On the contrary, policies such as compliance, for example IMC, gives no adherence to dignity and personal responsibility (dignity and compliance will be discussed in Chapter 3), which once more gives reason for why IMC fails to be applicable to the practical realities.

As such, the type knowledge spillage mentioned so far vis-à-vis information management and employee behaviour in general, is incumbent on the problem of measurements and control applied in information management by IMC. The control methods used thus far with respect to information management, cannot account for tacit knowledge, given that the latter is intrinsically intertwined with the individual employee, and since neither is measurable, the individual as well as knowledge spillage as such are not controllable according to the standards IMC would put forward. In other words IMC, like other forms of compliance, presupposes that risk, in this case in the form of employees' knowledge, can be measured in some way as to minimize all foreseeable negative outcomes these risks might have. However, information, individuals and the tacit relation between the two, cannot be quantified in measurable terms, consequently assumptions of such a nature, seem removed from the social reality to which it appeals, i.e. IMC is exposed as seriously disembedded.

Furthermore, if we refer back to the fact that the individual is not granted personal responsibility in the context of compliance, aspects of both an ethics of rights[82] and an

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[82] Ethics of rights is defined as in Chapter 1, page 71.

ethics of justice[83], (reliant on 'duty', synonymous with personal responsibility[84]) are not sufficiently implemented or taken into consideration. This lack of rights and justice is particularly problematic if we consider what each means, especially since both are needed to address the before-mentioned knowledge spillage[85].

What is more, with the increased importance of information capital and tacit knowledge, the problems concerning addressing tacit knowledge is of greater and greater importance. Especially when considering the fact that with the increase in complexity in information

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[83] An "ethics of justice" can be divided into three parts: "*distributive justice*" (which is defined in detail in this Chapter on page 104), *"retributive justice* [which relates to] *blaming or punishing persons fairly for doing wrong and compensatory justice* [that refers to] [r]*estoring to a person what the person lost when he or she was wronged by someone*" (Velasquez, 2006: 88). I will return to retributive justice in Chapters 3, page 155. Each of these imply some form of duty on the person since in all three elements it is assumed that all the parties that might be involved accept responsibility for their actions, as is socially expected of them, with regards to whatever form of justice needs to be called upon in a given context. If this was not the case then none of the rules set out above would have any impact or influence. Only when responsibility is taken and the duty that this implies, is taken with it, does the rules of justice have an influence (as I explain with regards to responsibility in Chapter 3. Furthermore, ethics of justice generally do not "*override the moral rights of individuals,* [because] *to some extent, justice is based on individual moral rights*" (2006: 88). Consequently "*the moral rights of some individuals cannot be sacrificed merely to secure a somewhat better distribution of benefits for other*" (2006: 88). In this context, compliance removes the individuals rights to duty, or personal responsibility which has an impact on the individual's autonomy and individual moral agency (as we will see in Chapter 3), for the sake of minimising risk to 'secure a somewhat better distribution of benefits' or profit, to the corporation. However, as we have seen, compliance cannot, address the risk innate in working with people and the fact of tacit knowledge; it can therefore not secure the benefits it claims to do and therefore, the benefits of implementing compliance is not only disembedded from social, economical realities, but also not sufficient enough for further use.

[84] Duty, personal responsibility and its relation to the individual moral agent is discussed in greater detail in Chapter 3 regarding moral agency.

[85] The reason for including an ethics of rights and justice would be important to resolving knowledge spillage is that, if this is done, it would necessitate the inclusion of the individual moral agent in terms of the development of his/her unique self, which in the context of knowledge spillage also means including the individual morel agent who is inextricably linked with his/her tacit knowledge as part of that development. Moreover, this would mean also the inclusion of positive rights by companies towards individual employees and vice-versa in regards to information management. The implication of this on the individual morel agent would be that he/she would have to be proactive in the prevention of knowledge spillage, but in order to be able to be proactive the company would have to grant him/her the autonomy and freedom to take steps in preventing knowledge spillage. In other words, for the employee to be really proactive in preventing unethical behavior, he she has to be granted the freedom to act proactively, i.e. granted the positive rights, so as to act in accordance with positive rights towards the company.

and communication technology comes an increase in the level of specialization needed and required from employees, with reference to *knowledge workers* and the service industry. Ironically, such measures to increase monitoring or control will probably only lead to increased unethical behaviour. The reason being that, as the individual moral agent is becoming increasingly sophisticated and educated, the chances are that they will realize how compliance places restrictions on their autonomy. This, they could argue, negates their ethical responsibility, a point which is exemplified by the fraud cases mentioned earlier in this Chapter. If we look back at the examples given in this Chapter, page 81 , the type of knowledge needed to commit such types of fraud leads one to infer that the people perpetrating these unethical deeds were definitely well educated employees. Furthermore, in conjunction with the latter, given the specialized nature of the work, as bankers and managers which they performed while committing fraud, means that it would be hard to argue that they did not know what the right course of action was. On the basis of these facts, and that most of these employees mentioned in the examples, would have had stipulations in their contract as well as their professional codes of conduct, specifically focused on and warning against fraudulent behaviour, one can draw the inference that for some reason they chose to ignore, or disregard these ethical conventions.

It is important, however, that we remind and try to explain to ourselves, why such unethical fraudulent behavior, as portrayed in the mentioned examples, is being performed. I would postulate that the latter relates back the arguments given on the subject of possible reason for these employees disregarding, unethical actions, i.e. that with the employees increases sophistication they realized that compliance to some degree negated their responsibility[86]. This at worst imparts to the individual who realizes the

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[86] This was explicated by the examples and arguments given in Chapter 1 concerning the implicit contract and resistance.

absence of their personal responsibility, a sort of anarchist freedom[87]. In other words, although mere compliance should increase the power of the state or business organization, through negating the moral agent, and via this ethics of justice and rights (as well as ethics of virtue and care as will be explicated in Chapter 3) ironically, it leaves exactly the type of vacuum for the individual in which anarchy is possible. The reasoning behind this is that the controls or structures that should govern conduct in the business context are not succeeding, as is clear when considering the levels of ethical misconduct. The moral responsibility for business behaviour then falls on the individual moral agent, who, in the context of compliance, has no responsibility, as was indicated through the argument of the problem of many hands in this Chapter, page 90 and the disembedded nature of compliance which displaces responsibility, discussed in Chapter 3, page 127. This is exacerbated by the fact that within compliance, there are no positive rights to assist the individual moral agent with the personal responsibility they have within this anarchistic freedom, only introjected morals, (the problem with which I will discuss in Chapter 3, page 123). An effect of which is that this anarchy becomes perverted.

A consequence of the above mentioned is that, in the most extreme forms of the this process, where individuals have become totally disillusioned with this incongruence between compliance and personal responsibility, this unguided 'freedom' gives the space for such frustration to become lived out in forms of resistance. Which at worst evolve into criminal activities, such as the electronic payroll fraud mentioned earlier in this Chapter. Such acts of unethical behavior by individuals who are granted this freedom through the lack of compliance to include the individual moral agent, leave businesses exposed to all disillusioned individuals who wish to commit knowledge spillage. This in turn, may at best cause those employees who are not initially cynical, to become disillusioned when IMC, which supposedly warrants or increase ethical conduct, fails which, according to the literature of Kahn and Blair, it already has. This in turn might

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[87] Anarchism is the doctrine that believes that "*human communities can and should flourish without government [and] historically have tended to be associated with advocating violent opposition to the state*" (Blackburn, 1996: 14).

cause also these employees to react in frustration and act unethically[88]. Before however we look at the problem of the individual moral agent I would like to consider lastly, criticism regarding IMCs as well as with respect to the integrity of the source of information, which concludes the first half of this Chapter concerning criticisms of IMC practicality as a tool for information management.

5. Criticisms on IMCs' concerning its reliance on best practices, and the problems regarding the integrity of source of information

In this section I will consider lastly, two criticisms regarding IMC as a practical tool for information management, they are: Firstly, IMC's reliance on best practices; and secondly the importance given within IMC to integrity regarding the source of information. The section to follow brings to a close criticism regarding the practical implementation of IMC, while also giving some insight into the ethical problems with respect to the relation between the individual moral agent and ethics in terms of information management, which is the focus of the section to follow.

Starting with the criticism related to the reliance of IMC on *best practices*, the latter has been defined as the implementing of *a series of recommendations and practices that is generally accepted*. The argument that I wish to make in light of this definition is that in its intensive application as a means to address culture lag, compliance itself, if we refer back to the example of the 91% implementation of SOX, becomes one of these *best practices*. But this only means that compliance has become <u>the most widely accepted practice</u> in addressing information management. As such, however, compliance programs

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[88] We have then in this Chapter, already discussed that the biggest problem for IMC, as indicated thus far, is related to the fact that knowledge is tacit and inseparable to the individual, which is contradictory to the structure of IMC which is focused on groups, and that in terms of knowledge, any system not allocating responsibility in accordance to the individualistic nature of knowledge capital will always be vulnerable to knowledge spillage. This is because in such a capital system it is the individual moral agent who holds currency in regards to their personal decision concerning ethical behaviour in terms of the knowledge they hold, as such for IMC it is the individual with his/her tacit knowledge that hold the biggest threat.

like IMC suffer the same problems as the *best practice* approach, in that they contradict the reality of business that "*there is no single set of best practice that is applicable to all organizations*" (McDaniel, 2004: 45)[89]. Changes in the economy, particularly to a neo-liberal service economy with is increased pace, caused by the increased development of communication and information technology makes previous *best practices* on which compliance, including IMC, are based, outmoded. Basically, these *best practices* cannot keep up with or account for the pace of change.

However, all of the above-mentioned points on problems concerning information management mentioned in sections 3 and 4 of this Chapter, according to Harshman and Harshman, is indicative of a "*prior cause to many of these problems*" which is the "*integrity of the source or sponsors of the information*" employees receive, which, in turn, is a reflection of the organization's character or culture[90] as a whole (1999: 6). Many of these communication difficulties pertain to "*difficulties of content (or the amount of information available) and credibility (the perceived honesty, truthfulness, reliability)*" of the information and its source (1999: 6). As far as credibility is concerned, its importance lies in that "*it is related to employees' judgment about leaders' qualities such as integrity and honesty*" (1999: 7). Pertaining to integrity and the protection thereof, it "*is more than an aesthetic or expressive exercise, more than an attempt to preserve a comforting, familiar environment. It is a practical concern of the first importance because the defense of integrity is also defense of an organization's distinctive competence*" (1999: 7). As concerns distinctive competencies, they are developed specifically "[a]*s institutionalization* [not referring to habituation] *processes, the enterprise takes on a special character and this means that it becomes peculiarly competent to do a particular kind of work*" (Harshman and Harshman, 1999: 7).

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[89] This can also be said to apply to SOX, which by having become such a 'best practice' (considering its vast application) is no longer applicable 'to all organizations'.

[90] See definition of corporate culture in the Introduction on page 18.

If an organization defends and indeed develops their distinctive competencies[91], which in terms of the corporation as a moral agent would also determine the action taken as expressing the organization's intentions, it needs to defend integrity. Integrity, as indicated in Chapter 1, in terms of its difficulty in relation to utilitarianism[92], is a problem for compliance, as it insists and relies on ethics, and via this the individual moral agent. This clearly places compliance in a difficult position, as integrity cannot be contained within the unitary framework of compliance. Indeed, in the context of communication with integrity "*honesty is the single most important factor,*" but this relies on individuals to be honest. The latter, along with telling the truth, as will be demonstrated in Chapter 3, is connected to trust as well as the type of character of the individual moral agent who holds these qualities – which in turn alludes, in the final instance, to virtue ethics[93] (1999: 7). It is these problems of honesty, integrity and truthfulness in the light of compliance failures that I would like to explore now. Since they are immeasurable, they fall outside the gambit of compliance. This will in turn bring us to consider moral agency and, more specifically, in terms of knowledge spillage, individual moral agency, and responsibility.

Before this point is reached in the next Chapter, however, compliance's relation to the individual and ethics must be considered, since the individual moral agent relies on, but is also constitutive of ethics, while on the other I have indicated thus far that compliance

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[91] Also defined in Chapter 3 in terms of the corporation as a moral agent, basically stating that if an organization is a moral agent it could be defined through its policies which will define its distinct competencies.

[92] With this I refer to the fact that integrity and dignity are problematic terms for utilitarian ethics given that they are inextricably linked to self-worth, which fall outside the confines of utilitarian ethics, given that one cannot measure self-worth.

[93] Virtue ethics can be defined briefly as "*an ethics based on evaluations of the moral character of persons or group*" (Velasquez, 2006: 60). Furthermore a virtue ethics takes the view that one is good and do good deeds because of one's character, not "*for the sake of which we act*" good (Blackburn, 1996: 394). If agency or the self is reliant on responsibility and the removal thereof leads to inauthenticity, then such removal would leave one with a skewed or incomplete character, since there would be no self. In this way responsibility, through the idea of the self, or agency is linked with ideas of virtue ethics. Furthermore one could argue that only a moral agent can make moral decisions, such as acting ethical or unethical, without which virtue ethics, or any other form of ethics cannot exist. This is discussed in more detail in Chapter 3.

negates individual moral agency. Furthermore, by exploring the relation between ethics and compliance in practice, not only will it become clear why compliance implemented for the sake of greater ethical behaviour does not work, it also strengthens the argument that ethics is not possible without consideration of individual moral agency.

6. The problem of IMC and its relation to the individual moral agent

Having concluded our analyses of IMC with regards to its practical implementation, I will use this section to look at the two key elements needed for information management, but which is problematic for IMC: this refers to the individual moral agent and ethics.

As I have argued in the previous sections concerning IMC's innate structure, IMC does not make allowance for the individual moral agent. In fact, to extend the argument regarding the problem of ignoring the individual moral agent, more difficulties emerge when IMC is considered in the broader scope of the neo-liberal, service driven economy that is focused on the individual, also in terms of the customer, referring to "*mass customization*,"[94] both of which are conflicting with the unitary ideal of IMC and compliance in general (Cant et al, 2006: 21). In other words, it can be argued on a secondary (external) level (above and beyond the internal problems of information management in terms of the individual), that increased institutionalization and monitoring will only cause more resistance among individual employees. This is the case, given the greater loss of autonomy that this increased institutionalization and monitoring implies[95],

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[94] Mass customisation is a marketing strategy aimed at "*a single customer, or in other words, markets of one*" (Cant, et al, 2006: 21). Mass customization is a defining element of neo-liberal economics which is primarily focused on the individual, especially in terms of the customer. The reason why this is important is that the consequence of this individualistic approach towards the customer, necessitates that the organization rely on the creative individual inside the organization if it wishes to stay contemporary, and competitive (this relation between the creative individual and the organization will be explicated in detail in Chapter 3 with reference to the corporation as a community) (Cant, et al, 2006: 21).

[95] This increased resistance with increased institutionalization refers to how the latter contradicts with the importance of the individual moral agent on both the internal level (with reference to tacit knowledge) and the external level (referring to mass customization), as well the fact that it is exactly the negation of autonomy and individual moral agency that lead to resistance, as defined in the implicit contract.

since, on the other hand, mass customization and its emphasis on non-unitary, non-standardized creative thinking and focused on individual customer needs, emphasizes the importance of the individual agent in the organization. To wit: it is the individual who is creative and holds the tacit knowledge to survive in such a neo-liberal economy, not the group[96].

In addition, mere compliance such as IMC severs the individual from the social adjustment process[97] needed to lessen the gap created by culture lag. This severing will be discussed in greater depth in Chapter 3 when referring to the corporation as a community. However, for now we can briefly explicate that in the process of social adjustment individual creativity is needed to formulate and disseminate the response of non-material culture to advances in the material culture. IMC's emphasis on unitary behaviour disregards creativity, and in doing so, severs the individual input into the social adjustment process. In this context IMC not only distributes the burdens of ethical decision-making unjustly towards the 'privileged few,' in other words management, but is also too inflexible[98] since this implies a vertical business structure which cannot address the contingent, *flexible* environment, from which contemporary ethical problems arise within the service driven neo-liberal economy. With regards to communication information technology and culture lag, we can agree that some guidelines such as IMC, about the lines of communication is needed, but if ethics, as well as employees (referring

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[96] We have already discussed the problems IMC has with contingencies such as the individual and creativity in the first section of this Chapter.

[97] This can be understood above and beyond the given definition of the social adjustment process defined in this Chapter on page 85. Here I refer to it in terms of the corporation as a community, and how the individual and the organization "*are related to each other in a dynamic tension, and both are important to consider from a moral point of view*" (Buchholz and Rosenthal, 2006: 235). This perspective recognizes that in its "*mission, management thinking, and organizational intent, corporations are something more than just the individuals in the organization*" (which will be discussed in Chapter 3) (2006: 235). Buchholz and Rosenthal believe that companies are more than the "*anthropocentrism inherent in the view that corporations are nothing more than collections of individuals. But* [also they believe that the] *collective something* [which forms the constitution of the company] *must not ignore or slight the role of the individual in the organization*" (2006: 235). This is explicated in depth in Chapter 3.

[98] See definition of flexible in Chapter 1, pages 36 regarding Post-Fordism.

to ideas of distributive justice[99] and rights ethics), are not involved from the outset, then any such structure will suffer from miscommunication and misinterpretations.

If we then turn to the individual moral agent in the work environment within the context of the problem of culture lag, McDaniel is of the opinion that the quality of work achieved is directly related to what the employee wants, especially on the subject of the ethical work environment, which she believes has a lot to do with the quality of communication. According to her, "*employees express directly the need for open and honest communication about situations occurring at work they deem unethical, or pertain to ethics*" (McDaniel, 2004: 87). In other words, "[c]*ommunication is the underlying ingredient*" of the implementation of the components which create a positive work environment (2004: 87). As such, as in the case of one-way communication which can cause employees to feel excluded, "*employees* [who perceive work situations] *to be less than ethical cite lack of communication, inability to garner feedback or information they desire, and lack of candid conversations about problems they observe in the work site*" as their main problems (McDaniel, 2004: 87). Also, "[i]*gnoring ethical issues, looking the other way or being overtly dishonest* [are] *all examples of behaviour reported in places of work where employees think it is less than ethical*" (2004: 87). If we then reflect on the above paragraphs it seems that, the increase of monitoring because of IMC does not agree with ideas of open and honest communication pertaining to ethics. As such, it might seem to the employee that if they are not granted personal responsibility for ethical behaviour, then the organization is ignoring the ethical matters that are fundamentally most important to them, choosing rather to focus on those ethical matters most important for increasing profit. This, in turn, might seem as less than ethical reasons for implementing guidelines for ethical behaviour.

