

## **Embedding Anti-Corruption in the MBA Curriculum: Reflections on a Case History Analysis of Affinity Fraud**

### **Introduction**

Corruption has been defined as, ‘the misuse of entrusted power for private gain’ (The UN Development Programme, 2008, p.18), and its widespread persistence remains a serious impediment to the achievement of sustainable and responsible economic goals.

Contemporary global attempts to combat corruption include the, ‘UN Global Compact Principal 10’; the ‘PRME Working Group on Anti-Corruption in Curriculum Change’; and the ‘UNDP, Anti-Corruption Initiative’. The success of these initiatives however, has been limited as corruption has many guises and reflects perennial human vices. Furthermore, given capitalism’s inherent dynamism it is constantly evolving, for example anti-corruption agencies have recently identified the burgeoning of cyber-crime as a significant problem (You and Khagram, 2004), including the growth of on-line illegal financial flows (IFFs).

Contemporary society however, has also experienced rising expectations for the conduct of economic life, resulting in demands for more ethical and responsible managers, for instance in terms of being proactive in pursuing explicit CSR strategies (Carroll et al, 2018, pp. 2-29). The causes for rising societal expectations for more emphasis on ethics and social responsibility in economic life are disparate, though two reasons can be clearly identified. First, advances in communication technology are able to more readily expose malfeasance in the economy to public scrutiny (Anderson, 2009; and Anderson et al, 2011). For example, the recently exposed ‘Panama Papers’, which are a form of white-collar crime [1], demonstrated the ability of the web to act as a watchdog, exposing corruption to public scrutiny. Citizen journalist led initiatives such as ‘ipaidabribe.com’, ‘sunlightfoundation.com’ and ‘bribespot.com’, are further examples of how communication technology is being used by ‘netizens’ to expose corruption. It can be argued furthermore that the exposure of corruption contributes to demands to counter this form of criminality.

Second, it is also plausible to argue that criticisms of the dominance of rational choice policies, as promoted by neo—liberalism has grown in recent years. The term neo-liberal was promoted by the Mont Pelerin Society, founded by Heyek in 1947, to promote his ideas and to challenge what he considered to be the then dominance of socialist ideas, and consequent policies of government intervention in the economy. Recent economic history would indicate that this society has been very successful in promoting market-orientated economic policies, however it can also be argued that the success of neo-liberalism has provoked counter-arguments. For illustration of the criticisms of the neo-liberal expansion of markets, Klein’s ‘No Logo’ (2001) enjoyed widespread success detailing the social and environmental problems created by global MNCs; one of ‘No Logo’s’ most penetrating analyses, was focussed on the unrelenting exploitation of supply-chain employees, in accordance with neo-liberal precepts of maximise corporate profits, without too much regard to any other consideration, such as the ethical perspective on having a duty of care towards employees. In short, the rational choice focus on self-interest, which led to a focus on ‘the bottom line’ as the only arbiter of success, has been deemed as inadequate by an increasing number of critics.

Inherent in these rising societal expectations furthermore, is the notion that greater effort will be devoted to preventing and prosecuting corruption. It is therefore imperative that business schools respond to rising societal expectations, in order to maintain their legitimacy, which can be achieved if business schools re-examine their philosophical assumptions about the nature, constitution and structure of reality in business and management education. Rising

societal expectations, therefore present the opportunity for business schools to re-align their ontological assumptions that frame how the curriculum is designed, conducted and presented to mainstream business ethics, CSR and the anti-corruption agenda. The case presented in this paper is one example of how innovations in pedagogy can contribute to meeting these rising expectations, in this instance by equipping students with an acute legal and ethical analysis of corruption, as well as developing their understanding of its corollary, the anti-corruption agenda.

This context inspired this case history of corruption, which was constructed from the recent egregious crimes of BLMIS (Bernard L. Madoff Investment Securities) and aimed to address the following research question:

- *How can innovations in business school pedagogy contribute to meeting rising societal expectations to enhance student understanding of corruption and appreciation of the anti-corruption agenda?*

The case also serves as an example of a large-scale global affinity and/or financial fraud. [2] The selected methodology was predicted on the view that case histories give students a ‘quasi history’ to facilitate the development of their practice, or habitation. In Aristotelian terms, students were given the opportunity to be more virtuous, by enhancing their practical wisdom as they engaged with the case experiences (Megone, 2002). The cardinal aim of the case was to develop MBA students’ understanding of corruption, within an analytical framework that referenced both Carroll’s CSR pyramid (1991), as well as themes developed from the rapidly developing literature on behavioural ethics. This theoretical framing of the case meant that the interface between the legal and ethical facets of this affinity/financial fraud could be examined with reference to relevant analytical frameworks.

This paper will also detail two further justifications for constructing and delivering this case history: first to enhance the curriculum by stressing the centrality of ethics and CSR; and second to facilitate the development of more responsible MBA alumni by delineating and developing their understanding of the limitations of rational choice theory. In more detail, the first justification of the paper will identify and address the ethics/CSR deficit in business school theory and pedagogy, which has been identified and discussed in an extensive literature stream discussed below. The paper contends that there is a need to introduce innovative teaching material to respond to this deficit, in this instance detailing an example that contributes to the anti-corruption curriculum.

The second justification of the paper will discuss the limitations and overly narrow neo-classical economic understanding of rationality, which it will be argued frames the extant business school curriculum; that is, by theories that assume that individuals act in ways that are consistent with their own understanding of their self-interest (Friedman, 1995). The paper will argue that the limitations of this neoclassical understanding of rationality, which privileges self-interest over other motivations and behaviours, were exposed in the recent global financial crisis (GFC), which it failed to predict, prevent, and it could be argued alleviate. In consequence, the business school curriculum needs to be expanded beyond the understanding of self-interested ‘*homo economicus*’, to include for example, the development of professional and relational values not based on self-interest. Thus, to accord with Dunham’s recommendation that management theory needs to be a move away from ‘separation thesis’, of ethics as being an external constraint, to that of being an intrinsic part of value creation (2009).

The paper will proceed by explicating the justification for the case history, first, with reference to the ethics deficit in business school pedagogy and theory, and second with a discussion on the over-extension of rational choice premise in economics and in business and management theory. This paper then discusses how rational choice theory, which does not condone illegality, nevertheless provided an intellectual climate in which corruption proliferated. The paper proceeds with a discussion of the appropriateness of case histories for developing student understanding of corruption and the anti-corruption curriculum, to be followed with a description and theoretically informed analysis of the case as a pedagogical innovation. Finally, case reflections, conclusions are drawn from the case.

### **The Ethics and Responsible Management Deficit in Business School Education**

The first justification for this case history is based on growing body of literature that draws attention to an ethics and responsible management deficit in the contemporary business school curriculum. Of course, business, commerce and ethics have always been discussed together, including Aristotle's 'Friendship based on Utility'; that is friendships based on pursuing an advantage (1986, p. 286). The centrality of ethics to economic life however, has been marginalised in the contemporary business school curriculum, as it is delivered under the aegis of rational choice theory. For example, the eminent strategist, Ghoshal has perceptively argued that contemporary business schools place an over-emphasis on science and technique at the expense of teaching values, and consequently:

*'Many of the worst excesses of recent management practices have their roots in a set of ideas that have emerged from business school academics over the last 30 years' (2005, 75).*

At this point in the discussion it is also germane to note that there remains a debate over whether ethics can be taught (Ritter, 2006). Her conclusion is that there is no consensus on the 'trainability of ethics content' and that the effectiveness of ethics curriculum depends on the experiences and character of the individual student (2006, 153-155). Another view is that ethics cannot be taught as individual character development are formed before a student enters a HE classroom (Cragg, 1997). Churchill's (1982) view, however is persuasive as she identifies the difference between ethics and moral values. Ethics, as a rational and systematic approach to behaviour can be delivered by the curriculum, whereas moral values, develop earlier for an individual's life and hence are not teachable. McCabe et al., (1991) disagrees, his case is that that psychological literature suggests education correlates to the enhancement of moral judgment. Perhaps then the best approach is to be inspired by the logic of '*Pascal's Wager*'; that is while there is no definitive evidence that business schools can teach ethics and moral values, the chance that it does makes ethics pedagogy in business schools of vital importance.

Furthermore, this ethics deficit is perhaps most acute on MBA programmes, as noted by Hunh, (2013) who makes the case that the orthodoxies in MBA pedagogy and practice restrict the ability of managers to recognize and respond to ethical dilemmas, and consequently '... resentment against the MBA is visible everywhere' (2013). In addition, Podolny, a distinguished academic, has concluded that MBA programmes tend to underestimate the importance of ethics, typically emphasizing their over-riding ambition is to, '...augment student income' (2009: 63). Giacalone and Wargo, have also contended that, 'The Roots of the Global Financial Crisis are in Our Business Schools' (2009).

In sum, there is an extensive literature arguing that the curriculum in business schools is too narrowly focused on utility maximization, and hence is deficient in teaching business ethics and values that are also vitally important to economic activity. In response, this case aimed to facilitate the development of more responsible managers, able to reflect on business ethics and CSR, with reference to corruption, which unfortunately many students will encounter in their subsequent careers. Furthermore, enhancing the ethics content of MBA programs will address another body of criticism, which argues that the link between theory and practice in current MBA pedagogy is inadequate, and fails to prepare graduates for the ‘real world’ (Mintzberg 2004; Atwater, Kannan et al. 2008): the paper’s view is that MBA graduates will inevitably be faced with making management level decisions with ethical components.