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[99] Distributive justice can be defined briefly as the "[d]*istributing of society's benefits and burdens*" (Velasquez, 2006: 88). Specifically its fundamental principles are that "[i]*ndividuals who are similar in all respects relevant to the kind of treatments in question should be given similar benefits and burdens even if they are dissimilar in other irrelevant respects; and individuals who are dissimilar in a relevant respect ought to be treated dissimilar, in proportion to their dissimilarity*" (2007: 89)

Not involving the individual moral agent, and thus contributing to the creation of situations which they would regard as unethical, in turn could hamper effective ethical implementations at best and at worst escalate or hide current ethical matters. This is supported by the NBES, who has shown that management "*is often unaware of unethical behaviour*" and that this is greatly due to poor communication (Desio, 2007: 2). On the other hand, it is of interest that "[o]*nly 3 percent of all employees said they would prefer to use a company hotline rather than speak to someone they know*" (2007: 2). This illustrates the fact that while communication technology has increased one should keep in mind (especially in respect to culture lag in terms of the technology), that the complexity "of *technical devices which have come to facilitate the process of communication in* [the organization] *tend to divert attention from the essential truth that effective communication is more a matter of mind than of machines*" (Brown qt. in Harshman and Harshman, 1999: 9). The basic argument then is that communication problems are human problems, and not technological ones, which clearly means that the solution to communication management problems need to take the human element into consideration.

This considered, in order for communication to be ethical, or promoting ethics in the organization, all parties need to be equally involved, even if the power relations between these parties are not equal. The latter can be understood in terms of the moral agents' relations to each other in a contract. In other words both parties to a contract must have mutual full knowledge of *the nature of the agreement they are entering*; no *party to a contract must* deliberately feign the *facts of the contractual situation* and a *contract must not bind the parties to an immoral act*. This is supported by the argument that trust is needed for a contract to be of any use. If the parties involved don't trust each other on some level, no amount of legal jargon would satisfy the suspicions of the one party regarding the other, which would make for a very tedious, negative, costly and unproductive relationship. This will be treated in more depth in Chapter 4, when the notion of trust is discussed in greater detail. For now it is sufficient to state that without

trust no contract could ensure that people feel safeguarded against being betrayed[100], the hidden cost of which would be too stifling for an economy to survive. Trust is thus part of the unwritten social contract that makes contracts possible in the first place, such as the psychological contract, which has already been defined[101].

Referring back to elements that constitute ethical contracts, the argument can be made that communication needs to flow in both ways equally, as far and as ethically as possible, if communication is to be an efficient and effective tool that allows full knowledge concerning relevant facts to both parties[102]. The importance of two-way communication is that this refers to transparence[103], and the reason for why two-way communication is important can be explicated by looking at the type of communication one-way communication would imply. One-way communication is a classic management model, entailing a vertical[104], top-down structured form of communication. In vertically structured organizations either party may choose to withhold, or distort information to put

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[100] With this I am referring back to Fukuyama's idea of the low trust society defined in Chapter1 on page 43

[101]The psychological contract is defined in Chapter 1, page 41.

[102] This refers back to the definition of an ethical contract in which no party may attempt to deceive the other deliberately by feigning the facts. From this we can make the inference that one could argue that where two-way communication is not implemented, it will be easy for either party (employer or employee), to misrepresent the facts without the other's knowledge, in the very least. As such two-way communication can be made analogous to a type of check-and-balance, in which as soon as the one party is not transparent, the other will know, otherwise misinformation, or knowledge spillage by either party will be able to go unchecked.

[103]A horizontal of flat organization is defined as "a slimmed down organization with fewer levels between top and bottom than a traditional bureaucracy, that is supposedly more responsive and better able to cope with fast-moving change" (Available form: http://dictionary.bnet.com/definition/flat+organization.html). Furthermore, this form of horizontal business structure brings "the *top management* in direct *contact* with the frontline salespeople, *shop floor employees*, and *customers*" (Available from: http://www.businessdictionary.com/definition/flat-organization.html).

[104] A vertical organizational structure is defined as a hierarchical structure and functioning as an *"organization in terms of the layers of management delegation of authority. A vertical management structure has divisions of authority with various levels of responsibility. For example, a vice-president of marketing might have an assistant vice-president who is in charge of a departmental director, and so on"* (Available form: http://www.allbusiness.com/glossaries/vertical-management-structure/4942637-1.html)

themselves in a better light, while the other will not be aware of this omission because of the layers between two parties which obfuscates clear communication. Having said this, and given the lack of transparency, distortion can take place as information is passed on form one person to the next, as the information makes its way up the organization's structure or down through the different layers. This, however, clearly does not correspond with ideas of transparency which promote horizontal or flat communication structures.

The importance of transparency is further substantiated, as I have indicated before, by the fact that the view of director's on information is different than those of employees, consequently if the flow of information is not in both directions, it may create the perception that top management is either not committed to full disclosure, or is hiding information. Either way, if we refer back to McDaniel, such circumstances are viewed by employees as unethical (McDaniel, 2004: 87). Moreover, in a business context where transparency is low it leaves room for rule manipulation[105], which according to Watson's view of the implicit contract, could be regarded as another form of resistance (1989: 225). If employees view their organization as less than ethical, they might come to manipulate the rules for their own gain and the lack of transparency in a vertically structured organization will obfuscate this fact.

The negation of the individual moral agent in mere compliance, seen in the light of IMC, could thus be regarded as binding the parties involved to an immoral act per definition, as any negation of a person's right to moral agency and responsibility would be an unjust distribution of social burdens by that agent, institution or system that has enforced this. This would mean that too few people would be burdened with too many people's moral responsibilities, and with too many people being left with no say in their decisions and having to tolerate the physical and psychological burdens that this implies (which is discussed in Chapter 3). If, however, communication is implemented properly and

[105] Rule manipulation occurs when employees use the rules of the organization for their own gain.

ethically it assists in creating a culture of trust between the different moral agents, which is significant in light of the NBES finding that *the rate of misconduct is cut by three-fourths at companies with strong ethical cultures, and reporting is doubled at companies with comprehensive ethical programs* (Desio, 2007: online). This then means that ethical communication has to be effective and sufficient to the degree that the communication sent, received and all the processes in-between are done ethically and at a quickened pace, in order to keep track of contingencies, in other words it has to flow both ways equitably. Indeed, the organization has to stay flexible and address contingencies in information management such as contemporary day to day ethical problems that individual employees face, such as their moral responsibility in terms of the information they poses, to survive. For an organization to achieve this flexibility, trust and transparency is required, subsequently communication and information between management and the employee must flow as equitably as possible.

Having indicated that the information management is indeed not possible without involving the individual moral agent, it is also important to note that with respect to the individual employee, it was indicated that there is a need for dignity and self-respect at work, which is related to ethics. The next section then focuses on the relation between compliance programs, such as IMC and ethics, since individual moral agency does not exist without ethics, nor does ethics exist without the individual moral agent (as I will explicate in detail n Chapter 3)

7. The failure of compliance in terms of its relation to ethics

This section continues to look at the internal aspect of IMC failures, specifically in terms of the expectation that IMC and compliance in general, as a method of control, will increase ethical behaviour[106]. According to McDaniel, not only is this not true, but the

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[106] This failure refers back to the contradictory nature compliance in terms of its phenomenological promises, defined in the Introduction, page 21 and what it actually delivers.

implementation of compliance leads to the subsuming of ethics under compliance. This is supported by statistics on ethical committees which "*revealed a trend towards melding of ethics programs with compliance offices*" (McDaniel, 2004: 63). This is clearly illustrated in several cases where "*the department on compliance subsumes the ethics committee and its function, thereby integrating the responsibilities of the two and blurring the distinction between them. In these situations compliance offices take precedence over ethics programming*" (2004: 63) [107]. Blurring the distinctions between ethics and compliance results in a relationship between the two that is "*less than coequal,*" which denies ethics its unique set of "*purposes, functions, responsibilities and accountabilities*" (2004: 63). There is however a real difference between compliance and ethics, and pointing this out will indicate underlying reasons for why compliance subsumes ethics, which as I will indicate, relates to contingency and via this the individual moral agent.

The main reason why this subsuming of ethics presents such a problem, however, is that ethics irreducibly implies an individual moral agent[108] (which I will explicate in Chapter 3). This coincides with another implication of compliance's attempts to uniformity[109]. The implication of this is that compliance risks "*constraining* [the] *discretionary decisions*" individual make, while on the other hand, within the realm of ethics, even though "*the process and outcomes take more time and are potentially ambiguous, respectively,*" the individual has freedom in terms of discretionary judgment (McDaniel, 2004: 66). In other words, though compliance is part of risk management, the risk that it has is in terms of its attempt to ensure uniformity regarding discretionary judgment, which is in contrast to ethics. As such, "[w]*hile compliance and ethics have related aims and overlapping features,* [concerning ethical behaviour,] *compliance is not the same as*

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[107] As is in keeping with compliance's institutionalizing nature.

[108] As will be explicated in Chapter 3, when referring to Levinas' conception that it is the moral agent that makes ethics possible.

[109] With this I am referring back to the definition of compliance in Chapter 1 that, it makes 'limited, if any, allowance for discretionary judgment,' reasoning that giving individuals a range with respect to discretionary judgment implies risk.

ethics because ethics is broader in scope than compliance" (2004: 65). Although compliance also gives standards for behaviour, unlike ethics it sets the *minimum standards* for behaviour, whereas ethics "*is guided by what one 'ought to do'*" and as such, ethics does not impose the same behavioural limitations as compliance (2004: 65). What is more, ethics "*does* [not] **permit** *a minimum set of behaviour*" – ethics "**allows** *individuals to discern, analyze, and critically examine what one ought to do in specific situations; it is primarily reflective in nature*" (my emphasis) (2004: 64).

According then to the above distinctions, ethics is reflective rather than prescriptive by nature, which implies a specific type of morality – which can be characterized in terms of the distinction that Nietzsche has drawn between Good and Bad Morality (GBM) on the one hand, and Good and Evil Morality (GEM) on the other hand[110]. Ethics in distinction from mere compliance, as discussed in this thesis, I would like to argue, correlates with Good and Bad Morality. Good and Evil Morality in turn, I would like to argue, emerges within the context of compliance, and the difference between the two (ethics and compliance) can be established by noting that "*compliance is concerned with expectations emerging from federal* [or managerial] *regulations, whereas ethics emerge from concern for interaction between and among persons, from concern for 'what ought to be done'*" (2004: 65). This is analogous to the genetic differences between Good and

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[110] Good and Bad Morality refers to Nietzsche and the differentiation he makes between Good and Bad Morality (GBM) on the one hand, and Good and Evil Morality (GEM) on the other. Most basically, Good and Bad Morality and Good and Evil Morality differ "*genetically in two respects: in terms of aspects of the chronological order in which the elements of the respective distinctions arose; and in terms of the motives that explain the genesis of the distinction*" (Leiter, 2002: 208). Firstly, for GBM, "*the term 'good' ("gut"* [in German]*) is invented first as a spontaneous celebration of "the exalted proud soul" while in turn 'bad' ("schlecht") is an afterthought*" which designates all those things that are not 'good' (2002: 208). Contrary to this, in GEM the term "*evil" ("böse"* [in German]*) comes first (to designate 'precisely the 'good man' of the other mortality'), while in turn 'good' (gut) comes second,*" or simply as an indicator of all that which is not evil (2002: 208). Their different motives explicate the authentic person, which for GBM "*is self-affirmative and celebration of the 'exalted, proud states of the soul'*" (2002: 209). While for GEM, the motive is "*reactive: it involves wanting to respond to particular 'external stimuli' by negating or devaluing them,*" similar to the idea of introjected values (2002: 209). Introjected values refers to when an individual no longer follows their own values, but that of another entity, which it has accepted and internalized as its own (like merely following policies, for example). Good and Evil Morality in turn is used to explicate reactionary morality, such as compliance in the face of culture lag.

Bad Morality and God and Evil Morality, where the latter relies on an external locus[111] of control, reacting to situations and wanting to negate or devaluate ethical dilemmas, while Good and Bad Morality relies on an internal locus of control.

Good and Evil Morality and compliance are similar with respect to the fact that compliance relies on a *fundamental power basis*, (legislation) which renders it an external locus of control. Furthermore, similar to Good and Evil Morality being reactionary to the '*böse*' or external bad stimulus, so too one could argue that as a form of risk management, compliance is reactionary with regards to culture lag (as I have argued earlier in this Chapter). From the latter argument of compliance as reaction to risk, we can draw the inference that compliance would most likely follow in the vein of Good and Evil Morality. This is supported by the following arguments: If compliance is in line with Good and Evil Morality, it would first define the bad, while not regarding ideas of self-affirmative moral agency. The evidence for the latter can be sought when looking at the omission of positive rights in the conceptualization and implementation of compliance, discussed in Chapter 1, page 68. Additionally, if we follow this line of argumentation it would mean that compliance would rather seek to negate, than resolve negative external stimuli, in this case moral dilemmas in the business context, and not consider itself as part of a critical assessment of the problems of society and the action to overcome them (which I have indicated is the case in terms of the problem of the disembeddedness of compliance). Furthermore, this is supported by the regulatory nature of compliance with regards to behaviour – compliance focus on *behaviour about which one has little, if any, choice*. As such, compliance has an external locus of control, with reference to the fact that its etiology is usually located in *another regulatory body*, usually the law. These facts together give weight to the idea that compliance can be associated with Good and Evil Morality.

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[111] See Chapter 1, page 65 for definition of locus of control.

Contrary to these arguments ethics makes no such claim on an external locus of control, or being prescriptively regulatory. Ethics' "*ought to, suggest*[s] *preferred behaviour*," which involves depth of discretionary judgment, implying an individual who is self-reflective regarding moral deliberation, a self-affirmative person (McDaniel, 2004: 64). The emphasis of ethics, is "*on critical analyses* [and] *supports discretionary decisions and judgments*" (2004: 66). It relies fundamentally on people and their interaction – i.e. the individual's ethical character and moral agency. Because of this increased depth implied, when ethics is implemented, it might take more time to deliberate on matters, which may seem counter-productive in the business context. However, in regards to production the potential benefits are that such an increase in depth helps to counteract labour alienation and boredom, as well as its hidden cost such as "*increased cost of employee absenteeism as well as decreased productivity and quality*" (Grobler and Wärnich et al, 2006: 140). Additionally, the creativity necessary for discretionary judgment, not only offsets labour boredom, but is conducive to creating a positive work environment, all of which have positive effects on work production and output[112].

Creativity, as has been defined in Chapter 1, page 37 is, connected to discretionary judgment in terms of the individual moral agent, which coincides specifically with work motivation factors in the context of the positive work environment. It is in these terms that the level of the employee's discretionary judgment is defined and the nature of their work is structured. The degree to which the individual can make ethical decisions in relation to their everyday ethical problems has to do with the increase in the *depth* element of work and will directly influence the scope of their work. Thus, including workers in the structuring of ethical plans in the organization can be seen as part of "*job*

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[112] This argument refers back to the point I have already made regarding one of the significant reasons why ethics counters resistance, which refers to the conformity implemented by compliance wanting to reduce creativity, ingenuity and innovation, something desperately needed for "*forward-looking systems*" and the idea of discretionary judgment central to ethical deliberation (McDaniel, 2004: 67). In addition, in a service-driven economy, focused on 'markets for one', innovation and creativity is crucial for an organization to stay competitive. Also, creativity will be demonstrated as being of cardinal importance in terms of the corporation as a community in Chapter 3, and as already discussed in terms of culture lag, respectively.

enrichment" – which is part of the motivational factor regarding job structuring and refers to when jobs "*are redesigned on both scope and depth. Typically, the worker decides how the job is performed, planned and controlled and makes decisions concerning the entire process*" (Grobler and Wärnich et al, 2006: 141). This also includes ethics in the <u>structure</u> of everyday life in the organization and economy[113]. Before we go deeper into job enrichment, there are also the alternatives of structuring work according to job rotation and job enlargement as motivational factors. These will be considered here first to contextualize the argument for why compliance as a control method over employee bahaviour should be viewed as part of, and related to, the latter types of job structuring.

One "*technique designed to enhance employee motivation*" is job rotation, which "*periodically assign*[s] *employees alternating jobs or tasks*" (Grobler and Wärnich et al, 2006: 140). Job enlargement also attempts to do the same, by increasing "*the number of tasks performed*," and thereby merely "*increase*[ing] *the job cycle*" (2006: 141). Thus, contrary to job enrichment which increases job depth, job rotation and job enlargement merely try to increase the job *scope* (Grobler and Wärnich et al, 2006: 141). Comparable to these, compliance increases the amount of cyclical work, concerning moral deliberation and action through increased monitoring, legal paperwork and reporting, but, not the elements of thinking, decision-making and personal responsibility for work. As such, the creative individual moral agent is not included in these types of plans, which tend to fail.

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[113] It is here where economics and ethics can intersect. Consider that the meaning of the word 'economics' can be broken down as "*οἶκος [oikos], meaning house and νόμος [nomos], meaning custom or law,*" and hence refers to "'*rules of the house (hold)*'" or a collection of policies (Available from: www.wikipedia.org/wiki/Economics). In this context if ethics is considered in business it assists in, and becomes part of the rules of economics, making it less disembodied. However, as suggested in the text, ethics importance in shaping these policies is yet to be included in this structuring process of the employees work, referring to the motivational elements of job depth and scope in job structuring. In terms of job enrichment, however, the two need not conflict, but both are crucial for the survival of the organization, dependent on their own distinct developments within the business context, since ethics helps reconnect economics with society, and economics can as rules of the house can create the context where ethics can become integrated in business.

The above formulation of motivational factors for job structuring, i.e. job rotation and job enlargement, fail because they "*only addresses the problem of assigning employees to jobs of limited scope; the depth of the job does not change, employees are simply assigned to different jobs with different cycles*" (2006: 141). In other words, it entails more work but no increase over the control and personal responsibility thereof. Nor does it "*change the basic nature of jobs*," it simply gives workers more of the same level of work (2006: 141). Similarly, in the case of compliance, the amount of institutionalization and control is increased, be that through policy or other more direct methods of monitoring such as screening employee e-mails, or surveillance, so more effort is put into work, but compliance does not change the basic nature of the job. In the same manner, job enlargement fails, because even though it increases the job cycle of workers, it also does not increase job depth. For even though there are many tasks for the worker to perform at different cycles, the actual input in the structuring of their work and the depth thereof stays the same and the employee never engages with the structure (the *rules of the house* or policies) directly. As such, proper integration of the employee is never possible, only their habituation[114]. These reasons are also symptomatic of mere compliance, and as such, they are also one of its biggest pitfalls.

Considering the above, compliance can be viewed correspondingly by employees as simply another form of job enlargement, because although workers have to include the task of complying with policies, they still have no creative input in the rules informing compliance. And even when they do, when implemented it does not allow for creative or individual deliberation outside those rules, in other words in terms of "ought to"-behaviour. Nor are there structures that allows for employees to partake in decision-making responsibilities in respect of the ethics behind these rules of compliance. More

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[114] Habituation is defined as "*the gradual elimination of superfluous activity in learning. 2. In general, nearly any constant stimulus will produce habituation.* [It is] *similar to desensitization*" and can also be understood here in terms of its psychopharmacological meaning "*psychological dependence*" (Rebber, 1985 :315). Dependence here refers to "[a] characteristic of an individual in such a dependent state; a lack of self-reliance" (1985: 187). In this context the individuals has a lack of self-reliance in terms of their own ability regarding ethical deliberation.

specifically, they are not included in taking personal responsibility for ethical or moral deliberation and actions if they merely follow the rules. The implication of this is that employees' job scope has increased, but their depth of work, in relation to the cognitive or behavioural participation concerning ethics and even compliance, has not. They simply follow the rules prescribed to them. These rules, in turn, do not really conform to their everyday work environment, but is rather used as *a motivational factor*, part of the control or parameter setting element of structuring of jobs and as such, more often than not, more accurately reflects the management model that their superiors are implementing.