### **The Financial Crisis and Mainstream Rational Choice Economics**

A well-known quote attributed to both Mao Zedong and Zhou Enlai was that, ‘it was too early to say’ about the consequences of the French Revolution of 1789 [3]. Whatever the quote’s veracity, it does capture an historical truth that the consequences of great historical events or turning points take time to become transparent, and consequently their significance can only be fully discerned over the long-term. One such recent historical turning point was the GFC, and it can be contended that one its consequences is to accelerate an already mounting demand relating to societal expectations for the market, and more generally for all economic activity, to be conducted in a more ethical climate. For illustration of this change in societal expectations, one can cite the jail terms for the punishment of white-collar criminal for corruption has been far more onerous than before the GFC (see theme 2). This development denotes a societal demand reflected in the legal system that business is conducted strictly within the law and also within normative ethical values (Hurt, 2009).

These more onerous prison sentences for white-collar crime are one example of the rising ethical expectations the economy being reflected in the more onerous legal punishment handed down by the courts for transgressions of these expectations. The line of reasoning is that the economy, which can be understood as being embedded in broader society (Polanyi, 1944/2001), had been subject to a post-GFC set of societal expectations. As already discussed there had been a growing body of opinion critical of neo-liberalism’s expansion of markets, and the precepts of rational choice economics. The GFC however, brought these criticisms into stark relief and exacerbated societal expectations for a more ethical economy. These expectations can be thought of as the unconscious assumptions, or what the Annales’ historians called the ‘*mentalities*’ that represent world views, and which have expanded post-crash from previous neo-liberal economic orthodoxies that viewed ethics, not as integral to business activity; but rather as an add-on, or even as an impediment to the all-important ‘bottom line’: termed the separation thesis. In short, the zeitgeist of the era immediately preceding the financial crisis was framed by egoist doctrines of self-interest, taken from a narrow economic understanding of rationality, developed from the late fifties onwards as part of a ‘Neo-classical Revival’ (Simon, 1978,). Pfeffer (2005) was therefore correct to identify that Economics had been over-extended in the social sciences and that its assumptions of self-interest tended to become self-fulfilling. In consequence, a highly abstracted interpretation of unfettered competition was placed as society’s organizing principle, resulting in what Perry calls a ‘liberal view of ethics’ (1992). This rational orthodoxy understood individuals as calculative and wholly self-interested; its antecedent are arguably in Hobbes gloomy view of human nature. The rational perspective furthermore, can be understood as integral to a triumph of economic ideology justifying a particular set of (neo-liberal) economic views. In Lane’s words: ‘I think rationality is inserted to justify not explain the market’ (1996: 112).

This is also an ongoing debate, about the nature and purpose of economics and the closely related domain of business and management, and a key area of contention is the narrowness of the economic understanding of rationality. Economic rationality is a meta-theory for motivation and analysis, which can be summarized as the view that individuals act in ways that are consistent with their understanding of their own self-interest; in the syntax that rational actors act in ways to maximize their utility. It can also be understood as an extreme form of methodological individualism (Ferguson and Mansbach, 2004), which has encouraged the wholesale de-regulation and privatization of economies.

Given these limitations of orthodox Economics, it is unsurprising that ontological questions, such as what is it, 'to think like an economist', and the closely related question of what is, 'to think like a management theorist' have become more contested, which is to be welcomed as the extant ontology, has hitherto mitigated against sustainable education and ethics pedagogy (Painter-Morland, 2014; Hunh, 2104).

Furthermore, post-GFC there is an opportunity to develop the ontology of business and management as regards to ethics. Ontology refers to the assumptions made about reality; what therefore management education is, and consequently these ontological assumptions frame research focus, design and presentation. Crane for example, has noted that business ethics and pedagogy is biased towards a materialist ontology, which has result in a preponderance of quantitative research in the positivist tradition (1999). Rossouw has also discussed that research in business ethics is either premised on materialist or on idealist ontologies (2002). In addition, Painter-Morland has analysed that business schools tend to have an organizational profit-interest ontology that can work to the detriment of society, as their view of well-being is too narrowly linked to the wealth. This purely economic view moreover. leads to ethics and its domain being peripheral (2014). Her view is that a rationalist, reductionist mind-set serves business in times of stability, but different capabilities are needed when confronted by ambiguity (2014, p. 70). The post-GFC is just such a time of ambiguity, and hence there is a requirement for ontological assumptions to be expanded beyond premises of neo-liberalism.

It can also be contended that major historical events, such as the recent GFC, can serve to redefine ontological, epistemological and pedagogical assumptions. For example, Khurana in his history of MBAs, asserts following WW2 a belief took hold that the conflict had been successfully waged with the application of 'management science' that could be successfully applied to post-war civilian business and management. This led to the re-configuration of business schools; '...on a rigorous, scientific basis as the primary mechanism through which a profession of management could be created' (2007: 271). This paper view is that GFC, which to many observers was attributable to self-interested MBA alumni (Giacolone and Wargo, 2009), has created a crisis of identity and purpose in business schools and therefore requires a re-configuration on the scale that took place after WW2. Therefore, one justification for this paper's innovation in behavioral ethics is to contribute to enhancing MBA pedagogy, including curriculum development, ultimately to produce graduates, '...that enhance the integrity of the business world' (Koljatic and Sliwa, 2014).

### **Rational Choice Theory and White-Collar Crime**

Rational choice economics recommends the pursuit of self-interest, but not criminality. Williamson however, has noted that real economic actors combine self-interest with opportunism, (1975), and Granovetter has also observed that:

*'...a peculiar assumption of modern economic theory is that One's economic interest is pursued only by comparatively gentlemanly means. The Hobbesian question-how can it be that those who pursue their own interest do not do so mainly by force and fraud-is finessed by this conception. Yet as Hobbes saw so clearly there is nothing in the intrinsic meaning of 'self-interest' that excludes force or fraud' (1985: 488).*

Thus, the question arises of whether the idealised '*homo-economicus*', who acted to maximise their individual utility, within a framework that under-emphasised the economic importance of ethics, was prone to criminality, in the syntax as an extreme form of self-interested 'ends-means rationality'. Furthermore, the philosopher Mary Midgely, a perceptive critic of the neoclassical economic revival, considers that this commercial ideology was shaped by an excessive individualism, combining counter culture's anarchistic anti-authoritarianism, blended with unrestrained capitalism, in which self-choice was pre-eminent (2010). One can therefore speculate whether excessive individualism and anarchistic ant-authoritarianism could predispose to illegality.

This paper's view is that the ethical limitations of the economic understanding of rationality, which privileges self-interest, were exposed in the GFC, which arguably was caused by the narrow pursuit of short-term profit maximization, which if not criminal was reckless. The ethical limitations of economic rationality were also exposed in the numerous recent examples of white-collar crime, including the scandals at Enron, Arthur Anderson, WorldCom, and Tyco International as well as this case example of BLMIS. Many of the white-collar criminals indicted in these crimes were MBA graduates, which has led Swanson and Frederick (2003) to develop a very convincing analysis, which affirms that business schools, with their rational choice framed curriculum have been 'unwitting accomplices in corporate crimes' (p. 24). In sum critics of business schools contend that their scientific managerialism, is producing venal and untrustworthy graduates (Congleton, 2014, p. 170). For illustration, research has confirmed that business students, including MBAs, are more likely to cheat than students in other disciplines (McCabe, Butterfield and Trevino, 2006, p. 300). Frank has also written extensively that students and professors exposed to rational choice theory are more likely to behave in accordance with its self-interested maxims (1988).

### **Case Literature**

The literature that analyzed this case study exercise was drawn from Carroll's influential 4 levels of CSR (1979), later recast as a pyramid model (1991); and from the developing behavioral ethics literature (Tevino et al, 2006). The reason for this selection was that the case history depicted white-collar corruption involved both legal and ethical transgressions, which both of these literatures address.

First: "Carroll's CSR Pyramid [that] is probably the most well-known model of CSR ..." (Visser 2006). According to Carroll CSR encompasses the economic, legal, ethical, and discretionary (philanthropic) expectations that society has of organizations at a given point in time (Carroll 1979, 1991). In Carroll's words:

*'The purpose of the pyramid was to single out the definitional aspect of CSR and to illustrate the building block nature of the four-part framework (Carroll, 2016, p.4).*

Furthermore, Carroll averred in terms of understanding each type of responsibility society:

- requires economic and legal responsibility,
- expects ethical responsibility,
- expects/desires philanthropic responsibility.

Carroll has also recently written a paper taking another look at his pyramid of CSR and noted its enduring importance to scholars, perhaps because ‘Ethics Permeate the Pyramid’ (Ibid, p. 6). Thus, although the ethical responsibility is depicted in the pyramid as a separate category of CSR, nevertheless ethics are significant throughout each of the pyramid’s four layers. Furthermore, for this case it is worth emphasising the second tier of the pyramid, what Carroll termed the ‘Legal Responsibilities’. These legal responsibilities set out the minimal grounds under which businesses are expected to operate and function and can be thought of as ‘...society’s view of “codified ethics” in that they articulate fundamental notions of fair business practices as established by lawmakers at federal, state and local levels’ (2016, p. 3): these are the minimum ground rules. Carroll further stressed that in ‘Legal Responsibility’ category, it should be acknowledged that most laws and regulations were created based upon some ethical reasoning and thus once formalized they represented “codified ethics” for that society (ibid). The relationship between legal and ethical responsibilities is therefore explicit and will be commented on in the case analysis. There are of course inevitably limitations to any comprehensive approach to CSR, as noted by Robinson and Dowson (2012, pp. 210-211). The pyramid of CSR however, remains an appropriate interpretative tool as it provides a robust analysis that can be applied for different stakeholders, as will be demonstrated in this case of pedagogical innovation.