On grounds of the above mentioned, again it is the case that, if compliance is not reflecting the reality of the employee, whom it is supposed to control, these policies are disembedded form the realities and contingencies of everyday work. Consequently, this may cause workers to experience incongruence in their work and could leave most workers feeling disillusioned about their work, their employers, the organization and their fellow employees. In situations like this it seems likely that employees would be more willing to commit acts of *resistance*[115], if we refer back to Marshall's statement that people tend to react to rather than accept untenable ethical conditions (1999: 86). The reason for this, as we I have argued in Chapter 1 with reference to the implicit and social contract, is probably to regain some level of autonomy which would bring them closer to "*ought-to"-thinking*, increasing their level of personal responsibility, rather than partake in compliance with its uniformity and prescriptive constitution (the reasons for this will

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[115] I should clarify that with resistance I am referring to the whole scope thereof mentioned in the implicit contract in Chapter 1 – which indicated there are varying layers of resistance. Therefore some are more creative and less destructive than others, such as joking or working back up the line. I should also point out that the choice might not be as clear-cut as resist or else, since some newer models of management do make some allowance for employees to talk about their problems through, for example, help lines. However, as I had stated in Chapter 1, even when these actions may not by carried out explicitly to disrupt, or are destructive to the organization in terms of physical disruption, they do carry a cost in terms of time lost and poor service, to mention only two aspects. More importantly, whatever the reaction may be, it all indicates that the individual employee pays a cost when, in some way or another, their autonomy is removed, which will cause feelings of dissatisfaction that will be reflected in the employees' work performance, in which case he/she might be acting unwittingly in a resistant manner to cope with these feelings.

become clearer in Chapter 3 where I link these points to a discussion of what employees want).

This brings us back to job enrichment, which is defined as usually being 'comprehensive'. In other words, "[w]*hen one job is enriched, typically the function of supervisors and other employees are altered*" (Grobler and Wärnich et al: 2006: 140). What is more, job enrichment can only be achieved with increasing the employee's job depth. In this capacity ethics can not only assist, but it is seen by employees as cardinal to dignity[116] at work, as well as their integration[117] and cognitive involvement in their work.

In this context of the motivational factor of job structuring, hindrance of scope, in terms of limiting discretionary judgment, comes at the cost of impeding individual creative development and the capacity to solve and analyze problems on one's own. It habituates the individual moral agent's capacity for ethical decision-making. Put differently "[i]*f an organization encourages conformance it may also reduce the level of creativity and innovation sought in a productive forward-looking system*" (McDaniel, 2004: 67). This is important given that employees' cognitive involvement is essential "*regarding the integration of personality and organization and the importance of self-esteem*" for which "*ethics structures offer a means of attaining cognitive involvement in the work site*" (2004: 83). This lack of trust and *depth* innate in compliance raises queries with reference to the organization's view of the competency of their employees and management. This in turn correlates with the opportunity costs[118] companies can incur when the trust is missing. Consequently, personal responsibility is an important component in considering

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[116] Dignity is here referred to in the context it was used in footnote 35, Chapter 1, page 37.

[117] Integration is defined in Chapter 1, page 36.

[118] Opportunity costs occur "*where one course of action, for example making an investment deprives us of the opportunity to derive some benefit from an alternative action, for example putting the money in the bank*" (Atrill and McLaney, 2006: 341).

questions of trust and competency. If we then now turn to trust, Fukuyama argued that it is essential in terms of human capital, society and also capitalism if it wants to survive[119].

What is more, with regard to how compliance relates to people concerning its disregard for the self-affirmative individual and lack of trust, it can be said that the fact that "*compliance potentially serves as a means to an end raises issues regarding* [its] *foundational understanding of humans, especially as the understanding pertains to respect*" (McDaniel, 2004: 67). However, the importance of respect, specifically self-respect and dignity, is premised on the acknowledgment of others as distinct individuals in themselves. Ultimately, this implies the recognition of the individual's moral agency. Yet, when this does not take place, people are treated merely as means to an end. Considering Kant, this is "*whenever we treat that person as a tool to achieve something else*. [For example] [i]*t is wrong, to steal my neighbor's car since I would be treating her as a means to my own happiness*" (Fieser, 2006: online). This element of compliance, i.e. treating workers as a means to meet the ends of the organization, seems to contradict the idea of compliance as a tool for greater integrity or business ethics. Or at least it makes compliance seem unethical, as merely another tool management and employers use to exploit individual employees for capital gain.

On the other hand, what does it mean to treat people as ends in themselves? We "*treat people as an end whenever our actions toward someone reflect the inherent value of that person*" (Fieser, 2006: online). This is the basic idea behind respect and self-worth. What

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[119] See the definition of a low trust society in Chapte1, page 43. For more regarding the reliance of capitalism on trust see Fukuyama's book: *Trust: The social virtue and the creation of prosperity* (1996). The basic argument is that if there is no trust in society, we would constantly have to enforce and create contracts for every type of interaction between people, which would incur an incredible cost in terms of legal fees, but also time wasted. This is what Fukuyama refers to as the hidden tax of a low trust society, for every transaction one would have to pay this hidden tax of the lack of trust, given that this trust would have to be substituted by contracts or other control measures.

makes this important, given the focus of this paper in the contemporary context, is the fact that:

> "*moral and ethical choices are intimately tied to one's personal fate*[however] *bureaucracy erodes internal and even external standards of morality, not only in matters of individual success and failure but also in all the issues that managers* [and employees] *face in their daily work.* [It] *makes its own internal rules and social context the principal moral gauge for action*" (Harshman and Harshman, 1999: 10).

Compliance, as will be explicated with reference to introjected morality in Chapter 3, page 123, is the internal rules created through the bureaucratic organization and its social context as the principal moral gauge for employees' moral actions. As we have seen, these are made largely in terms of the economic cost benefit analyses needed to create profit and making 'profitable' decisions. Also, compliance does not focus on the individual or the situations which they are daily confronted with, as it is written in a group-orientated way. What this means is that "[m]*en and woman turn to each other for moral cues for behaviour and come to fashion specific situational moralities for specific significant people in their worlds*" (1999: 10)[120].

The implication of this is that, when employees find little to no moral cues, it leads to a diffusion[121] of moral responsibility, leading to the problem of *many hands*. A repercussion of this is that it "*contributes to the general lack of confidence employees have in their organization and their leaders*" (Harshman and Harshman 1999: 10). The

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[120] The latter refers back to the implicit contract, specifically the reasons for resistance as a coping mechanism and the need to be part of a group in the face of a more powerful other

[121] Diffusion theories "*inherently focus upon processes*," referring to the dissemination of, in this case responsibility, between employees to such an extent that it becomes hard to determine whose responsibility it should be in the first place (Available from: http://www.bookrags.com/research/diffusion-theories-eos-01/sect2.html).

irony is that ultimately, compliance is not conducive to production or for the goal of creating employees who behave ethically, or ethical business practice in general.

8. Conclusion

All of the factors considered in the above sections then contribute towards the failure of compliance, in which its negation of the individual moral agent and the core elements of ethics as discretionary decision-making are key reasons for this failure. But what is moral agency? In the next Chapter we will consider this in more detail, and how it is related to responsibility, respect and dignity, of which we have spoken briefly in this Chapter.

To summarize then, I first considered the relation between communication, ethics and the individual moral agent, which lead us into the problem pertaining to technological developments and information management – which lead us into the discussion regarding IMC as a form of information management. This discussion indicated the importance of knowledge capital and the problems of culture lag and knowledge spillage in the contemporary service-driven economy. It also pointed to some of the initial problems with IMC. This warranted a more in-depth look at IMC, more specifically, and the reasons for its failure in sections 3 and 4. And this lead us onto the next section pointing to the fact that in an economy driven by knowledge the individual who holds this capital is uppermost important.

The biggest problem with this is that this knowledge is tacit to the individual, which complicated the problem of culture lag and knowledge spillage, but also, since it is reliant on the individual, IMC failed to address these problems it was designed to resolve: since it cannot make allowance for the individual moral agent. From this discussion then the individual moral agent emerged as the most important aspect in the contemporary service-driven economy focused on knowledge capital. It was then further indicated that in terms of IMC's relation to ethics not only again was the individual paramount to the

resolution to the problem of knowledge spillage, but IMC's attempts to resolve the problem seemed not only unethical but counter productive. From this we can extrapolate that we need to explicate the individual moral agent to resolve, not only problems pertaining to the above mentioned culture lag and knowledge spillage, but, to refer back to the etiology of the problem, to resolve the problem of resistance of which the knowledge spillage is a mere contemporary symptom of. In the Chapter that is to follow then we consider in greater depth moral agency in the context of business in general, before looking more specifically at individual moral agency.

Chapter 3

Moral agency

1. Introduction: Moral agency in the face of compliance

The focus of the previous Chapters have largely been on the managerial side of compliance, how it relies on universalizability because of its etiology in bureaucratization, giving it a positive identity, which disembeds it from contingency and the individual moral agent. This necessitated the use of a critical self-reflection to bring compliance to *"reason"*[122] and to investigate why it seems to have failed (Zaolnai, 2004: 13). To this end, the differences between ethics and compliance, as well as the subsuming of ethics have been examined.

In the discussion up till now it has become increasingly clear that there is a problem with the way in which compliance regards the individual moral agent – specifically the way in which it regards the notion of the responsibility of the individual moral agent. Responsibility refers to the capacity of the moral agent to make discretionary judgments in the face of ethical problems. Given the contingent nature of ethical problems as well as the individual moral agent, the fact that compliance cannot make allowance for the moral agent seems key to the failure of compliance. This I will discuss by first considering

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[122] This can be understood in terms of the view that "*today's mainstream economics serves as the leading scientific approach to promoting the aspect of 'pure' economic rationality in nearly all areas of life, the systematic response is to be seen in a likewise aspect-related conception of* [business] *ethics*" (Zaolnai, 2004: 13). In Kantian terms "*a business ethics which takes this approach is concerned primarily with the ethical-rational orientation of political-economic thought; i.e., with the ethical substantiation and/or criticism of all claims advanced in the name of economic* [rooted in bureaucratic] *rationality*" (2004: 13). Finally, this connects to Adorno's view regarding identity and negative dialectics, bringing the phenomenological promises of compliance (explicated in the Introduction, page 21) into contrast with the noumenal application of compliance. As a result, reintroducing ethical reason to pure economics has become of fundamental importance as its consequences will be far-reaching, not only in terms of economics, but society and the individual employee in general. It is on this point, by means of the critical self-reflection, that one brings "*economical rationality – wherever its normative intention is emphasized*" (2004: 13) – 'to reason'. I will refer to economic reasoning to emphasize normative intentions, which is its bureaucratic constitution.

moral agency in its relation to business in general before specifically looking at individual moral agency. Accordingly, the first half of this Chapter is devoted to an examination of this problem of the missing individual moral agent. This is done on two stages; firstly we look at the <u>problem</u> of the missing individual moral agent before secondly, using business ethics to bring the problem of the missing individual moral agent more clearly into the <u>context of the organization</u>. In regards to the aforementioned, the individual moral agent will be discussed in broader philosophical terms, particularly with reference to the problem of the moral agent becoming inauthentic in the face of mere compliance. Then I will turn to the practical implications of this inauthenticity of moral agency in the business corporation as it stands in contrast to what employees want. Since, however, the issue of moral agency is a contested point in business ethics, of which there exists a number of perspectives, in the center segment of this Chapter we first spend some time explicating these perspectives, before turning to a closer look at the individual moral agent and how this relates to ethics in terms of responsibility. To begin then, let us explicate what is meant when referring to the missing individual moral agent.

2. The problem of the missing individual moral agent

How did the negation of the individual moral agent in most of contemporary corporations come about? And what are the implications of this? The answer to this can be addressed on two levels, in terms of the basic philosophical argument for this being so, as well as in terms of its practical implications. Though these two levels will be treated separately in this Chapter, they are related – as the practical realties are causal to the philosophical problems, while the latter in turn creates the context for the manner in which the individual performs in the sphere of practical considerations. In other words, the practical realties of the individual's relation to the work environment gives rise to the philosophical problems faced by the individual moral agent, while these philosophical problems in turn influence how the individual relates back to the work environment in future. When considered philosophically the process of negation of the individual moral

agent, in essence, entails that the moral agent (and ethics) becomes inauthentic[123] through its habituation, and this subsequently puts the moral agent in the service of compliance.

To clarify this process of becoming inauthentic: when regarding ethics as part of the process of evaluating the self and others, incongruence "*exist when people no longer use their organismic valuing process as a means of determining if their experience are in accordance with their actual tendencies*" (Hergenhahn and Olson, 2003: 473). This implies that "[i]*f people do not use their own valuing processes for evaluating their experience, then they must be using someone's* [else's] *introjected[124] values in doing so*" (2003: 473). The latter leads to the sensation of habituation discussed above in Chapter 2 on page 114, the result of which is "*an alienation between the self and experience because, under the circumstances, what may truly be satisfying to the person may be denied awareness because it is not in accordance with the person's introjected conditions of worth*" (2003: 473). Consequently, when the individual moral agent no longer follows their own values but introjected values they are no longer authentic.

This process of becoming inauthentic will instigate in the individual moral agent the sensation of incongruence which accompanies alienation or self-alienation[125], in other words the unpleasant emotional experience of the process of disjunction of the self, in this case from its own moral values. This alienation and inauthenticity process, is the implication of the habituating nature of compliance when, through the enforcement of it

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[123] 'Inauthentic' here refers to when "*a person lives in accordance with someone else's values and does not exercise his or her free will to enhance personal growth and effective living*" (Hergenhahn and Olson, 2003: 539).

[124] Introjection can more basically be defined as "*the process by which aspects of the external world are absorbed into or incorporated within the self, the internal representation then taking over the psychological functions of the external object*" (Reber, 1985: 373). In this context the external set of values the individual moral agent has at work becomes incorporated within the self, eventually leading to this latter set of values taking over the psychological function of the external object of values, in this case moral behaviour in the work environment.

[125] Self-alienation is defined in Chapter 1, page 31.

by the organization on the individual, as principal gauge for moral behaviour, it becomes a set of introjected values. Accordingly, the individual's actions, while following the introjected values imposed by compliance, will be in the 'service' of compliance. Since the introjected values of compliance in fact substitute the individual's own values, compliance will not have the individual moral agent's best interest at heart. This perversion of the individual moral agent prevents him/her from functioning properly, especially when considering selfhood as regarded in terms of Good and Bad Morality.

When considering the institutionalization of the individual moral agent as well as ethics via a process of corporate bureaucratization (as sketched above in Chapters 1 and 2) it can be argued that the bureaucratic process of business has a distinctly Good and Evil Moral character. According to Nietzsche, whose thinking I follow in making this point, individual moral agents become 'distorted' by social processes, as it makes them conform to a Good and Evil Morality (Leiter, 2002: 193-288). In so far as this "format" of bureaucratization has dominated the corporations since its inception, as I have argued in Chapter 1, this implies that the individual moral agent's relation with the corporation has thus far mostly been negotiated by negating them, or, stated in terms of institutionalization, by devaluating them. As can be expected, this negation and devaluation impacts negatively on the dignity of the individual moral agent – which is not only important in principle, but also when considering the empirical evidence that "*few workers, if any, desire a position without its related feature of dignity at work*" (McDaniel. 2004: 90).

This importance of the individual and his/her relation to others, or in this case the organization, is also observed by Levinas, who states that ethics only exists through a consideration for the other (Thomas, 2004: 87). If however, the other (in this context the individual moral agent), it not recognized but negated then, if we are to believe Levinas, it would be hard to argue that in such a milieu ethics existed. This also becomes more important in referring to the corporation as a community – a point that will be discussed

later in this Chapter. As will be demonstrated, the notion of the corporation as a community depends on the process of social adjustment. Since the corporation, through its implementation of compliance, impacts on the individual by negating it, this severs the individual from the adjustment process needed for the progression of the community with respect to non-material culture and addressing the problem of culture lag. This implies negating the individual in a secondary level as it negates the possibility for the individual to impact on these institutions in a reciprocal manner. The implication of the latter is that if this secondary negation occurs it will repudiate, not only the possibility that the individual might help in the development of a more ethical business future, but also the possibility of a future which regards the individuals moral agents as valuable in terms of the development of a society (as according to Bucholz and Rosenthal's idea of the corporation as a community) (Buchholz and Rosenthal, 2006: 235).

To rephrase this argument, and continuing my line of criticism, it can be stated as a general truth that the individual moral agent is always already embedded in a social matrix. With this I am referring also specifically to Koehn, who defines trust on the basis that the individual is born into a social context, for example his immediate family, and as such trust is part of what he refers to as "*human being*" (which is explicated in Chapter 4) (1999: 74). In other words the individual is born into a social context and their life progress relies on social networks and structures to grow. At the same time, the individual cannot be separate from the society in which he/she grew up in and live-in, and as such is reliant on society which includes the organization. However, the reverse is also true in that for a society to progress, keep-up with technological, economical, political and social change and survive in the long run, it relies on the creative individual to create strategies that it can use to adapt its non-material culture with the developments in the material culture.

2.1 The philosophical dimensions of the negation of individual moral agency

Having given the broader arguments and in keeping to the two levels of argumentation regarding the negation of the individual moral agent sketched in the Introduction to this Chapter, I have to turn to a more detailed discussion of how the concept of the moral agent is considered in a business context specifically. However, before I do this, it is perhaps necessary to first spend a little more time examining the philosophical dimensions of the negation of the individual moral agent as it relates to the problem of incongruence. After all, it is these philosophical dimensions that form the basis for the resistance that moral agents develop towards compliance in the context of the business corporation, and it is these philosophical dimensions that guide them when they take action or manifest resistance.

On the individual level, one becomes aware of incongruence through unpleasant experience and existential crisis when the cognitive dissonance of the values expressed becomes introjected, leading the individual into inauthenticity[126], and this unpleasant experience, in turn, leads to, what was been described in Chapter 1, page 31 and defined in this Chapter, page 123, as self-alienation. When this problem becomes acute and manifests itself in the individual experiencing an existential crisis[127], these introjected values create the conditions under which individuals are more prone to acting unethically, or making unethical decisions contrary to their own personal values, but according to, or within the parameters of the outside, introjected, set of values, which in comparison may

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[126] "Inauthentic" as defined in this Chapter, page 123, is caused by cognitive dissonance (defined in Chapter 1, page 31) in which compliance as introjected value replaces the individual's internal set of values. This in turn causes self- alienation defined in Chapter 1, page 31.

[127] "Existential crisis" can be defined here as an experience that lead the individual questioning his/her existence or way of existence. Put differently, existential crisis relates to "*stage of development at which an individual questions the very foundations of* [his/her] *life: whether* [his/her] *life has any meaning, purpose or value; whether their parents, teachers, and loved ones truly act in their best interest; whether the values they have been taught have any merit; and whether their religious upbringing may or may not be founded in reality*" (Available from: http://en.wikipedia.org/wiki/Existential_crisis). It is usually "*provoked by a significant event in the person's life*", in this case the person's personal values that come into conflict with work values, which, if we refer back to Van Peursen, is not separated from each other, work is a part of the *telos* of life (Available from: http://en.wikipedia.org/wiki/Existential_crisis).

give a lesser weight to values the individual would normally view as paramount[128]. This in turn, leads to additional displacement[129] of moral responsibility[130]. As such, on this secondary level, compliance policies as introjected values, removes the individual moral agent's personal responsibility, or as I am arguing here, continually allocates responsibility to someone else, other than the individual.

This process of gradual greater acceptance of introjected values, which then also leads to secondary displacement of individual responsibility, leads the individual further into a down-wards spiral of becoming more and more inauthentic. Eventually this may lead to the complete displacement of the individual's values with the introjection of the values of compliance, and his/her subsequent inauthenticity. This may seem very mechanical, but then, what this process is explicating, is the bureaucratization of morals and values. The implication of this is the separation of morals and values from their social context for the purpose of using these elements of society which are central to the individual moral agent, to generate greater profit, as is in keeping with the self-interested nature of compliance, defined in the Introduction, page 16-17. Ironically, these values that become introjected and consequently cause incongruence and inauthenticity, are socially instilled

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[128] In this context I am referring to compliance, only setting minimum standards and giving preference to moral deliberation that closely follows a utilitarian ethics, which is contradictory to an ethics of justice, rights and care – which is probably more important to the individual, as propounded throughout Chapter 2.

[129] In this context "displacement" can be defined as "*the substituting of one response for another, especially when the original response is blocked or thwarted*" (Reber, 1985: 207) and in this sense it may also be seen "*as a defence mechanism*"(1985: 208). "Defence mechanism" is defined as "*any enduring pattern of protective behaviour designed to provide a defence against the awareness of that which is anxiety-producing*" (1985: 179). I am arguing then that the discomfort experienced when the individual goes through an existential crisis at the hand of the conflict between personal responsibility and values and introjected work values, might lead to a further displacement of responsibility in terms of these values as a defence mechanism. This is plausible, since the displacement of responsibility might seem cognitively easier to do for the individual than for him/her to try and change work values to be closer to their own values.

[130] The reason why I say additionally can be understood in terms of the problem of many hands defined in Chapter 2, page 90. Within the context of this problem, the process of introjection of values by the individual moral agent gets an added displacement given the fact that compliance policies and rules are written for groups, which then bring in the added problem of allocating personal responsibility as understood within the context of the definition of the problem of many hands.

in the individual as part of their relation to the organization in terms of the socialization or induction process[131] into the business environment, in other words it is the individual moral agent's peers that "teach" the individual about these values, and pressurizes the individual into accepting these values. Though this process may be seen as unethical from an external point of view, it is believed to be essential in creating cohesion in the organization without which it cannot produce, evolve, react to changes in the market, in other words survive.

Referring back to dignity which I have defined in Chapter 1, page 37, which in the following section will be indicated as paramount to what employees want from work, the above-mentioned becomes especially important when considering dignity as the *foundation of a fully realized life* and if we relate it to self-respect. This will also become clear later in this Chapter when considering Maslow's concept of the self-actualized person. For now it will suffice to give a broad explication of what the importance of dignity is in relation to a fully realized life. According to McDaniel, dignity is related to ethics through its synonym self-respect, or self-worth without which an individual will not have the moral compass to make ethical decisions (2004: 80). This is supported by Maslow who stated that every healthy person has the most basic need for a stable, high evaluation of themselves, for "*self respect, or self esteem,*" which is connected to our need for reputation, recognition and appreciation, and without which an individual cannot grow, or reach self-actualization (Maslow, 1970: 45). In other words, without this regard

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[131] Induction is defined as "[a] *process of reasoning in which general principles are inferred from specific cases. [I]t is a logical operation which proceeds from the individual* [organization] *to the general* [employees in the organization]; *what is assumed to be true of elements from a class is assumed true of the whole class*" (Reber, 1985: 352). Within the business context the induction process begins when the new employee is "*introduced to the organization, their tasks, superiors and co-workers*" (Grobler and Wärnich et al, 2006: 9). The reasons for doing this is to acquaint the new employee with his/her "*job procedures,* [establish a] *relationship with co-workers including subordinates and superiors,* [a]c*quinting* [the] *new* [employee] *with the goals of the organization, indicating to* [him/her] *the preferred means by which these goals should be attained,* [i]*dentifying the basic responsibilities of the job* [and] [i]*ndicating the required behavior patterns for effective job performance*" (2006: 207). One could then argue that induction in the work context begins the process by which the logical operation which proceeds from one group, (management), is inferred to the general, i.e. all the other employees in the organization. As such what is assumed to be true for management is assumed to be true for every individual employee in the organization.

or appreciation for the individual's self respect, the individual will not develop into a healthy individual, making it likely that such a person will act in a socially unacceptable way. Therefore, the loss of dignity is a loss of self-respect and self-esteem on which our evaluations regarding our reputation, appreciation and recognition is built. Consequently, there is no internal gauge for our decisions, making us more susceptible to accepting external values, in other words more exposed to introjecting values. This in turn will only exacerbate the problem as the more the individual accepts introjected values, the further he/she moves from their own moral or value center, gradually eroding away the individual's sense of authenticity without which one cannot live a fully realized life.

On another level of analysis, if viewed in terms of Good and Bad Morality (which I have discussed in Chapter 2, page 110), and relating it to this argument regarding incongruence and negation of the individual moral agent, dignity and self-respect imply personal duty as well as acting authentically. If we refer back to Good and Bad Morality: only the person with self-regard, in other words, the person with an internal moral compass, or internal locus of control is regarded as being moral, since they believe in the good for good's sake, what can be called an ethics of virtue. As such being moral is a personal responsibility, there is no outside, or external reasons or control office telling me or forcing me to act morally. This coincides with an ethics of justice and rights in terms of the argument that others, as well as my own rights and social responsibilities, are incumbent on my duty, or personal responsibility towards others, and others towards me.

In contrast to this, the inauthentic person cannot feel self-respect for their actions, given what it means to act inauthentically and incongruently per definition, as I have indicated in the above paragraph. To be inauthentic is to be without self-worth and this in turn also means to be without an internal moral compass. With this then we can infer that a merely external control method in terms of moral deliberation, such as a system of compliance provides, which is very similar to Good and Evil Morality, does not embrace the authentic individual moral agent, but rather produce inauthenticity, which is counter

productive for moral deliberation, especially in the context of the example used in Chapter 2 regarding information management.

The argument I am making in this thesis is therefore for an existential virtue ethics which moves towards Good and Bad Morality, as a self-affirmative ethics or morality, in which ethics exists because ethical people exist, recognizing the importance of the individual moral agent. This problem of incongruence and inauthenticity can furthermore be better understood when analyzed in terms of what employees want – which will be discussed in the next section, where it will be linked to the requirements for a positive work environment. Moreover, this provides a context for the problem of the missing moral agent However, before the importance of the individual moral agent is illustrated, in the final instance in Chapter 4, the practical context in which the individual moral agent is negated need to be discussed. Then we can move on to Section 3 where the focus will fall on the question how moral agency is regarded in terms of the corporation in general by the various perspectives held within business ethics.

2.2 The practical implications of the negation of individual moral agency

Referring back to McDaniel, employees desire "*maximum possible expression of personality*", as well as "*meeting* [the] *demands of the system for productivity at the highest optimum level*" at the same time (McDaniel, 2004: 80). For this to happen successfully, the integration of the individual "*with the organization needs to occur*" (2004: 80). The consequence of this *integration* is that employees find *meaning in their work* and feel like they are treated with *respect*. However, disgruntled employees "*who find limited meaning in their work, or who work in undesirable situations are more likely to perceive themselves as being regarded as merely means to ends*" (2004: 80). This underscores their sense of the workplace as a negative, low trust environment.

According to McDaniel, one can enhance a "*constructive balance by* [giving] *attention to meaning, justice, and quality work environments*" and this is where ethics *offers the potential for integrating the employee with work* – i.e. working in a way that recognizes their authenticity (2004: 80). With *integration* I also refer to the individual's need for self-expression and identity and not merely the institutionalization and habituation of these desires. Later in this Chapter it will be demonstrated that ethics, with its wider *scope* and *depth*, increases authenticity, which makes for the greater integration of the employee and allows for expression and meaning at work. Consequently, there is a strong correlation between an ethical work environment and work retention, which in turn is an indicator of a positive work environment.

As such, integration enhances work satisfaction, which could influence production positively as we have stated earlier in Chapter 1, page 37 in terms of quality of work. This agrees with fresh evidence from the NBES "*that organizations that institute strong, positive programs that help create a corporate culture of ethical action can eliminate much of* [the] *risk*" of damage to these companies' bottom line and their reputation (Desio, 2007: 1). These findings is good news since it sends a clear message that a corporate culture of ethics makes sense in terms of reducing risk. However, it also implicitly indicates that this reduction of risk is only possible where ethics has become a culture in the corporation. This emphasis on an ethical culture implies trust, responsibility and the individual moral agent in whom these values should be instilled for an ethical culture to flourish, as opposed to merely introjected values. The implication of this is that "*successful* [ethical] *efforts must extend beyond compliance to build a culture of organizational integrity*" (2007: 61). However, before a culture of ethics can be established, ethical values, norms and behaviour need to be internalized which implies the active engagement of the individual moral agent, as well as a conducive environment for doing so, which in turn implies, from the side of the business organization, an active recognition of the moral agency of the individual employee.

Accordingly, the individual moral agent is highly important to the organization, given that the idea of responsibility (implying moral duties, and with this, also rights) and trust needed for the fruition of ethics is reliant on the existence of the moral agent. But having discussed the negation of the individual moral agent on the individual level, in terms of both its philosophical meaning as well as its practical ramifications, the question that now emerges is: what is moral agency? This I will discuss by first considering moral agency in its relation to business in general, before specifically looking at individual moral agency.

3. Moral agency within the general context of business

As concerns the notion of moral agency, within the confines of business ethics there has been two different camps, which are delineated along different views regarding the distribution of moral responsibility. The first camp describes the corporations' moral agency as non-existent and believes only individuals have agency, while the second believes that the corporation should have moral agency. There is however a third perspective that I will consider which implements the concept of the corporation as a community and defines moral agency in terms of this idea.

3.1 The individual as only proprietor of moral agency in the business context

To begin with, there is the classic perspective, such as that of Velasquez, which does not believe in the business as a separate moral agent (2006:114-118). The argument is that it is not possible for the organization to have moral responsibility since organizations only exist vicariously through the people who work within its structures. The reasoning in this regard is that "[o]*nly individuals within the corporation can be held responsible for their actions since it is corporate members and not the corporation itself that bring about the acts of the corporation*" (Buchholz and Rosenthal, 2006: 234). Furthermore, such writers believe that it becomes impossible to talk about the intentions of a corporation without "*resorting to the intentions of participating individuals*" (2006: 234).

This contention hinges on the fact that one cannot justly claim that someone has moral responsibility if they can claim "*ignorance and inability*" (Velasquez, 2006: 99). Since the corporation does not have cognition or the ability to make moral choices and take responsibility for them, it does not make sense to hold the corporation responsible. Seen from this perspective, a "*corporation is but the financial and contractual 'playing field' for individual dealings, and it has no existence independent of those dealings*" (Soares, 2003: 144).

Later formulations admit that although the individual is not completely defined apart from the collective, it is "*nevertheless the case that collectivism is implausible in regards to punishment because collectives are not moral agents*" (Buchholz and Rosenthal, 2006: 234). Some even go as far as saying that since "*corporate decisions are subject to standards of rationality*," while the individual's actions are "*subject to ordinary standards of morality*," the claim that corporations do not have moral agency is correct (2006: 234). The problem with such a view becomes apparent when considering that corporations and business actions do have ethical and social consequences which cannot be ignored (2006: 234).

If a corporation can not be regarded as having moral agency, it renders the corporation completely free of moral responsibility. This does not seem ethically fair or just. What is more, given the complex nature of a corporation and the problem of *many hands*, it is not always possible to say exactly which individual(s) are morally responsible for what actions. This is also further complicated through concepts such as social pressure and group locomotion which leads to the problem of many hands which is the cause of group apathy[132]. Social pressure refers to "[t]*he collective coercive influence of others,*

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[132] Group apathy or the bystander effect is defined as "[t]*he phenomenon that the more people present when help is needed the less likely any one of them is to provide assistance. Essentially, the more people about the more likely each is to assume that someone else will provide the help – hence, no one helps*" (Reber, 1985: 104). In other words where a group of people act as spectators to unethical behaviour because of the factor of *many hands*, more specifically, because there is a group of people, not one specific person can be

particularly when they are acting as a coordinated group" (Rebber, 1985: 709), whereas group locomotion is the "[m]*ovement and shifting of a group towards some goal or some decision*" (1985: 311). Considering the latter, would it not be possible to say that if people make decisions and act uniformly towards the goal of the group or organization and not their own goals, we can speak of the group or organization as an agent separate from the individuals in the group? As such, the corporation should be morally responsible, or at least to some mitigated degree, as it provides the context and social structure in which individuals perform in certain ways, that might be ethically questionable. They do this, by acting in a manner that they would not normally do in terms of themselves, but rather in terms of (and thus for the sake of) the corporation.

3.2 The corporation as proprietor of moral agency in business

This brings us to the second camp in business ethics, which believes that the corporation is a moral agent. Within this perspective there is more than one formulation of the argument that a corporation "*can and should have a conscience*," based on the ideas of rationality and respect respectively (Buchholz and Rosenthal, 2006: 234). We turn then firstly to rationality, in the context of which it is important to note that according to this line of argumentation it recognizes and utilizes the fact that moral deliberation "*includes features usually attributed to rational decision making such as lack of impulsiveness,* [and] *care in mapping out alternatives*" (2006: 234). From this, the argument is formulated that, since these qualities are also found in the decision making process of a corporation, it is reasonable to argue that the corporation displays features of moral agency (2006: 234).

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held responsible. This effect increases with the size of the group, thus the larger the group the more likely the group will display apathy to the observed unethical behaviour because the more people there are to defer the responsibility to, the less an individual will feel guilty – since they had no reason for feeling personal responsibility.

However, the problem with an argument based on rationality is that it still does not address the fact that the corporation has no conscience or power over such rational processes[133], in as much as it is only influenced by them. It is still the individual, in his/her interaction with other individuals, acting in a rational, self-interested manner that lends a corporation its rationality. Nor can we argue that the reasons for an organization's rationality are the same as moral rationality, as propounded by the view referred to above. While the organization's rationality exist for the structuring and furthering of its own economic goals, the moral view relates more to the systematic deliberations regarding moral dilemmas that people come into contact with, which has much more than economic concerns at heart. It therefore does not resolve the question of the corporation as being ignorant and incapable of having cognizance of 'its' actions.

Secondly, considered in terms of respect, the argument is made that cognizance of actions can be "*defined as awareness and concern for the effect of one's decisions and policies on others*" (Buchholz and Rosenthal, 2006: 234). In terms then of the corporation, advocates of this argument uses the idea of moral projection as a way of giving or defining a way that corporation can act or display respect. Moral projection is defined "*as a means of projecti*[ng] *moral respect to the organization*" (2006: 234). In other words, we as individuals that are part of the organization, project our morals onto the organization. Thus, through this projection the corporation gains a sense of morality according to which the corporation becomes aware and concerned with the effects its policies and decisions have on individuals, as such it 'learns' how to act respectfully. Thus, moral projection assist in conceptualizing the "*kind of moral demands we might make of corporations and other organizations and offer the prospect of harmonizing those demands with the demands we make of ourselves*" (2006: 234). Accordingly, the

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[133] What I am referring to here is that, although the corporation has processes according to which the actions that take place inside the corporation are relatively structured, the corporation itself has no cognitions, or mind that produces these rational process or structures. In other words, these rational processes and structures are created by the individuals who work within the corporation, and as such the organization gains 'rationality' vicariously, but this vicarious rationality cannot stand on its own, nor can it adapt to change or restructure itself without relying on the individual moral agent which 'lends it rationality.'

corporation will have the same values and morals than the individuals that work within it and should therefore act respectfully according to these values, as well as be held accountable the same way that an individual will be held accountable for disrespectful actions. Through this then the problem of agency is resolved and as such it can now also be held responsible according to the idea of acting respectfully. Consequently, one can resolve moral dilemmas that arise in the corporations' internal and external environment by asking if an action is respectful.

The problem, however, is that in order to be able to conceptualize and project morals, one needs to step into the realm of *ought to* behaviour and morally creative thinking. There are two problems in regards to this: Firstly, the corporation can only gain this *creativity* by relying on the individual as the holder of creative thinking, which means that once again its agency is vicarious. Secondly, to bring the problem with moral projection into the current corporate context, the type of creativity required for moral projection is only possible outside the structure of compliance. These problems then refer to the fact that creativity and the individual moral agent are inseparable, not only in terms of how this relation was defined in Chapter 1, page 37, but also the mere fact that one cannot separate creativity from the individual more agent[134]. Furthermore, engaging in thinking of moral dilemmas in *ought to* terms rely on creative thinking which does not conform to the ideas of minimal standards set in compliance.

The basic problem is that creative and *ought to* thinking is not measurable, and as stated in Chapter 2, is more connected with ethical deliberation regarding moral behaviour. In the case of the argument on moral agency as well, the creative thinker needed for moral projection is only possible within the confines of the creative self, which necessitates selfhood (as will be explored later in this section). Lastly this perspective on moral

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[134] Even where groups of people come together to 'brain storm', the creative ideas that are used come from the individuals, not the group, it is very unlikely that a group of people can think together to come to the same creative idea.

agency assumes that all moral dilemmas can be resolved through this projective process, yet it makes no room or gives no mechanisms for the contingent and the individual moral agent needed for such deliberations and projection. In other words, it assumes that the individual, by his/her mere interaction with the corporation, projects moral values onto the corporation, which will then be able to, like individuals, adjust to moral dilemmas as they occur. However, as I have indicated in Chapters 1, 2 and in this Chapter, in reality the opposite is more likely, meaning that the individual will probably take on the corporation's values and morals. So unless there is a mechanism for the individual to gain direct access to the structuring process, especially in terms of the corporation's policies, as this perspective would like us to believe, in practice this projection is not only not possible, but ignores the fact that it will be the individual moral agent that make this moral projection possible.