The second literature applied to analyse the case was taken from the developing behavioural ethics area of research, which has recently rise to prominence as pioneered by Tversky and Kahneman (1974) and Kahneman (2011), arguably as an alternative to rational choice economics. This paper takes an understanding of behavioral ethics as the study of ‘individual behavior that is subject to or judged according to generally accepted moral norms of behavior’ (Trevino et al, 2006, p. 952). Behavioural Ethics rejects economic-rationalism, and coalesces modern psychology and economics to establish a new perspective of behavioral and experimental economics. This approach to understanding economic life offers an alternative economic epistemology and analysis, based on psychological insights, including heuristics, biases, anchoring effects, narrowing, framing and excessive coherence.

Furthermore, this paper’s conceptual lens will focus on sub-theme of ‘reactions to unethical behavior’. This theme was first identified in a special issue of Business Ethics Quarterly (De Cremer, et al, 2010), and it has been developed with a theoretical focus into deontic justice; that is justice is valued for its own sake (Cropanzano, Goldman; and Folger, 2003; Folger et al, 2005). It is also worth noting that according to Rupp and Bell (2010, p. 90) the antecedents of deontic justice are in Kantian ethics’ categorical imperatives. In conclusion, students were asked to consider the BLMIS case with reference to behavioural ethics themes including deontological notions of justice.

### **Methodology: Case Histories in Behavioural Ethics Education**

The case study method is well established in business ethics education (Rendtorff: 2015) and scholars have argued persuasively that this methodology has the potential to facilitate the aim in terms of developing understanding of corruption and anti-corruption, as well as to enhance student’s ethical awareness, and moral character. For illustration, according Rendtorff the case methodology has the facility, ‘...for developing ethical judgment in the tension between

theory and practice' (2015, p.49). Rendtorff also states that case studies can, '... improve personal integrity and the ability to choose right action' (Ibid, p. 54).

It is also notable that Megone (2002) has discussed the case history methodology with reference to Aristotelian virtue ethics. Megone makes the link between case histories and the acquisition of 'phronesis', or practical wisdom that requires experience. According to Megone one way to use a case history is as a presentation of experience. He also contends that case histories can lead to the acquisition of virtuous motivation, so that, '...they can be used in a way which will affect the character development of the student (ibid, p. 173). Thus, the case methodology was appropriate for this research question as it aimed to develop the student understanding of corruption by presenting them with the 'experience' of one instance of corruption. Furthermore, character development in being able and willing to promote anti-corruption would also be an entirely appropriate outcome of this research.

To conclude, this research used the qualitative case method (Stake, 1995; and Yin, 2004, 2010 and 2011), to investigate lived experience from the viewpoint of those being studied. Moreover, following Chell's recommendation the case history was chosen, '...for analytical purposes to produce insight into the phenomena in question' (2008): the phenomena in question in this instance was corruption. In sum, this research aimed to provide the case history 'experience', for students to reflect and conduct an in-depth analysis with reference to Carroll's pyramid of CSR (1991) and behavioural ethics theory.

### **Outline of the Case Delivery**

The sample comprised 40 MBA students split into 2 classes taking an elective module in business ethics. These were full-time students, and all had a first degree, though the majority were not in cognate disciplines: 18 had first degrees in business and management related disciplines, with 22 in other disciplines. The work experience of these students was varied, however all of them had at least 4 years in a managerial position. The nationalities of the students were also varied, and the majority 28/40 hailing from non-Anglophone countries. Overall, the students were characterized by their diversity of experiences and backgrounds

Prior to this case, the student cohort had been given lectures and seminars that had introduced them to the leading business ethics theories as follows: Aristotle's virtue ethics focussing on the character of the individual; Kant's duty based ethics; Bentham's utilitarianism; and Carroll's CSR theories. Students therefore had a grounding in theories relevant to business and management. A number of students were aware of the BLMIS fraud, however none of them were experts in the case, which was fortuitous as it meant that they approached the case history without any case specific preconceptions.

The case was introduced with reference to Carroll's CSR pyramid categories, and to behavioral ethics theory. Affinity fraud was also defined (Perri and Brody, 2011, p. 34).

Students were then supplied with a brief chronology of the fraud and were also advised of various sources detailing the fraud, with the most comprehensive introduction being at: 'Vanity Fair', April 2009, available at: [www.vanityfair.com/news/2009/.../bernard-madoff-](http://www.vanityfair.com/news/2009/.../bernard-madoff-). The next step was to give students an overview of the court documents, which are available at [www.justice.gov/.../united-states-v-bernard-l-madoff-and-related-cases](http://www.justice.gov/.../united-states-v-bernard-l-madoff-and-related-cases). Students were also

directed to read, 'Sentencing Transcript dated June 29, 2009', 47, and Madoff's court Allocution, all easily accessible on the web.

In this case history, the protagonist of the BLMIS affinity fraud were introduced as follows:

- The perpetrators: Madoff and family and other employees and associates of BLMIS
- The victims/collaborators or investors (depending on the viewpoint adopted)
- Markopolis: chief whistle-blower
- Judge Denny Chinn
- Defence Attorney: Ira Lee Sorkin

Students were organised into self-selected groups and asked to research and then prepare a twenty-minute group presentation based on one of Carroll's 4 CSR categories. They were also required to reference behavioural ethics literature. Various additional sources relating to the case were also distributed to each group, as detailed below.

## **Findings**

### **Theme One: Carroll's Economic Responsibilities, and Behavioural Ethics' and 'Econs and Humans'**

This theme required students to consider BLMIS with reference to Carroll's responsibility for business to be profitable category, which sits at the base of CSR pyramid. This theme also required that students compare the behavioural ethics 'econ and humans' with the rational agent model.

The students noted that in terms of Carroll's economic responsibilities, prior to the fraud's exposure BLMIS was adjudged by most observers to be a stellar success, with very favourable rates of annual return for investors. Therefore, to many, though not all, contemporary observers BLMIS was apparently meeting its requirements for making profits for all of its stakeholders. The students however, reflected that this apparent economic success was a chimera, and the firm was on the contrary defrauding most of its key stakeholders, the investors. It is notable, furthermore that a large number of investors made considerable profits from their BLMIS investments, with a consistent 10-15% annual return before they chose to withdraw their investments. It is however, difficult to verify the precise number of this fortuitous group of investors, as the 'winners' in BLMIS fraud have been unforthcoming, perhaps to avoid charges of collusion in Madoff's crimes (Ardelund, 2009, p. 269).

In the presentations, the student groups came to the view that it was not possible to separate economic responsibilities from ethics, which reflects Carroll's interpretation of the CSR, as he explicitly states that ethics permeates each level of the pyramid (2016, p.5). The students understood that the economic responsibilities of BLMIS were undermined by its unethical operating strategies.

Kahneman's comments on 'econs v humans' were also discussed to highlight the limitations of economic rationality, which was contrasted with the behavioral ethics perspective (2011). Students were informed of Kahneman's view that the only test of rationality in economics is whether a person's beliefs and preferences are consistent in a critical discussion of the rational agent model (2011, pp. 411-415). To explore the validity of this observation, additional sources were introduced to the students, including references to Granovetter's

socio-economics assumptions (1985, p. 488). Developing this theme student groups also mused on whether the most transparent examples of rationalists in the market place are white-collar criminals, who act in accordance with complete self-interestedness. Bernie Madoff for illustration, can be characterised as an extreme rationalist who ruthlessly strove to promote his own interests (self-interested utility optimisation) without regard to any non-rational (moral/ethical) frameworks. This discussion was inconclusive with a number of students stating that the market demanded complete self-interest in-order to survive and prosper. Madoff however, was also interpreted as operating beyond the maxims of rational choice, as the theory advocating economic self-interest assumes that the law is not broken. Most students stated that it self-interested behaviour did not include breaking the law, as the risks of punishment were too onerous to justify illegality on a rational cost/benefit analysis.

### **Theme Two: Carroll's Legal Responsibilities, and Behavioural Ethics' Deontic Justice**

Carroll's legal responsibilities category is most germane to any analysis of this case. Students focussed on Carroll's expectations that business should 'fulfil all their legal obligations to societal stakeholders'. Students noted that Madoff, akin to many conmen, finessed away his legal obligations to his investors, for example by asserting from prison that they were complicit in BLMIS' crimes, as in his view they were all prepared 'to look the other way'. In his words, he: 'Made wealthy people wealthier' (Lewis, 2012, p. 164). The students were convinced however, that BLMIS did not fulfil its legal obligations, whatever the aspersions levelled by Madoff at the motivations of his investors. The students were also convinced that BLMIS had failed to meet the expectations that business provides '...goods and services that at least meet minimal legal requirements (Carroll, 2016, p. 3). This was taken as self-evident as the BLMIS fraud persisted as it had been expert at avoiding its legal requirements. Madoff, for illustration was expert at manipulating the Securities and Exchange Commission (SEC) for his own advantage to stop or divert any investigations into the 13<sup>th</sup> floor of the Lipstick Building that accommodated BLMIS (Arvedlund, 2012, pp. 209-219).

The legal theme also required the students to consider whether Madoff had been harshly treated by the court. Students were informed that on the 29<sup>th</sup> June 2009 at the sentencing trial, Ira Lee Sorkin, speaking for all of Madoff's attorneys, acceded that their client was a 'deeply flawed individual', nonetheless he had continued by pleading for leniency. Sorkin made the case that Madoff had 'turned himself in', and made a full confession that expressed regret: his client had also agreed to fully cooperate with the recovery of investments. The defence attorney further stressed that they had based their request for a 12-year sentence on the average length of sentencing for previous acts of severe fraud. As Sorkin elaborated, a sentence of 12 years for the 71 years old Madoff could be just short of a life sentence, with the slim prospect of his client living out his final years, 'impoverished and alone' and would signal that justice would not be swayed by 'mob vengeance'. Judge Denny Chinn however, remained unimpressed and specifically dismissed the notion of 'life expectancy analysis', preferring to hand down, in his words, a 'symbolic verdict' of 150 years or 1,800 months for the \$65 billion investment fraud: Madoff would be 221 before he could be considered for release on November 14<sup>th</sup> 2139. Judge Chinn elaborated that the verdict was symbolic in terms of, retribution, deterrence and for symbolism as the victims came from all walks of life (Sentencing Transcript dated June 29, 2009", p. 47. [www.justice.gov/.../united-states-v-bernard-l-madoff-and-related-cases](http://www.justice.gov/.../united-states-v-bernard-l-madoff-and-related-cases)) .