Having discussed the arguments for regarding the organization or corporation as a moral agent in terms of rationality and responsibility, there is also a third argument, which relies on the idea of the corporation's internal decision making structure (CID). Stating that moral responsibilities are created and upheld through promises, contracts, hiring appointments and assignments, the organization, as such, can be treated as a fully fledged moral agent. The CID is "*the requisite device that licenses the predication of corporate intentionality. Corporations have policies, rules, and decision-making procedures, all of which when considered together qualifies them for the status of a moral agent*" (Buchholz and Rosenthal, 2006: 234). Indeed, if an organization acts consistent with established corporate policy, one can properly say that such an action was done for corporate reasons, caused by "*corporate desire coupled with a corporate belief, in other words, as corporately intentional*" (2006: 234). In other words, this perspective builds on the idea of respect, and rationality, believing that the rational processes involved in the making of policies and rules will reflect the moral values and norms of the people within the organization. Correspondingly, if an organization acts according to the policies and rules created within it, it will act rationally and respectfully, and therefore it is a moral agent. In this case policies represent the final outcome of the rational deliberation by the

people in the organization regarding moral dilemmas and how the organization can act respectfully, consequently the organization need only to act according to its policies to acts morally. Furthermore, if this argument is followed it also means that the corporation can be held accountable according to these policies just like an individual.

In the current corporate environment then, compliance, as one of the parameter-setters according to which the rational deliberation regarding policies about moral behaviour are structured, is constitutive of CID. The implication of this is that compliance is in turn the main determinant whether behaviour in the organization is intentional and moral. Accordingly, if we are to follow the CID perspective on corporate moral agency, compliance as a key parameter-setter gains centrality in regards to the defining of the corporations' moral agency, and via this also becomes central to the corporation's intentionality. If this is the case, then compliance is validated as a rationalizing tool, assisting in the formulating of polices and as such becomes indispensible.

Soares attempts to legitimize this definition of intentionality typically provided in CID processes by asking the question: to whom is the corporation responsible? More specifically, with respect to CID, the question becomes: if the corporation is an intentional actor who has moral responsibility, why should they have this moral responsibility (Soares, 2003: 145)? More importantly, towards whom do the corporations stand responsible (2003: 145)? In the process of answering these questions Soares tries to explicate what exactly is meant with intentionality with regards to CID. While looking at his answer, it will also become clear how this conception of intentionality appears to give credence to compliance. However, before we can start with looking at Soares' answers to these questions it is important for us to first look at what would be the usual answer to the question, to whom is the corporation responsible?

For this answer Soares begins by following Milton Friedman's view that a corporation is always first and only responsible to its shareholders and no other outside party. It is then the CEO or the board of directors who is responsible for looking after the shareholders' interests in the corporation. This evokes general ideas amongst employees and the public that when things go wrong, it is the CEO who will take responsibility (as the representative of the corporation), and will be sacked "(*or in polite speech,* [steps] *down because of pressure)*" (Soares, 2003: 146). Thus, blame or responsibility is assigned to someone, a top level individual or small group of people, "*even if the blame is sweetened by a fat cheque*" (2003: 146). This seems to be "*analogous to holding the 'fat cat' responsible for incompetence by the morally bizarre act of rewarding him/her for incompetence*" (2003: 146). This is not only ethically unintelligible, but "*morally offensive*," even if the argument could be made that these CEOs have vast resources, power and impact over large groups of people, which do not make them "*ordinary intentional actors*" (2003: 146). What is more, they have extensive capabilities for "*formulating and articulating certain policies and strategies, for carrying them out, as well as to monitor their outcome*" (2003: 146).

In these circumstances CID is appealing since, in contrast to the situation depicted above, if we are in agreement with CID that corporations are intentional actors, it follows that corporations should be held to "*a more stringent level of responsibility than mere 'flesh-and-blood' private citizens, as its field of action is more embracing than that of individual agents*" (Soares, 2003: 146). This is based on the argument that corporations are at the center of Western society and influence all aspects of (at least) Western adults' lives – as "[t]*hey control the financial and economical aspects of society and are possessed of monetary power far greater than the world's governments*" (2003: 146).

For the sake of a balanced view on compliance (since this is a philosophical discussion and therefore requires weighed deliberations), one may argue that in terms of the above

idea of corporation, compliance legislation such as SOX, written by governments[135], seems to answer this question about social responsibility by corporations in more than one way. I will briefly investigate how compliance does this. This will not only expand the understanding of the arguments for the implementation of compliance with respect to ethical consideration concerning moral agency, but also give some perceptive on the arguments in favor of CID as enough a reason to grant the corporation moral agency. However towards the end of this discussion we will again see why compliance fails, given its disembeddedness.

With this in mind, to begin with, if compliance is seen from within the perspective of CID, it primarily becomes a way for government to measure, as far as possible, the moral behaviour of corporations within its jurisdiction. As a conceptual tool, for government as enabler, this hastens the prosecution process through giving clear distinctions for what is or is not moral business behaviour. For corporations it also serves as a similar guide to minimum standards of ethical behaviour, by giving them a clear picture as to what type of policies and behaviour should, at the very minimum, be followed. This negates any claims of being ignorant of what these minimum standards should be and increases the government's power to prosecute those who do not comply.

This seems to be confirmed by the etiological constitution of compliance as a reaction to business misconduct, pursuing rogue individuals. However, even though in this context compliance is of important use, when it filters all the way down to the individual level, that contingent domain in which the individual makes moral decisions, these rules stipulated in compliance policies ignore the human element of implementing compliance – given that they were written for organizations. As such, the very way in which they are

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[135] It is important to note that it is governments as representative of its population in democratic governments that write these legislations, since they are then to reflect the social realities that they represent. It is then in the latter, with respect to reflecting society's realities, that compliance fails, even though it seems at least as an idea to have the promise of greater business ethics.

written is specifically geared to be as widely applicable as possible and to appeal to the group or the corporation. Accordingly, such policies defined in terms of compliance, even when it helps corporations delineate their moral responsibility, cannot be implemented or ethically applied to the individual, since doing so would be to ignore their distinct moral agency.

The problem with compliance is then still the missing individual moral agent and the possibility that such rules or policies specified in terms of CID, no matter how well intended and applicable as moral gauge and intention of the corporation, assume that people act unthinkingly. However, what if the rules and policies of compliance measures in themselves imply some element that is ethically unacceptable, such as the relinquishment of my moral agency (as I am arguing regarding compliance)? Would people just blindly follow these rules, or would they resist (as I indeed argue they do)? Moreover, as demonstrated in Chapter 1, these acts of resistance cause ethical problems in themselves.

Above and beyond the criticism of CID given thus far, if its definition of moral agency is true in that the latter can be granted to the corporation purely because of its implementation of promises, contracts and hiring, because these are rational process that they equate to moral deliberation, it also assumes that all morals can be captured purely by rules. Not only this, but promises, contracts and hiring in the corporate context, usually has a performance based element, which in turn would mean that: if moral agency is based on these elements it would also assume that the moral actions to be taken by the moral agent should be performance base. From this the inference can be made that the morals that the agent would follow would only focus on the outcomes of actions.

Furthermore, this definition of moral agency assumes that our comprehension of what delineates morality both socially and individually can be wholly defined in terms of

promises, contracts and hiring, which assumes that moral understanding can be sated or completely defined within these parameters. Such a belief, however, is presumptuous, as there is a plethora of other elements regarding morals that falls outside this narrow concept of morality. Additionally, the mere relation between these contracts and intentions, which is the basis for the CID-oriented definition of moral agency, seems a tenuous ground on which to base an argument for granting moral agency to the corporation. Especially when those policies or rules stipulated in the contract regarding the employee's behaviour, themselves are not full warranties for moral conduct, but only suggestions that a corporation can think of in a logical, rational, intentional way similar to the individual moral agent's deliberations on moral dilemmas. However, the assumption that individuals and moral deliberation is always rational, is not true since this is not always the case: people are emotional beings and as such sometimes act irrationally when making moral choices. Furthermore, the CID argument regarding corporate moral agency also ignores the fact that there is a difference between the process of making a moral decision and having to take responsibility for moral decisions. In other words, actually having moral agency that has cognizance of the decisions one makes, as such may also include other illogical elements such as our emotions.

A further criticism of CID is that this formulation of rationality and intentionality as exactly equal to moral deliberation would be analogous to saying that just because a computer can 'autonomously' make calculations and have drones in a game act in an 'intentional way' because of these calculations, that it is the same as human thinking and autonomy. There are other forms of human thinking, such as creative thinking and emotional thinking that are not mathematical or always intentional. Nor does a computer acquire the programs that allow it to calculate, on its own. Therefore, can it still be equated with human thinking? Likewise, there are other forms of moral thinking and moral considerations, such as exceptions granted in an ethics of care[136], that does not fall

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[136] An ethics of care "*emphasizes caring for the concrete well being of those near us*" (Velasquez, 2006: 102). It recognises that we all "*exist in a web of relationships* [and that we] *should preserve those concrete and valuable relationships we have with specific persons*" such as our families (2006: 102). It recognises

under this narrow definition, nor does a corporation reach these policies and rules autonomously.

Lastly, but most importantly, from all the above arguments regarding the corporation as a moral agent, one thing becomes clear in that none of them acknowledge the existence of the individual moral agent as an autonomous (human) being, or when they do, it is not as important as the moral agency of the corporation, on which it is build, as I have indicated in all of the above criticisms of the perspectives regarding the corporation as moral agent. The reasons why this is so important is that this denial or attenuation of the individual moral agent is also exactly the problem regarding compliance and as such, if these perspectives are the only perspectives used by a corporation to create its corporate culture and identity, it will suffer similar problems.

3.3 The corporation as a community

Having discussed both perspectives on whether or not a corporation should be regarded as a moral agent, this brings us to a third and last argument that aims to provide an effective middle position between the two perspectives already mentioned. In this argument the corporation is seen as a community (Buchholz and Rosenthal, 2006: 235). As we explore this middle position, the question one should keep in mind is whether it is indeed possible to see the corporation as a community, given the current implementation of compliance – if it is indeed something to strive for?

When it comes to conceptualizing the corporation as a community, I have already provided a preliminary justification for doing so: in terms of the social adjustment

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then that one has a special duty towards those who are closer to us, even though all other forms of ethics (with the possible exception of virtue ethics) do not take such considerations into account. Thus, an ethics of care is an ethics which implies the very notion of exception. For a fuller description, see Velasquez: *Business Ethics: Concepts and Cases. Sixth Edition* (2006).

process[137] which regards the corporation as something more than collections of individuals. From this perspective the corporation and the individual are viewed as related in a dynamic relationship, which is important to consider from a moral dimension. I have also mentioned there that this argument is developed around the idea that the coordination needed *for cooperative action in a social context* and the adjustments implied by this, means that people *take the perspective or the attitude of others in the development of their conduct*. Through this process, a common context is developed that "*provides a community of meaning, such that communication can take place because there is a common basis for understanding*" (Buchholz and Rosenthal, 2006: 235).

This relationship between the individual and their broader social context can be understood in terms of the idea of selfhood, as explicated with reference to the adjustment process, where it is explained as coming about "*through awareness of one's role in social context*" (and thus moving beyond the idea of selfhood expressed in Good and Bad Morality[138]) (2006: 235). The genesis of the self is therefore "*social or intersubjective*" and accordingly, our intelligence is (at least in part) a social intelligence (Buchholz and Rosenthal, 2006: 235). The implication of this is that the individual is neither isolated, a mere discrete element, "*nor an atomic building block of a community. Rather, the individual represents the instigation of creative adjustment within a community, adjustment which creatively changes both poles which operates within the adjustment process*" (2006: 235).

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[137] See Chapter 2, page 85 in this regard.

[138] In the context of Good and Bad Morality the idea of self-hood refers to the exalted soul, in other words the idea of the moral individual is completely reliant on the self. Stated differently the virtues of the self is incumbent only on the self. However, what is suggested here, is that the self is not separate from society, but rather is part of and constituted through the development and location of the individual moral agent in society. It recognises that the self develops from self-reflection, as recognized in Good and Bad Morality, but also that these morals and views on which the individual reflects, were learnt through the individual's interaction with others in society.

This appeals to the idea that the individual's intelligence not only transforms society and institutions, but is in turn influenced by institutions and society. To state this point more comprehensively: "[t]*he very intelligence that transform societies and institutions is itself influenced by these institutions. The operation of individual intelligence, the particular habits of intelligent activity which individuals use, are products of the culture, educational, and other institutional practices into which individuals are thrown*" (2006: 235). The argument continues with the idea that this:

> "*social intelligence, as the historically grounded intelligence operative within a community and embodied in its institutions, through not merely an aggregate of individual intelligence but rather a qualitative unique and unified whole, is nonetheless not something separable from individual intelligence. There is an intimate functional reciprocity between individual and social intelligence, a reciprocity based on the continual process of adjustment. The common goal of a community is one of controlling its own evolution*" (Buchholz and Rosenthal, 2006: 235).

This considered, individual moral agency and corporate agency is related in that "*the corporation can be seen as a community, and the individuals are who they are in part because of their membership in a corporate organization, while the organization is what it is because of the people who choose to become part of it*" (2006: 235). For this to function, "[t]*he organization needs a certain amount of conformity to operate, but at the same time it needs creative input from the unique selves who work for it in order to grow and remain competitive*" (Buchholz and Rosenthal, 2006: 235). There are then two arguments for viewing the corporation as a community based on this contention of the individual and corporation as interrelated. The first argument is made "*from the perspective of the corporation as the individual dimension within the dynamics of the larger community in which it is embedded*" (2006: 36). Secondly, the corporation can be regarded "*as itself a community embodying the two poles of creativity and conformity in ongoing socialized adjustment*" (2006: 236).

The first perspective then argues that the corporation can be viewed "*as an agent created by society for special purposes and accountable to society for its decisions*" (2006: 236). As such they are created to fulfill "*multiple roles in society and is allowed to function as long as these roles are adequately fulfilled*" (2006: 236). An example of this is when a corporation does not "*fulfill its economic responsibilities the market may force it to declare bankruptcy*" (Buchholz and Rosenthal, 2006: 236). One could argue that American banks and credit providers such as Lehman Brothers, in terms of the current (2008 - 2009) economic crisis, did not fulfill their responsibility to lend money to the public in a responsible manner. This caused an "*asset bubble*" (Pettifor, 2008: online) that has burst, forcing them to accept these irresponsible loans by writing them off as bad debt, causing a lot of the banks to close down. This lead to them having to sell off some of their assets, such as the credit firm Merril Lynch (2008: online). Consequently their irresponsibility caused damages not only to themselves, but also to society at large.

Corporations therefore have "*a responsibility connected with* [their] *agency and the roles* [they] *are expected to play in society*" (Buchholz and Rosenthal, 2006: 236). In this context one could say that American banks grossly neglected their responsibility by not fulfilling their roles as *purveyors of good financial investments* and holders of the public's financial concerns. By doing this they ignored the fact that "*responsibilities are intertwined with the rights that have been bestowed upon the corporation by the community at large*" (2006: 236). As such, they unjustly distributed the social burdens of their ignorance, as well as disregarded their roles and responsibilities to the communities at large, in which they are embedded.

These rights that corporations have, come from the corporation's inherently social nature, as it is embedded "*in a social process that is part and parcel of its ongoing dynamics*" (Buchholz and Rosenthal, 2006: 236). The analogy made is that "[l]*ike persons, the corporation represents the novel, creative aspects of community dynamics, and its rights entail obligation*" (2006: 236). As such, the rights of the corporation "*carry with it*

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obligations which it is morally bound to fulfill" (2006: 236). As a result, "*it may be appropriate to ascribe moral responsibility to the corporation as an entity, rather than simply talk about the responsibility of individuals who work for the corporation*" (2006: 236). So even though the corporation is not an actual individual moral agent, "*it is a moral person within the dynamics of community life*" (Buchholz and Rosenthal, 2006: 236)[139].

In contrast to the view that bases the moral agency of corporations on its membership of community life, the second perspective believes that corporations can be granted moral agency "*by viewing the corporation as a community embodying the dynamics of community life*" (2006: 236). The argument basically states that "*the intelligence, purposes, and moral fiber of a corporation are not possible without the input of individual moral intelligence, purpose, and moral fiber. Yet it is qualitatively unique and uniquely unified, reducible neither to any one individual input nor to a collection of individual inputs*" (2006: 236). However, before, we look in more detail at the above line of argumentation, to curb any confusion it might be useful to keep in mind that, although we are discussing the corporation as a moral agent in these few following paragraphs, the argument is for the corporation as a community[140].

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[139] This argument will also be of importance in Chapter 4, when coming to consider how respect, rights and duty are interlinked, which is pertinent in terms of considering trust. But for now it will suffice to draw attention to the link between the individual moral agent and the corporation.

[140] To save space I have explicated on page 148, footnote 142 why this format is being followed. For now it is only important to state that the stream of augmentation used in this perspective can be summarized as follows: unlike the other argument in favor of the corporation or the individual as a moral agent, which comes at the expense of the one excluding the other, the idea of the corporation as a community tries to find ground for the equality of moral agents. Per se then, we need to establish a valid reason for both, and as such, the structure of this second perspective of Buchholz and Rosenthal begins with firstly giving a argument for the corporation as moral agent, on which they can then build to subsequently indicate how the individual moral agent is equally important, and give a foundation for a equal relation between the two.

Returning to the second perspective, the argument regarding the corporation being like a community which should reflect the dynamics of the community refers to policies, arguing that these should represent "*courses of action to be taken by the corporation under appropriate circumstances*" (Buchholz and Rosenthal: 2006: 236). In other words, the way the organization write policies should "*represent the wisdom of the community* [as it is] *a community product in its emergent uniqueness*" (2006: 236-237). The idea is that policies should "*focus on moral responsibility*" (2006: 236). In light of this, it seems reasonable to assume that communities do not have just causes, "*but moral reasons for what they do*" (2006: 237). These ideas are similar to the arguments given with respect to CID, but in this context these ideas are used in contrast to the latter to move for a synthesis between the individual and the corporation as moral agent in the business context[141].

If it is true that the corporation can act with some form of intent via acting in accordance with their policies then, one should be able to look at "[a]*ctions taken as a result of these policies* [since they] *affect people and hence can be morally evaluated*" (Buchholz and Rosenthal, 2006: 237)[142]. The reason being that the corporate moral reasoning from

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[141] One could purport this as one of the supporting arguments for the emergence of SOX, having been developed by 'society' via their representatives in government, out of just reasons in light of ethical scandals such as Enron, acknowledging that corporations via their policies should have moral responsibility.

[142] In other words, Buchholz and Rosenthal recognizes that if we are to think of the corporation as a community, then we need to find some argument by which we can hold the corporation morally responsible, and as such there is a necessity in granting the corporation moral agency and they chose to use the argument of rational intent, which is analogous to CID. However, according to their formulation of the corporation as community, unlike other arguments for the corporation as a moral agent, they also argue in favor of the moral agency of the individual, trying to give equal weight to both, synthesizing the two older perspective, and trying to show how the corporation and the individual are mutually reliant on each other in the business environment. They are then first dealing with what they believe is a useful rationale for granting moral agency to the corporation, and the grounds for why they believe this CID type argument is a useful rationale is twofold: Firstly, this argument is similarly to the one formulated in the context of CID, with respect to its reliance on rationality which is expressed in the form of policies. This rational expression of morality in the form of policies and rules can give, not only guidelines for action, but also reprimand, in other words standards according to which a corporation can be held responsible. Secondly this reliance on rationality and policy also necessitates the involvement of the individual moral agent who, with their creativity and imagination, creates policies, and via this fact the argument can be made for the individual moral agent as being on equal terms with the corporation as moral agent – as in fact the latter requires the

which these policies arise, "*emerge from and are dependent upon, but are neither reducible to nor causally produced by, reasons offered in the dynamics of accommodating adjustment*" (Buchholz and Rosenthal, 2006: 237). This refers to the interaction and evolution between individual and social or corporation intelligence. As such a "*corporation is certainly not a moral person,* [but] *may be a moral agent, as a corporation do act through some kind of a decision-making procedure and these decisions have impacts on people*" (2006: 237) via policies that result as manifestations and implementation of these decision-making processes.

In other words, it refers back to the argument regarding the corporation as a moral agent, which regards a 'corporate act' as being *corporately intentional and relational when it is performed consistent with the implementation of established corporate policy* (2006: 237). Especially when considering that if compliance could be judged in terms of a policy, as defined earlier[143], one should be able to ask the question "[d]o *these policies respect persons as human beings with valid concerns that the company has an obligation to treat in a responsible fashion*" (2006: 237).

In the context then of the second perspective, this definition of the corporation's intentional action, gives enough substance that one may speak of a corporation's collective action, even though the contributors to this collective are individuals. However a single individual's action is not sufficient to create a collective action, rather "[i]*n a collective action, each individual action is mixed with others and transformed into an action or policy of the organization*" (2006: 238). In this sense "*this process of transformation* [of] *the collective action of the corporation is quite different from the*

individual moral agent's creativity to formulate and create the policies and rules which lends the corporation moral agency. This gives them the tools to create a context, which they refer to as the community, in which the two differing views can find equal footing, thus enabling them to synthesize the two classical perspectives.

[143] With this I am referring back to the arguments regarding the corporation as moral agent and ground for judging the corporation's actions defined in this Chapter section 3.2.

primary inputs of any one individual contributor, thus making the moral evaluation of corporate actions and policies different from the moral evaluation of the individual within the corporation who played a role in the action” (2006: 238). The implication then is policies that can be viewed truly as acts of the corporation; and the corporation, as such, can be held responsible for their effects. Put differently, “[t]*he corporation can be held responsible for its policies that result in actions that have moral impact. Thus it belongs in some sense to a moral community and can be ascribed moral responsibility for its actions*” (Buchholz and Rosenthal, 2006: 238).

If the corporation is a moral agent, and if policies do have a moral impact – as they indeed do, it follows that moral pressure can be “*brought to bear within the organization so that each of those individuals involved in policy and decision-making as agents of the corporation might consider* [these, as well as] *their own participation in decision-making within the corporation from a moral point of view*” (2006: 238). The latter would be contrary to viewing activities of policy-making merely as “*business decisions*” (2006: 238). Accordingly

> “[t]*he corporation can take steps to create a culture where ethics is an important consideration that is to be taken into account in all their activities on behalf of the corporation.* [Consequently] *every person within the company must hold themselves morally responsible for the job they are doing, and they must hold others morally responsible for doing their job. In this way, a culture of moral responsibility can be created where moral conduct is institutionalized throughout the organization*” (2006: 238).

What Buchholz and Rosenthal mean with every person holding themselves morally responsible, refers to the individual’s character. Character here can be understood as the idea that I believe in doing the right thing because I believe it is the right thing to do. They expand on this by making a correlation stating that: in the same way individuals hold themselves responsible, they should hold others in the corporation responsible

(2006: 238). This then form the corporation's character, or culture. This argument focusing on corporate character or culture and the connection made with this and moral responsibly, on this point, could be linked to virtue ethics in certain respects. This will be treated in more depth later on in Chapter 4 where virtue ethics is discussed as a better solution to promote ethical corporate behaviour than compliance.

Therefore, where corporations treat policy-making as more than just a business decision and want to instill an ethical corporate culture of moral responsibility, such policy "*is more likely to be a consistency between moral actions on the part of the individual and moral actions that are the result of collective action and the part of the organization*" (Buchholz and Rosenthal, 2006: 238). The implication of this would be that "[s]*uch a firm would have a moral integrity that is more than the sum of the integrity of the individuals who compiles the organization*" (2006: 238).

The importance of this last perspective becomes clear when considering findings which state that the implementation of ethics "*has to be embedded within the culture of the company to have any real effect*" (Webly and More, 2003: 14). Addressing the corporation as a community has the propensity to create such a culture, since this perspective and its attempt to synthesize the individual and the corporation as moral agent, understands the nature of corporate culture's non-material element, namely the employees' impact on the creation and adaptation of the organization's material culture in creating profit. Moreover, the perspective of the corporation as community provides one with a conceptual framework from which compliance can be critiqued. Specifically, compliance as the institutionalizing force behind policy can be criticized, if we consider that it negates the individual moral agent who is paramount to the development of non-material culture, which in turn does not allow for any of the above-mentioned aspects of the corporation as a community.

When considering the corporation as a community, this is where compliance falls short. It does not take individual intelligence into consideration and disregards the dynamic process of accommodating the adjustment that is required for the creation of ethical policies. If one refers back to the argument that policies should be evaluated in terms of the actions taken on their behalf and their effects on people, this then enables one to judge policies on moral grounds, which in turn permits us to ask the question: does compliance respect people *as human beings*? Considering what has been said thus far regarding compliance, it would seem that the answer to this question is no. It ignores the fact that in the organization as a community, "*many people at all levels of the organization are* [or should be] *involved in policy-making with regards to various issues and problems*" (Buchholz and Rosenthal, 2006: 237). Yet, we still need to consider that the "*question of assigning or affixing responsibility solely to individuals in this kind of context is difficult under the best of conditions*" (2006: 237).

If compliance negates the individual's moral agency, as stated, it makes the idea of the corporation as a community void by removing the possibility of ethics. Moreover, considering the argument made that a corporation should be held responsible for the effects of its policies; a corporation implementing mere compliance should be held responsible for the effects this entails. This includes the effect of the negation of the individual's moral agency, which is unethical and has unethical consequences. In addition, any actions taken by an individual moral agent that is unethical because of compliance would also become the corporation's responsibility. This is supported by the idea that when people act collectively, they are making decisions within corporate structures and implementing policies for the organization: they "*are acting on the behalf of the corporation and not strictly for themselves*" (2006: 238). In other words while they are making decisions as individuals they are not personal decisions, they are made "*in the name of the organization*" (2006: 238).

This considered, as stated at the beginning of this section regarding the corporation as a community, it is necessary to ask the question whether this perspective is indeed currently viable? To this end, there are a few problems. The first one of these problems has to do with the way in which the institution influences the individual. By negating the individual moral agent, compliance makes impossible the social adjustment process that the corporation as a community implies. Ironically, it is individuals who create policies, implemented by the corporation, which in turn influences the individual. The way in which compliance impacts on the individual, severs them from this process, hampering the development of social intelligence. By doing this it also impedes the growth of social intelligence and the evolution of the community, which in turn (according to this argument) influences the individual as well.

As such one can ask: has social intelligence, through the influence of individual intelligence, not gone too far after the advent of Enron and the like, cutting off the individual and negating this reciprocal process via compliance? Has it not, with all good intention, made the growth of moral integrity unsustainable through severing the individual, or at the very least, made the growth and future development of business integrity difficult?

The problem, therefore, does not lie with the fact that there is some 'mechanism' being used to conform the individual to some extent, it is that compliance, because of its etiology[144] and how it is structured when implemented, is a process that over time conforms the unique self[145]. Compliance does this, as pointed out earlier in this thesis, by

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[144] With the etiology of compliance I am referring back to the arguments made in the Introduction, page 11 and Chapter 1, section 1, that compliance is a symptom of the bureaucratization process, via the fact that it is a subdivision of risk management.

[145] When referring to this process of conforming of the unique self over time, I am referring to the process by which the individual moral agent becomes inauthentic, which I have discussed in this Chapter, pages 124. The implication is that through the way compliance is structured the effect it has on individual moral deliberation is such that it creates a mode of moral deliberation in which discretionary judgment is minimized and/or negated.

way of its insistence on unitary thought and behaviour, based on a utilitarian ethics and appealing to the univesalizability of moral behaviour[146]. More importantly the degree to which it does this tends towards habituation[147]. So even though the idea of the organization as a community would be a positive alternative to the more classic perspective, as long as compliance is implemented in its current form, it will not be possible to promote it with credibility. In fact, in its current form of implementation, compliance undermines the idea of the organization as community.

Such then concludes this section that has reflected broadly on moral agency in a business context. In the end, when looking back over the discussion conducted in this section, it is the individual moral agent that stands out as the only agent which seems capable of carrying the burden of moral responsibility. Conversely, compliance relies on arguments for the organization as a moral agent, which fails, as I have indicated in the discussion in this Chapter in section 3.2. Though there were many different reasons for this failure, it was pointed out that the most significant reasons for the failure of the corporation as a moral agent was that it does not recognize and promote the cognizance and discretionary judgment of individual moral agents. It was then argued that it is responsibility which is constitutive of the individual moral agent, and that discretionary judgment constitutes a basis for moral agency. This brings us to the question: what is the relation between responsibility and the individual moral agent?

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[146] I have discussed this argument regarding the appeal to universalizibilty associated with compliance, and its basis in utilitarian ethics in Chapter 1, pages 69-73.

[147] I have already indicated in Chapter 2, page 114 why habituation is a problem. Basically it refers to the fact that 'nearly any constant stimulus will produce habituation' which is 'similar to desensitization' and such stimuli may cause or become a 'psychological dependence'.

4. Responsibility and the individual moral agent

For the purpose of this thesis, it is crucial to also consider the concept of responsibility, as this introduces the notions of respect for, and the dignity of the individual moral agent. Additionally, this has profound implications for the individual moral agent, as responsibility is what constitutes identity and individual moral agency in the first place. Both of these points can be explained by taking the following into consideration: If a person is not competent[148] enough to handle his/her responsibilities, such a person would be seen as ignorant of his/her actions, or as not having the ability to stop his/her actions. Such an incompetent person is then denied the right to autonomy – which is a socially given right, and as such is premised on the competency of the individual to handle his/her own life, as well as those of others, with respect. A good example of this is a certain age restrictions that are assigned to certain activities, such as having a driver's license or drinking alcohol. Before a certain age society does not view the individual as competent enough to handle such a responsibility, even though the exact age differs from society to society. The age at which a person can be tried as an adult for a crime also relates to this idea of competence and responsibility.

What is more, a person is only absolved from responsibility for his/her actions on the basis of *ignorance and inability*. Therefore, according to Velasquez's definition of retributive justice[149], a person that does not have the psychological or cognitive ability to be cognizant of their actions also does not have the ability, awareness or power to control

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[148] In terms of what we are discussing, competence can be defined in terms of "*forensic psychiatry,* [as] *a designation used of a person who has been judged mentally capable to stand trial. The usual criteria for being declared competent are: (a) the person understands the nature of the charge and the legal consequences of adjudged guilt; and (b) the person is able to assist in his or her defence*" (Rebber, 1985: 137). Therefore they should be able to perceive right and wrong, and grasp the consequences of their action if they are guilty, none of these being possible if the person does not grasp the gravity of the situation, and the responsibility on themselves that this implies.

[149] Retributive justice is implemented with a view to "[b]*laming or punishing a person fairly for doing wrong.*" First, however, you need to set the grounds for determining if wrong was done, or indeed the degree to which it occurred, and furthermore, in such instances, if the person concerned can indeed take responsibility for their actions (Velasquez, 2006: 88). The latter is where arguments regarding ignorance and inability come to the fore.

his/her actions. Such a person should be put under the supervisory responsibility of others, probably their families or whoever can make the most responsible decision on their behalf. This is typically the case when a person suffers from some sort of psychological or neurological disorder and is legally regarded as no longer being competent enough to handle their personal life, as they are a danger either to themselves and/or to others.

Just like in the case of the examples given above of individual incompetence, compliance subsumes the responsibility of the individual moral agent, by insisting that they should follow a certain set of rules, and thereby it renders individuals incompetent, not able to make their own choices. This sort of behaviour control can be seen in negative, low trust work environments. In situations were trust is low, people will end up cooperating only under a system of formal rules and regulations, *which have to be negotiated, agreed to, litigated, and enforced, sometimes by coercive means*. In the work context where *mere compliance* is implemented, employees do not even have the luxury of negotiating these controls.

Responsibility is thus the minimum determinant of one's autonomy and one's capacity to make ethical deliberations and judgments, since without the freedom of autonomy, granted to the individual socially on the premise of responsibility, one cannot really claim to be making ethical decisions. Put differently: society does not grant autonomy to a person if they are not able or willing to handle it responsibly, however a society that ignores autonomy commits itself to a fundamentally unethical practice. If the removal of autonomy discussed in the examples mentioned above happens for an unsubstantiated reason, i.e. to a person that is psychologically capable of accepting and understanding their responsibility in terms of retributive justice, then such a person's identity and individuality will suffer, because the message would be that they are 'mental invalids'.

Especially if we consider Maslow's[150] conception of the development of personal autonomy as one of the steps needed for a fully integrated identity, or self-actualized person. To consider: "[a]*ll people in our society (with a few pathological exceptions) have a need or desire for a stable, firmly based, usually high evaluation of themselves, for self-respect, or self-esteem, and the esteem of others*" (Maslow, 1970: 45).

The further implications of such a denial of responsibility can be explicated by looking in more detail at the needs for self-respect, self-esteem and the esteem of others. This, in turn, will point to the economical cost of such negation of responsibility and self-respect. To emphasize, I will consider Maslow's classification of these needs into two sub-sets. In the first place, "*the desire for strength, for achievement, for adequacy, for mastery and competence, for confidence in the face of the world, and for independence and freedom*" (Maslow, 1970: 45). Secondly, he refers to the so-called "*desire for reputation or prestige (defining it as respect or esteem from other people), status, fame, glory, dominance, recognition, attention, importance, dignity, or appreciation*" (1970: 45). However, "*research on employee engagement, well-being and quality of work life, reveal*[ed]" that, in order to achieve any of these desires set forth by Maslow "*cognitive involvement of employees* [is] *important* [since this] *in turn* [is] *related to positive outcomes of work*," which one could argue is integral to the desire for achievement (McDaniel, 2004: 83).

This concept of consciously allowing the individual moral agent involvement in his/her work could also be applied in how to treat a person with respect, to appreciate them not only as a means, but also as an end in themselves. Additionally, the satisfaction of these needs, according to Maslow, will result in feelings of "*self-confidence, worth, strength, capability, and adequacy, and being useful and necessary in the world. But thwarting of*

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[150] For further enquiry and an in-depth understanding of what a self-actualized person is, see *Motivation and Personality* (second edition) (Maslow, 1970: 25 – 234).

these needs produces feelings of inferiority, of weakness and of helplessness" (1970: 43). This will inhibit the individual's personal growth, as well as undermine his/her confidence and possibly his/her capacity to work in an integrated, productive manner. This point is emphasized by considering Van Peursen's argument that work can be regarded as a *way of realizing our distinctive being as humans* (Van Peursen, 1974: 90).

This is supported by McDaniel's finding about employee integration, self-esteem and ethics as a possible enabler of integration – as has been discussed in Chapter 1, page 35. Therefore, as mentioned earlier, autonomy and responsibility are inter-related and co-dependent, and also constitutive of personhood as agency – so, if either responsibility, which affects autonomy, is removed, or vice versa, the individual will no longer be a person (or an independent agent) . Nor will he/she have the space or the ability to be ethically responsible, resulting in an identity that is skewed (inauthentic), and a cognitively uninvolved employee – all of which are the traits of learned helplessness that was defined in Chapter 1.

Minimum standards put forth by compliance, and the narrow scope regarding discretionary judgment that this implies, restricts responsibility in the working context, which is akin to taking away too much freedom and autonomy. As mentioned in Chapter 1, page 67 regarding the forward-looking system, while also keeping in mind the contemporary need for flexibility defined in Chapter 1, page 36, this would imply creating drones, incapable of responsibility and personal growth as humans. Such consequences are unethical, counter productive (in the sense of creativity and labor retention) and against the basic ethical rights of workers.

To clarify the importance of this, I cite the following controversial[151] formulation of these positive employee rights:

> "[t]*he right to meaningful work* [which is a] *corollary to the right to work, is the claim of some that there is a right to meaningful work, i.e. a moral claim that tedious, repetitive, and boring work is dehumanizing. As John Ruskin (1968) said, 'It is a good and desirable thing, truly, to make many pins in a day; but if we could only see with what crystal sand their points were polished; sand of human soul, much to be magnified before it can be discerned for what it is; we should think there might be some loss in it also*'" (Van Luijk, 2006: 178).

Although I recognize there are certain types of work that is by its very nature tedious, the fact remains that "[a]*t most, what can be claimed is a right of a worker to a job that is made as meaningful as possible. The correlative duty would be for the employers to do what they can to alleviate tediousness, burdensome, and dehumanizing working conditions*" (Van Luijk, 2006: 178).

Accordingly, what I suggest is that by negating individual moral agency, compliance is contradicting even such a modest claim mentioned above. Moreover, it increases the social burdens of responsibility for ethical corporate behaviour on the individual moral agent, since it is the individual moral agent in his/her need for employment, who must act according to compliance rules to stay within the boundaries of accepted corporate behaviour. However this increase of moral responsibility is based on the unfounded presumption of what the outcomes of compliance will be (i.e. the increased ethical

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[151] The reason why this formulation of positive rights is controversial is that, although the concept exists within the field of ethics, the question is still being debated in the legal realm whether positive rights does, or should exist. This being a legal definition of positive rights it makes the assumption that the latter does, or should exist in the legal realm.

behaviour of individuals in the corporation[152]). As a result it becomes clear that institutionalization of employees through mere compliance is contradictory to these rights, in regards to ethics as well as those psychological aspects mentioned. The backlash of this can be seen when quoting Watson in his interviews with employees who act unethically. Upon being asked why, most answered, "[i]*f they treat us like children we can act like children*" (Watson, 1987: 231). Accordingly when employees then realize or perceive themselves being treated as 'children' they become disenchanted[153].

What makes this more pertinent is the fact that "*in modern society no child is born into a socially predetermined role*" (Pinnington, et al, 2007: 271). This implies that "*the modern person must choose a telos, if he or she* [is not to] *lead a purely contingent life*" (2007: 272). To reiterate, this emphasizes the importance of the individual's need to have some personal responsibility over his/her life if they are to have any self-worth, or dignity. When considering Van Peursen and the psychological contract, and agreeing that to negate the individual's moral agency is contrary to these ideas and unjust in terms of them, it reintroduces the problem of the negated moral agent, which should also be linked to issues around distributive and compensatory justice.