It was further emphasized to the students that Madoff was not the only white collar criminal exposed by the down turn after the GFC, as a number of Ponzi/bubble schemes were soon uncovered and prosecuted, with each of the perpetrators handed down long prison sentences.

The most high-profile of these Ponzi schemes were those perpetrated by Tom Peters who swindled \$3.65 billion, sentenced to 50 years in 2008; R. A. Stanford who swindled \$8 billion, and was sentenced to 110 years in 2009; and S Rothstein who swindled \$1.2 billion, and was sentenced to 50 years in 2010. These sentences contrast for their severity with earlier cases of high profile white-collar criminals. For example, in 2003 Jordon Belfort (The Wolf of Wall Street) was sentenced to 39 months in prison after pleading guilty to ten counts of money laundering and securities fraud, though he only served 22 months. Another well-known white collar criminal was Ivan Boesky, sentenced in 1986 to 3 years: he served 2 and half years. Boesky's plea bargaining led to another well-known fraudster, Michael Milken being convicted of 98 counts of racketeering and fraud. Milken was given a sentence of 10 years, but was paroled after serving 22 months.

It was stressed that these sentences were not an anomaly associated with the late twentieth and first eight years of the twentieth century, but rather were consistent with the sentencing of white-collar criminals throughout the twentieth century. For example, the white-collar criminal who most resembles Madoff was Richard Whitney, who served as president of the New York Stock Exchange from 1930 to 1935. His financial fraud was prosecuted in 1938 and he received a sentence of 5 to 10 years, being released after serving just over 3 years. The prison term of Carlo Ponzi, whose name is usually mentioned in any paper about embezzlement, provides another example. Ponzi was sentenced to 5 years, for his eponymous embezzlement in 1920, however, he was released in 1924, after which he launched another criminal scheme based on land fraud in Florida.

In sum, sentences for high profile financial crime has been more draconian in recent times, and students were directed to consider this development from a deontic 'justice for its own sake' perspective. Did Madoff receive a jail tariff out of kilter with his crimes? One view is that he was being punished as the embodiment, and at a stretch, as one of the perpetrators of the GFC. The students' response to this information was mild surprise at the 'leniency' of the earlier sentences handed out to white-collar criminals. They also averred, that given the extent and consequences of Madoff's crimes, Judge Denny Chinn had passed down a suitably chastising jail term. Thus, the term of 150 years was according to their analysis entirely warranted. Conversely one student argued vigorously that Madoff had been harshly treated, who he considered had been 'scapegoated'.

### **Theme Three: Carroll's Ethical Responsibilities, and Behavioural Ethics, Victims or Collaborators?**

According to Carroll 'society expects businesses to operate and conduct their affairs in an ethical fashion' (2016, p 3). The students were unanimous in their view that BLMIS has failed to be ethically responsible, and further had caused damage to the ethical fabric of society. The example that exercised students to an extreme was Madoff's targeting of charities to 'fleece' (Arvedlund, 2012, p 272), which students found especially repugnant. The information relevant for theme 2 was also discussed in terms of investors being victims or collaborator. Students were informed that the narrative favoured by Madoff was that the investors were complicit in the fraud as they must have known the consistent returns were too good to be true. This understanding is typical of white-collar criminals and in criminology is known as 'neutralizing theory'. Thus, criminals assuage their conscience and rationalize their unethical behaviour by blaming the victims (Haugh, 2014). For illustration, according to a recent prison interview, despite his apology in court Madoff remains unrepentant, holding fast to the view that his investors knew his returns were too good to be true and thus were his willing partners in the fraud. According to a fellow inmate Madoff is also increasingly angry

about his incarceration, stating: *\*\*\* my victims. I carried them for 20 years and now I'm doing 150 years'* (Somaiya, Newsweek, 2010).

The student view was nuanced, and they reached the conclusion that there were a range of different types of investors. Many they concluded could not be termed anything other than victims. For example, the investors in the numerous 'feeder funds' into BLMIS, were not in many instances even aware that they had any connection with Madoff's firm till informed of the connection in the media. At the other extreme, there were big investors who appeared to be very well informed and used their information to exit the fund with excellent returns. Somewhere between these two extremes were investors who were prepared to forgo due diligence on the basis of receiving a very attractive dividend. as one observer put it:

*'To stay in Madoff' game, they agreed to cooperate with his deceptions. They honored his request to not talk about him or to tell others that he was managing their money. They didn't do due diligence'* (Arvedlund, 2009, p. 220).