Within distributive justice, the distinctions regarding the distribution of social burdens are important since it determines who carries, and to what degree, society's burdens and rewards. Specifically, distributive justice "*concerns how we should distribute the products of social cooperation among the community's citizens*" (LaFollette, 2002: 511). Business and corporate citizenship fall under such a definition. Following Young, I agree

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[152] This refers to problem regarding the phenomenological promise of compliance, defined in the Introduction, page 21.

[153] Disenchantment here is defined in terms of Webber's use thereof, which points to "*the eradication of values, emotions, traditions, in favor of strict means-end rational calculation. According to Webber this process involves social beings using knowledge for the purpose of controlling the world, although its actual effect may be the configuring cage of bureaucratic management*" (Blackburn, 1996: 107).

that distributive justice is not only concerning the material distribution of consumer goods, because this definition ignores, for example *"equality of opportunity* [which] *is not so much a matter of what we have, as what we do"* (Young, qtd. in LaFollette, 2002: 512). If distributive justice only looks at the consumer element of distribution, it *"ignore*[s] *these* ['non-consumable'] *elements of justice"* (2002: 512).

In light of this, distributive justice entails that we have to consider the individual and what he/she does. Since only *"after the individual liberties are secure*, [may we then] *settle on a system for distributing economic goods"* and we may not sacrifice *"any individual's civil liberties for the benefit of others, not even the majority"* (2002: 511). The latter sacrifice of the individual's liberties for the benefits of the majority, or also the more powerful, is exactly what is asked of the individual in a bureaucratic system, especially if compliance is applied as a *stop gap* measure for *culture lag*. To emphasize this, LaFollette maintains that "[t]*hese liberties are essential to any just society; we cannot sacrifice them to increase economic well-being"* (2002: 511).

Given what has been said so far regarding mere compliance in terms of its utilitarian nature and popular appeal, the question then becomes whether, in such a system, it is indeed possible to speak of justice[154]? If we refer back to the distributive justice, the answer is no. The reasons for this put simply, and using Levinas, is that if we are to refer to the corporation as a community, when regarding *"the nature of the relation of the individual* [in terms of the] *social whole"* it seems that *"the question of justice only arises in the presence of a third party"* (qtd. in Thomas, 2004: 87). Furthermore, according to him, ethics exist only where there is the "[o]*ther who questions my right to be and in doing so introduces the ethical dimension into being"* (qtd. in 2004: 87). Compliance

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[154]This question is all the more pertinent when referring back to compliance universalistic, normative aspect defined in Chapter 2, page 121 where compliance renders even these non-consumable elements such as the freedom needed to truly take responsibility and make ethical decisions, equal to consumables through its use of utilitarian ethics.

makes no allowance for such radical questioning, as this fall far beyond the scope of discretionary judgment that it allows, as it implies too much risk. It is also too vague for compliance to accommodate, since it does not postulate clearly a minimum standard of behaviour and as such negates individual moral agency. The consequences of this, seen from the point of view of distributive justice, are that, when compliance is implemented it distributes the social burden of its innate inadequacies (referring to its negative impact on the individual moral agent) unequally to the individual moral agent, who in turn is the larger group of society. As such, this group has to pay for a smaller group's decision which impacts negatively on them. At the same time, the formulation and implementation of compliance unjustly distributes the responsibilities for the creation of policies and the consequences of behaviour taken in accordance with compliance, ethically or unethically, to the few with – which entail management, or maybe even only top management.

As such, formulated in terms of the insights of Levinas, compliance never even approaches the ethical dimension of human relations, since the other is not considered to begin with. As a result, it leaves no room for the *questioning other* or the *third party*. Another implication of the negation of the moral agent is that if there is no other, there is no ethics and therefore no morals to speak of for any agent to consider. What mere compliance in such an instance does not take into consideration, is that given the real life contingencies from which ethical dilemmas arise, "*the transcendental conditions of experience can be neither so pure nor so separate from each other*" (Zuidervaart, 2007: online). The latter can be better understood in terms of the universal phenomenological "*example* [of] *the a priori categories of the understanding* (*Verstand*) [which] *would be unintelligible if they were not already about something that is nonconceptual*" (2007: online). Therefore, given the considerations put forth here, mere compliance is unintelligible since it does not recognize that the moral agent, whatever definition of it is

given, is based on a *nonconceptual*[155]. Stated austerely, any definition of moral agency that we can think of would be unintelligible if the sign 'moral agent' had not already existed outside of our thoughts, or phenomenological reality, which we then use to model our definition of moral agency. Briefly then this means that the existence of moral agency precedes its phenomenological definition.

On the other hand, Nozick's theory of economic justice should also be considered. He argues "[t]*hat the role of a theory of economic justice is simply to set down rules that everyone should follow in acquiring and transferring economic goods*" (LaFollette, 2002: 512). This is typically where some of the roots of mere compliance lie.

If one sets down such rules, and wish them to be effective, in the first place one still needs to identify the moral agent, as well as the *identity of the different markets* that are to follow such rules. If this is not done first, any rules that are employed will seem removed from the day-to-day situation of the economy that it supposedly tries to control, rendering it invalid and ineffective. Referring back to Zaolnai's statement regarding the economy being *disembedded from its social, environment and cultural context*, as discussed in Chapter 1, it seems that only Nozick's idea on economic justice has really been considered by the creators of management models, especially as done by Taylor (2004: 2). And as stated, it is clear Nozick's definition of economic justice which, as I have argued, seems to have been the only form of justice implemented when compliance was developed, has not sustained business integrity; and perhaps it is exactly these types of ideas on economic justice that one should start to move away from.

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[155] In this context nonconceptual refers the nouminal world. In other words the prerequisite of any definition of the individual moral agent is the nouminal existence of a individual moral agent which deliberate on moral dilemmas and take moral actions.

5. Conclusion

In summation this Chapter has considered moral agency, specifically the negation of individual moral agency as the key component to the failure of compliance. Starting with the problem of the missing moral agent it was explicated how compliance innately conflict with ideas of the individual moral agent. Then, moral agency in the business context in general was considered. In this latter context, it was found that even though there are various arguments regarding the corporation as a moral agent, all perspectives were in themselves insufficient. This said, it was explicated that even though it would have been good to move for the idea of the corporation as community, the latter is not currently viable because of the implementation of compliance. Furthermore it was found that the central decision making process or CID perspective seemed the most probable argument for the implementation op compliance, but that given its focus on the group, it fails in addressing and engaging the individual moral agent.

Lastly, it has been considered what an individual moral agent is, making use of various examples. The argument was that responsibility is at a minimum constitutive of individual moral agency. It could therefore be concluded that the development of compliance as a tool for removing responsibility, will always contradict individual moral agency – the implication of which is that as long as compliance and similar methods of control are implemented, resistance will persist. In the next Chapter I try to give an answer to the question, what an alternative to compliance as method of control would consist of, as well as considering what argument supports its power base to grant it authority to begin with.

Chapter 4:

General conclusion and proposed solution

1. Overview of the argument thus far

Starting from a discussion in Chapter 1 of the origins of management models developed as part of the broader bureaucratization process of the economy, it was shown how all of these models aimed at the removal of the individual employee's agency, including his or her responsibility for work. Furthermore it was explicated that removing the individual employee's responsibility over work also delimits autonomy, causing labour alienation. This process, which started with Scientific Management, only intensified with the subsequent models that replaced it. This restriction of the employee's autonomy caused resistance, which was explained with reference to the implicit contract. It was moreover highlighted that acts of resistance usually meant some form of unethical business behaviour, which poses a risk to the corporation.

As stated, in Scientific Management and Fordism, the information gained through the implementation of principles geared towards what Taylor referred to as soldiering, was aimed at separating employees from their tacit skills. The initial principles stated explicitly the methods to be used for removing employee's responsibility over work, believing such power should be more firmly in the hands of management. The practical tool used for this purpose was the application of machinery. Scientific Management through its dissection of the process of production with regards to the tacit knowledge of the individual laborers, using this knowledge to increase management control over production, started the process of alienation of the employee, which in turn elicited acts of resistance. However, given the nature of production, it was possible to resolve such resistance through the use of machines, as increased mechanization, which itself was based on the information gained from the above mentioned observations of the methods

of production, made it easier and easier to remove employees who did not wish to conform.

In Fordism however, machinery became a 'weapon' in the struggle between employee and employer. This increased intensity of the application of machinery came with the intensified application of the principles put forth in Scientific Management. Furthermore, Fordism added to these principles the idea of speed which advanced job specialization and increased work intensity. This was typified by the use of the conveyor production system. As a result, during this time employees realized that as single individuals, their bargaining power is limited. This lead to the creation of unions to address increased labour alienation. Yet, this organization as a group did not address the real underlying problem, which is the loss of the individual's agency. Also, unions could not adapt to the social changes in work, progressing towards a global market focused on the individual. As such the problem regarding the loss of individual agency remained.

This transition of global markets towards the service industry indicated the beginning of Post-Fordism, which brought along with it the idea of more humane management. And although the ideas behind Post-Fordism might have been good conceptually, as critics such as Webster (quoting Castells referred to in Chapter 1) points out, they are contradictory in practice (qtd. in Webster et al, 2004: 17). He cites that Post-Fordism is marked with the scattering of workers into individual 'pocket economies' that consist of anonymous agents, assisted by the free flow of finance over borders and the persistence of sweatshops. If anything it removed the chances of effective unions and introduced another form of institutionalization called emotional labour. One of the methods that was implemented via this management model to address the problems of resistance was compliance. This was done because machinery was no longer a viable solution to resistance anymore, given that employees, customers and products have become more sophisticated. In this form of economics, knowledge and not physical products became central.

In terms of this shift towards knowledge capital and humanitarian management, compliance was not the only organizational solution, but it was the one most widely applied. The biggest reason for the implementation of compliance was, as indicated in Chapter 2, that it served as a stop gap measure created by governments and corporations to try and address the problem of control regarding employee behaviour which have become increasingly difficult in the face of growing sophistication in terms of communication and information technology. This was explicated by using the example of what I believed is the most pertinent problem in the current business environment, which is information management. This example showed how the increase in sophistication resulted in the exponential growth of culture lag, which is the exponentially growing gap in corporations between material culture needed for economical survival and non-material culture such as ethics, which could not develop at a parallel speed, but which normally govern society's use of new developments in material culture. In the face of this expanding discrepancy government and corporations step in to give guidelines for the use of new technologies implementing compliance, hoping to stop this gap from growing exponentially, rather than waiting for society to do this for itself.

It was then indicated that the reason why government and corporations could not wait was that this *gap*[156] is in fact not addressed by the normal social processes that create the non-material culture. These social processes, if they function well, usually lessens to an acceptable level the discrepancies caused by culture lag, preventing this gap from increasing too fast. However, what was more important to governments and corporations is that culture lag left a space for knowledge spillage. Knowledge spillage in turn was pointed out as a more recent manifestation of resistance, made possible with the

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[156] When referring to this 'gap' I am making specific reference to the culture lag as explicated in Chapter 2, page 79 with respect to the disparity between the material culture, specifically information communication technology in the context of the business environment, and the non-material culture or morals, norms and ethics which are suppose to govern these material developments. The problem was pointed out to be that because of the pace of material culture's development, non-material culture is unable to keep-up with it, causing a 'gap' between the two elements of culture.

development of the very development of information and communication technologies that was part of the above mentioned form of culture lag, and which is especially difficult to control given the nature of tacit knowledge. From the fact that knowledge is tacit one could argue that a new form of soldiering had emerged, however this time, given that it is knowledge itself and not merely skills that is tacit to the employee, to fully control or remove this knowledge would be impossible[157]. The implication of this is an increase in risk to the corporation, since it is individuals who are the holders of knowledge and as such, the only way to control such risk is through controlling individuals. Moreover, given the increased importance of information workers, this intensifies the risk posed by the individual moral agent in the process of the diffusion of knowledge. The typical organizational solution to these risks was the use of compliance to control acts of unethical behaviour. As such, it was most often implemented as a stop gap measure in the face of these problems and became central as a method of control.

Even though it was implemented extensively, as I have indicated, compliance had, however, not addressed the problem of unethical behaviour. The question then was why did it fail? The answer seems to stem form the very way in which compliance is defined, referring back to its etiology in the bureaucratization process, through risk management, which does not make allowance for the individual moral agent. This is exacerbated in the implementation of *mere compliance*.

Individual agency was explicated in Chapter 3, starting with moral agency in general. Having provided various arguments for regarding moral agency in a business context, it was concluded that the idea of the organization as a moral agent does not resolve the problem of resistance, but rather gives credence to compliance in spite of its failure to

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[157] This aspect of tacit knowledge was show to be a pertinent problem given the contemporary economic focus on knowledge capital, and the irony that the very machinery that used to remove tacit skills from employees, developed to give back employees 'power' by giving them the possibility to have knowledge which cannot be removed from the individual, but is also central to the interest of the corporation, giving the individual moral agent back some bargaining power.

resolve the problem of resistance. Additionally, it was indicated that the main reasons for the failure of arguments in support of the corporation as moral agent was that it did not really resolve the central problem of cognizance of moral actions which is fundamental to moral responsibility. Or at least these arguments could not account for cognizance without somehow reverting back to the individual moral agent.

In critiquing the third perspective arguing for the corporation as a community, when this argument was brought into the current social and economical environment, in keeping with the critical self-reflective project, it was pointed out that although this would be an ideal to strive for in a phenomenological sense, given the contemporary implementation of compliance, this ideal will not be able to be practically implemented. In other words, like compliance it holds some phenomenological promise that corporations should strive for, but when looked at in the context of the nouminal, socio-economic realities of which compliance is a part of, these promises are disembedded from the practical reality.

This leaves one once more with the problem of the individual moral agent, even though one must concede that it is still necessary to recognize that the corporation should have some form of agency. However, given the problem of resistance in business ethics, it is the individual and not the organization that lacks agency. As such it would seem as if the organization has more moral agency at present than the individual.

I continued to discuss how compliance differs from ethics, contrasting how ethics and compliance relates to the individual moral agent respectively. Furthermore it was stated that by subsuming ethics, compliance was acting according to its nature, but this in turn negated the individual moral agent. Ethics and the individual moral agent then were shown to be related through responsibility. This also indicated that responsibility not only meant ethical decision making, but is also related to ideas of working with dignity, trust and self-respect. All of which can be applied towards the integration of the employee in

his/her work and the creation of a positive work force, which is a good basis for an ethical corporate culture and counter-acts labour alienation.

The individual moral agent was demonstrated to be cardinal to the existence of ethics, the implication of which was that if compliance negates the individual moral agent, it negates ethics. When taking all of the criticism into consideration one could basically state that not only did compliance not fulfill its phenomenological promises of greater business ethics, but its practical implementation caused the negation of the moral agent in terms of discretionary judgment needed for ethical deliberation and responsibility. This also means impeding the process of ethical development and dialogue, exacerbating the problem of culture lag and deepening the sense of labour alienation.

In light of the above criticism, it becomes imperative to ask whether there is an alternative to the control of compliance, given that some form of institutionalization is needed for the existence of an organization that addresses the individual moral agent. This is especially pertinent in terms of the current economy based in communication and information technology. The alternative model I would propose, to compliance, given these specifications, would be that of trust. Within the organizational context it is not possible to consider the whole spectrum, but given the importance of information and communication technology in the service economy I will focus in more detail now on what I would like to propose as an alternative to Information Management Compliance (IMC).

2. Proposed solution

When considering an alternative to IMC, specifically as regards the combating of knowledge spillage and taking contingency such as the individual moral agent into

consideration in terms of tacit knowledge, I suggest the alternative of creating trust[158] between parties. Or put differently: I suggest that we return to the basic idea of the contract[159] that is the foundation of the economy. To reach this conclusion of trust as alternative to compliance, I will first look at trust starting from the point of view of its importance, and how this importance can be defined. This will lead us into two definitions of trust: one based on virtue ethics and the other on de-ontological grounds. I will proceed to first explicate trust as virtue and how it will possibly perform when practically implemented. This will show that there are some problems with trust as virtue in the business context, and therefore I will also look in some detail at trust defined de-ontologically, since this will be shown to be not only a more practical ideal in the contemporary context, but also a possible way or crutch for business to use till a point in future can be reached where trust as virtue can be used as I would like to propose it should. But before acknowledging that, either way, my contention is that trust and the achievement thereof between the various parties in a corporation, is or should be central to all business transactions and interaction. Having considered both elements of trust and established that it should be paramount in business, I then turn to the question of: why

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[158] With trust I am specifically referring to mutual trust given that "[t]*rust is most effective when mutual. A one-sided trust is less likely to engender the desired benefits. Mutual trust became the glue that* [holds] *the group together. It keeps us aligned, binds us together in the pursuit of common organizational goals and increases our probability for success*" (Navran, Available form: http://www.ethicsa.org/index.php?page=article&aid=856&showArticle).

[159] This statement is based on the argument that "[b]*efore there can be betrayal, there must be trust*" (Navran, Available from: http://www.ethicsa.org/index.php?page=article&aid=856&showArticle). Said differently: "*trust is broken, when there is disappointment, we say that trust has been "violated" or "betrayed". Betrayal is an act of disloyalty. It presumes a trust and then violates that trust*" (Navran, Available form: http://www.ethicsa.org/index.php?page=article&aid=856&showArticle) In terms of this line of argumentation, contracts are social warranties against betrayal, but betrayal is only possible if there is trust. Or said differently, according to Fukuyama's argument given in Chapter 1, page 43 regarding the relation in society between trust and contracts, which points to the increased reliance society would have on contracts without trust: The basic line of reasoning being that if there is no trust in a society we will have to constantly draw up and enforce contracts to prevent betrayal, which in turn will carry what Fukuyama calls a hidden transactional tax that will be so high that it will make the economic survival of such a society impossible. This argument in turn can also be used to indicate that contracts can only work if there is trust in society, otherwise no amount of contracts will guarantee people or safeguard people from each other. The implication is that contracts are only possible where there is a reasonable level of trust between people. Put differently, contracts are needed to safeguard people from betrayal by other people, but it is only practically implementable in a society where there is enough trust between people, in other words, in a society where contracts are not constantly needed for every interaction between people, as is the case in Fukuyama's low trust society.

trust seems to not really be implemented in the corporation? This brings in the point that trust implies risk that cannot be calculated, given its vary nature and definition, which in turn conflicts with compliance, again adhering to the critical self-reflective perspective by looking at trust practicality in terms of contingent social and economic realities.

2.1 Definitions of trust

Having given the outline of this section, let us return to the importance of trust, which was already touched on, to some degree, when I considered the definition of a low trust society, stating that where there is little trust, people will only cooperate *under a system of formal rules* which has to be formally, or even legally stipulated (Fukuyama, 1996: 27-28). Furthermore, as mentioned, the legal and financial cost implied in such a low trust system which has to stand in for the fact that there is no trust, "*entails what economists call 'transaction cost.' Widespread distrust in society, in other words, imposes a kind of tax on all forms of economic activity, a tax that high-trust societies do not have to pay*" (1996: 27-28). As has been mentioned before, mere compliance is a symptom of exactly such a low trust society created by bureaucratization which separates compliance from the social context and responsibility.

Within the gambit of trust one can apply trust as virtue, and in distinction from that one can also use the de-ontological definition of trust. It is the aforementioned of the two that I wish to look at first, since it relates to self-worth and duty or responsibility, which is constitutive elements of the individual moral agent, as it was pointed out in Chapter 3. For even though de-ontological ethics is the tool for "*putting the right rules and norms in place*," also assisting in "*formulating or drafting the right rules and regulations to determine right or wrong*," one needs to recognize that neither trust nor ethics is as impersonal as this rule based ethics would suggest (Fouché, 2006: 26). In other words, ethics and trust is more than deciding the rules and regulations of right and wrong, it is primarily "*about people who act*" (2006: 26). The question therefore becomes: if rules alone are not the answer, since it ignores people who act (as is clear from examining the

case of mere compliance), what else can be used as the basis or framework for acting in a morally responsible manner? The answer is that if we wish to look at 'people who act,' we need to examine their "*character, passion and integrity*" (2006: 27). What this involves, is the matter of "*living the right lif*e," or what we know as virtue ethics (2006: 27). It is exactly these elements, according to my argument in the previous chapters that has been lacking in compliance.

This formulation of ethics does not only consider the consequences of our actions, but looks at the person's intentions first. Even though this is very difficult, there is, however, one way of determining to some extent a person's intentions, and that is the argument that one "*become*[s] *trustworthy by performing trustworthy behaviour*" (2006: 28)[160]. This means that if one acts as such time and time again, one can assume that ethics is part of one's moral constitution. Or put differently, "*a moral virtue enables one to live a morally good human life in general and not merely something that enables one to engage successfully in some set of human practices*" such as a collection of rules or policies would entail (2006: 28). This regards ethics then in the existential sense of the word, as the belief in an ethical, or morally good life. Trust can be seen as a constitutive part of virtue ethics, for as argued by Fouché, it "*helps one to achieve one's telos in life*" (2006: 28).

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[160] In the context of a contract we can reformulate this argument regarding intention by saying that "[t]*rust is the residu*e *of promises fulfilled*," where contracts can be seen as binding a person to certain promises regarding their behaviour and performance at work. (Navran, Available form: http://www.ethicsa.org/index.php?page=article&aid=856&showArticle). Form this we can draw the inference that "[t]*rust is what happens when we create an expectation based on prior words and deeds that we will act in certain way. It is the implied promise that since we have "always done it this way" we can be depended upon to continue to do "it" this same way in similar circumstances. It is not blind faith to be granted to another. Rather it is to be earned*" (Available form: http://www.ethicsa.org/index.php?page=article&aid=856&showArticle)

Returning to the idea of trust, I suggest that it can be explained in relation to the corporation as a community, but in broader terms, which also incorporates the idea of the moral agent's existential nature. I furthermore suggest that this can be done with reference to the notion of 'ningen sonzai' (Keohn, 1999: 74). The latter is an Eastern philosophical concept meaning that "[s]*ociety cannot be the result of a voluntary decision by citizens to come together and to agree to show each other mutual good*" (1999: 74). In other words: "[t]*rust exists because we are all always already related to each other in a variety of ways,* [and w]*e move within these relations conforming to expectations we did not form*" (1999: 74).

Therefore, although it is difficult to translate the nuances of this conception in Western terms, the Eastern concept of *being* is closely related to *authenticity* in the Western context, but in this sense, authenticity is warranted by the recognition of our social embeddedness. Another way to formulate this, is to state that the moral agent learns his/her experience of trust not in terms of "*human social relations*"' trust is rather "based *in human 'being' or* ningen sonzai" (Keohn, 1999: 74). In other words it is because of our social relations in which we are always already embedded that we conform to certain values and norms without these necessarily being the product of our own invention. Moreover, these norms change via the individual's input. Therefore, even though expectations may change over time and be replaced with others, norms still persist. In terms of this, there is "*no one single moment when trust is reposed or withheld. The issue is therefore less one of whether others will trust you than one of whether you will be true to human 'being'*" (1999: 74). Accordingly, human 'being' refers to authenticity, as opposed to just human 'doing', as it is mostly defined in terms of the instrumental rationality of consumer society, where individuals are equated merely to their actions, or typically treated as means to some end.

Further important aspects of trust can be foregrounded when we refer back to the context of communication in terms of a contract defined in the Introduction, page 15, in relation

with transparency which I have explicated in Chapter 2, page 105. It was pointed out that "[t]*here is no betrayal where there is no trust*" (Keohn, 1999: 74). Therefore, the fact that we do have contracts to warrant against betrayal implies trust[161]. To bring the argument of trust into contemporary example with regards to IMC[162], it was also indicated, with reference to the problem of the source of information discussed in Chapter 2, section 4, that we trust only information we perceive as truthful and "[t]*ruth depends on trust*" (1999: 74). Keohn supports this statement of trust and truth by arguing that "[t]*ruth should not emerge as a result of a strategic calculation but out of the businessperson's strong sense of himself or herself as a human being in that role which is but one among many*" (1999: 74). Acting truthful is to act in accordance with being true to human *being*. However, this assumes a certain amount of self knowledge regarding the individual's moral awareness, which is doubtful in a Western neo-liberal globalized economy. Nonetheless it relates to virtue ethics and the importance of the individual moral agent's awareness of his/her personal, social, moral responsibility as foundation for trust and truth, and lends support for the idea of the corporation as a community.

Till now we have looked at the definition of trust as virtue, and the possible positive outcomes of its implementation, however, if we are to stay the course in terms of critical self-reflective analysis, we need to look at the question whether trust as defined by virtue ethics is possible, given the nouminal contemporary social, economical realities. Unfortunately, when we try and implement trust as a virtue, it was demonstrated in our discussion of the corporation as a community (in which such an ideal of trust would be possible), that such a reality does not yet exist, at least not in Western society. The reason for this, that has been argued throughout this thesis, is that Western corporations are establish on the disembedding development process based on bureaucratization that caused its creation, from the times of Scientific Management through to the current era.

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[161] See my description of the relation between trust and contracts in footnote 159, on page 170.

[162] Since I want to maintain the critical self-reflective perspective, I am trying to keep the argument of this thesis in the context of the contemporary social and economical realities, therefore I am taking the argument of trust into the context of IMC, but also tie up the argument made in Chapter 2, sections 6 and 7, regarding trust and information management, with the current more in-depth discussion of the topic.

As such, even though the ideal of the corporation as a community is a worthy ideal to strive for, it is not something that is attainable as long as the current trend of bureaucratization, embodied in the implementation of compliance, persists. Ironically then, trust as virtue holds similarities with compliance in that as a phenomenological ideal it is great, but only as long as the nouminal realities in which it will enter are ignored. Also in order to be realistic and in line with the method of criticism I have chosen, if we consider the development of management models discussed in Chapter 1, and their bureaucratic nature, one needs to keep in mind that a point at which corporations rely on virtue ethics, may never be reached. Furthermore, the fact that most managers are not even aware of the ethical misconduct that occurs under their supervision, points to the reality that most employees are either just not clear about their ethical duties, or that trust between parties are so low that topics such as trust and ethics are not even considered.

In light of the failure of trust as virtue in terms of its practical implementation, we have to turn to the de-ontological[163] conceptualization of trust. The reason for this is that, as a more practically implementable form of trust, it is necessary as a potential means of

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[163] A de-ontological definition of trust, as I have stated on page 171 in this Chapter would be the ethical tool for 'putting the right rules and norms in place,' to assist in 'formulating or drafting the right rules and regulation' that delineates trust-worthy behaviour, according to which they will be judged 'right or wrong'. A more basic definition of de-ontological ethics is that it entails an "[e]*thics based on the notion of a duty, or what is right, or rights, as opposed to ethical systems based on the idea of achieving some good state of affairs* [i.e. utilitarian ethics] *or the qualities of character necessary to live well* [referring to virtue ethics]" (Blackburn, 1996: 100). As such, being reliant on duties, in terms of ethics it will consist of ethics of rights and justice. The point here is that if it was to seriously consider mutual trust, the concept of positive rights on the relations between employer and employee will have to be paramount. In other words, corporations realise that it has duties to assure the development of the employee's unique self, and the individual realises that he/she has a responsibility to the development of the corporation's unique self. This would mean for the individual moral agent that he/she knows what the influences are of their actions throughout the corporation, which will also mean having to take on more personal responsibility, which at the same time it will necessitate that the corporation grants more responsibility to and includes the individual more in the development of its' 'unique self' – which will mean a greater inclusion of the individual in the latter process. In this way the individual moral agent receives more personal responsibility, while the corporation receives more flexibility and depth from their employees. These will then, like all forms of rights and justice, be stipulated in rules, but they should not be universal rules, in that the rules I am referring to are more fluent: established, formulated, re-formulated and implemented by discussion between parties on what they should be and keeping in mind how the moral, social and economical environment around them is constantly changing, contrary to universals such as compliance which only seek to prescribe.

support, or tool for transformation to a future in which corporations depends on virtue based trust in business. This is because a de-ontological definition of trust also means recognizing the central place of positive rights[164] in the interactions between people, and as such, while still relying on rules it goes some way in recognizing the individual unique self, if not for the sake of the individual moral agent, at least for the sake of the rules that enforce this recognition of positive rights. As such, this greater focus on positive rights goes some way in setting the foundations for a future reliance on virtue ethics as explicated on the previous page, regarding the relation between the de-ontological definition of trust and ethics of rights and justice. However, as I have stated there, given the importance of the relations of rights and justice, it cannot be emphasized enough how important it is to conceptualize these de-ontological rules regarding trust as a mere crutch, a guideline and not as a universal rule of duty that has to be followed, for this would be counterproductive, as mentioned in Chapter 1, pages 70-72 concerning the positive identity created of compliance and the appeals made within it to universality. Additionally the de-ontological definition of trust assists furthermore as behavioural guideline, in the eventual possible attainment of trust as defined by virtue ethics. This can be understood in terms of the idea of internalizing bahaviour which I have defined in terms of introjection in Chapter 3, page 123[165]. This refers to the need for the maturation

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[164] The form of trust I am referring to, i.e. mutual trust, which implies positive rights given that such trust implies one interacts with the other person in a way that is more than merely not interfering with them, it assumes that one must have some understanding and respect for the other person's unique self. The reason why mutual trust implies positive rights is related to the fact that 'trust is most effective when mutual'. The reason for the latter's success when implementing trust we have already mentioned, but it goes back to the idea that "[i]*t just takes less work to accomplish the same (or better) outcome when the parties involved trust each other,*" which is based on the argument that "[t]*rust is what we exchange with each other as we provide value and contribute worth to our individual and shared objectives*" (Available form: http://www.ethicsa.org/index.php?page=article&aid=856&showArticle). This also implies that when there is mutual trust we not only respect the other individual unique self, but assist in the development of their unique self, since helping the other person also helps you, given that their increased capability assists you in being more productive and also increasing your own capability when both are interacting closely, this then also creates loyalty. When understood in conjunction with respecting the individual moral agent's unique self, is not only beyond the parameters of negative rights, but is constitutive of positive rights.
[165] With this the argument can be made that the internalization of trust could be understood when considering the latter in terms of internalizing of moral, referring to introjected values. If then the individual through following the behavioural rules set out in de-ontological, and I repeat, trusting behaviour, then trust might become part of the individual's constitution to the point that he/she act in a trusting manner regardless of the de-ontological rules, but rather because of the type of person he/she is, i.e.

of virtue ethics as something that has to be developed over a given period, and not something *a priori*, for the guidance of rules can be of great use as a tool of enforcing preferable behaviour to be repeated, but not as the only method of implementing ethics, as is the case, unfortunately, in mere compliance.

On a separate point one needs to remember that even though trust as virtue and the de-ontological definition of trust may differ, they have something in common in that both views "*rel*[ies] *on the subject to create and sustain moral life*" (Fouché, 2006: 29). To emphasize the importance of the individual moral agent in the context of what has been said, consider Johnson's statement that "*duty builds moral courage[166]. Those driven by the conviction that certain behaviours are either right or wrong no matter what the situation are more likely to blow the whistle on unethical behaviour, resist group pressure to compromise personal ethical standards, follow through on their choices and so on*" (Johnson, 2007: 9). Moreover, from this extends the idea that for a person to be ethical or moral, it is "*better to suffer wrong rather than commit wrong*" (Pinnington, et al, 2007: 271)[167]. For this to come to pass, however, the moral agent needs to preside over agency. This considered, even if we only have rules to work with currently, at the very least they should be constitutive of positive rights for employees regarding moral discretionary judgment. Therefore, by acting in accordance with ideas of duty, especially

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the rules of de-ontological trust become introjected and through this trust has become a virtue, an end in itself.

[166] This argument refers to the idea that to hold true to one's duties takes moral courage. If we understand duties as related to personal responsibilities then this statement refers implicitly to the individual moral agent's character. However, there is another interpretation that I would also like to forward and that is that, in the context of a society not yet capable of really implementing the idea of trust as virtue, if we are to implement the de-ontological definition of trust, the duty that this will put on the individual moral agent, and the type of behaviour that it will enforce him/her to repeat, will assist in the building of moral courage which will in turn influence the individual moral agent's character which will eventually lead to a greater reliance on virtue based trust.

[167] Especially in regards to tacit knowledge and knowledge capital where, as I have indicated in Chapter 2 with regards to information management, the responsibility for wrong doing, or deciding to do wrong, is ever more incumbent on the individual, with the ever present possible threat of knowledge spillage. It is therefore desirable for the individual moral agent in terms of the corporation to have moral courage, given the lack of practicable control compliance has over tacit knowledge.

including those regarding positive rights, one will gain trust from other employees. Having considered both virtue ethical as well as de-ontological notions of trust and their practicality in terms of implementation, I think it is important now to look at the question why trust has not been implemented in the corporation, since it is one of the basic foundations of a contract.

2.2 Why is trust declining and not practically implemented?

What then causes the decline in trust and what makes one refrain from trusting in the first place? The answer, though not complete, comes from the fact that trust implies risk. Trust "*involves an element of risk resulting from our inability to monitor others' behaviour. Consequently, one's behaviour is influenced by one's belief about the likelihood of others behaving in a certain way*" (Fouché, 2006: 42). However, although trust "*implies risk,*" it can help one to negotiate risk (2006: 42). Consider that trust is not something unconditional, but "*rather something instrumental aimed at helping the subject maximizing his/her utility under risk*" (2006: 42). This can be seen in the light of Fukuyama's idea of a high trust society, where it is argued that, trust can be seen as a form of social capital which reduces the "*cost of monitoring and sanctioning activities in business*" which, to make his point, he contrasts with the idea of the low trust society which I have defined in Chapter 1, page 43 (2006: 42)[168].   Therefore, the risk implied in trust, in other words, the risk I take in trusting another person which, in the context of mutual trust implies that both parties has a shared loyalty towards each other, acts as a self-monitoring check and balance, in that I do not want to violate the shared loyalty as much as the other person wants to betray mine[169]. Not only does this assist in sanctioning and monitoring activities, but it does so without the use of more 'controls'. Rather it

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[168] The basic argument is that if there is no trust in society the over-implementation of other sanctions such as contracts and laws that will have to be used for every interaction between people will stifle society's economy, because of all the paper work and bureaucratic processes that each interaction will have to go through before being performed, which he calls a form of transactional tax. The implication is the more trust there is in a society the less transactional tax has to be paid and in this sense trust acts as a form of capital.

[169] See page 169 regarding mutual trust.

achieves this via the implicit need for self-worth and respect for others needed for trust to function between parties, in other words: for one to live as a human *being* with respect to my 'place' in society[170]. As such, trust can aid in addressing the problems regarding tacit knowledge and knowledge spillage.

To bring the argument regarding trust and is implementation once more into the contemporary context to see if it can withstand self-critical analysis, while reiterating the importance of communication, it was found that in the context of communication and information exchange, trust is placed in jeopardy "*because global companies do not share the same history, values and responsibilities of local communities and or countries*" (2006: 40). This refers to the increased globalization of business, which makes it ever harder to have some standards of what trust would mean in a society, since every society defines human *being* according to its own concepts thereof. Therefore, if communication is not clear and ethical, and do not take into consideration *others*[171], it will invariably lead to miscommunication regarding ethical business which will undermine trust. Consequently "[i]*f business does not strive towards being ethical, promoting values such as trust, they will undermine their own subsistence*" (2006: 34).

The idea then which I have been trying to convey throughout the thesis, is that there should be a shift in the contemporary understanding of economics, from merely a focus on human capital[172], to one of *humane capital*. The latter appeals to the idea of humanitarianism, which can be defined as: "*any philosophy* [which] *emphasize*[s] *human welfare and dignity, and* [is] *optimistic about the powers of unaided human*

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[170] This refers back to Koehn's argument regarding *ninon sonzai* and the idea of acting truthfully is acting in accordance to acting as a human being in which trust is instilled because of once 'place' in society.

[171] With the other I am referring to Levinas' argument that ethics is only possible in the presence of the other, which I have discussed in Chapter 3, page 123.

[172] Human capital is defined in Chapter 1 on page 28.

understanding" (Blackburn, 1996: 178). In this sense, what I am referring to is a form of capitalism that recognises the individual moral agent's dignity and capacity to take unaided responsibility for his/her moral agency. With respect to the latter, in this thesis I am especially concerned with the individual moral agent's capacity to make and take responsibility for discretionary judgment in terms of moral deliberation, thus reversing the influence of negation of the individual moral agent, and in so doing also addressing problems of labour alienation and acts of resistance in the work context such as knowledge spillage. This is in contrast to the idea of human capital which views the individual moral agent's capacity in terms of his/her talents, and knowledge as mere sources to be exploited for better production, especially in the context of the service driven economy.

3. Conclusion

Although I have demonstrated that trust can serve as a possible alternative model to compliance, how this could be implemented in the context of the organization would be the work of future studies. Especially given the real constraints mentioned, particularly in the context of the long historical development which has entrenched a sense of low trust in the current business world. For now, at most, one can say that any such plan would have to consider that all control or social systems must criticize itself, in the same manner as critics like Adorno has held to be the task of philosophy today. He explains that in terms of philosophy, it "*must criticize itself: its societal naiveté, its intellectual antiquation, its inability to grasp the power at work in industrial late capitalism. While still pretending to grasp the whole, it needs to recognize how thoroughly it depends upon society as a whole* [which includes the individual]*, all the way into philosophy's 'immanent truth'*" (Adorno, 1973: 4). In the same manner, social systems – especially policies functioning within them, such as compliance – must consider its disembeddedness from society and its oversights (especially in terms of the individual moral agent and its relationship to society as a whole). Otherwise, it risks only exacerbating these problems, while *still pretending to grasp the whole.*

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