#### **Theme Four: Carroll's Philanthropic Responsibilities, and Behavioural Ethics: Compensation or Just Deserts**

Carroll has noted that:

*'...most companies engage in philanthropy as a practical way to demonstrate their good citizenship. This is done to enhance or augment the company's reputation and not necessarily for noble or self-sacrificing reasons (2016, p. 4).*

The student view was the same as the one expressed under theme 3 that philanthropy and the various charitable activities that Madoff indulged in had been strategic moves to bolster his reputation, which was a key intangible asset to gaining the trust of his investors. Madoff, for illustration donated heavily to ethnic (Jewish) charities, became a member of the Board of trustees for Yeshiva University, and proclaimed his devotion to the Jewish religion and culture. Madoff was also perceptive enough to recognize that charity, and more generally philanthropic activities in his own community were an excellent opportunity to develop his feeder networks. This approach fitted in with Madoff's preferred sales pitch of avoiding financial or 'capital introduction' parties, which would be full of financially savvy investors, who would too many awkward questions. Instead, he preferred to target fellow philanthropists by word of mouth recommendations, and there was a concerted effort by Madoff and other members of his family to court the charity circuit, sitting on the boards of many charities and donating money to many others. This networking gave Madoff two main paybacks. First, it allowed him access to high society that added luster to his brand: it made him more respectable and consequently credible. Second, it allowed him to aggressively market his products to gullible charity commissioners and hence provided a lucrative source of investors. The success of the Madoff's in convincing charities to invest can be gauged by the reforms recommended to charitable foundations, reforming their size and structure in order to decrease their reliance of 'personal ties' (Jagpal & Craig, 2009) [4].

From a behavioural ethics perspective, students were asked to reflect on the actions of investors, who were vigorous in trying to establish a narrative in which they were entirely innocent victims, perhaps to assist them in their 'clawback' aims to recover assets from the

authorities (Hurt, 2009; Lewis, 2012; and Cassell and Erez, 2011). This related to philanthropic responsibilities in terms of whether there was an expectation that the authorities should recompense the investors for their losses.

Students were asked to review and reflect on the victim impact statements, which personalized and detailed the impact of crime, in criminology this is termed therapeutic justice. In the United States V Bernard L. Madoff, 167 substantial statements were submitted, from which the prosecution chose to submit 113 substantial statements, with 9 permitted to speak at the sentencing trial. The statements therefore comprise the views of only a fraction of the defrauded. For example, financial institutions, which suffered the biggest losses, such as Banco Santander (\$2.87 billion) and Bank Medici (\$2.1 billion), as well as charities and celebrity investors, did not submit any statements. The statements are therefore unrepresentative, but valuable for their role in ‘shaping the Madoff narrative’ in the sphere of public opinion. For example, the statements articulated an acute sense of Madoff’s treachery, not only to individual investors but more so to the wider community, as one investor stated:

*‘ What Bernard L Madoff did far transcends the loss of money. It involves his betrayal of the virtues of people hold dearest-love, friendship, trust-and all so he can eat at the finest restaurants, stay at the most luxurious resorts, and travel on yachts and private jets. Ha has truly earned his reputation for being the most despised person to in America today (New York v Madoff, sentencing transcript” p 20. Available at: [www.justice.gov/.../united-states-v-bernard-l-madoff-and-related-cases](http://www.justice.gov/.../united-states-v-bernard-l-madoff-and-related-cases)).*

For this theme students considered whether the investors should be regarded as victims or willing collaborators, and also whether they had a deontic justice case to receive compensation for their losses. Their response was that it was very difficult to assess the level of collaboration of the investors in the fraud. Thus, they reached the nuanced conclusion that a number had been victims, perhaps the majority had been passive collaborators, while a minority had been active participants in the fraud.

### **Reflections on Case**

The research question investigated whether a case history could enhance MBA student’s theoretical understanding of global corruption, as well as developing their moral awareness, character and facility for self-reflection. The implication of the question was that by meeting these enhancements the case would contribute to students becoming more responsible managers in their future careers. The researcher is convinced moreover, based on the student presentations and classroom debates, that the students gained knowledge and understanding, as well as the facility to analyse real-world business examples of global corruption and anti-corruption agendas. The researcher also adjudged that students were also able to develop their moral awareness, character and facility for self-reflection. Of course, changes to these ethics related values and intangibles are difficult to prove, as they are transcendental and therefore internal and subjective to each student. The researchers view however, is that using behavioural ethics argot, the case ‘nudged’ students to develop appreciation of corruption, as well developing their moral awareness, character and facility for self-reflection.

Overall, based on the high- level of student engagement with the case, as well as on the excellent quality of their presentations it is reasonable to assert that this innovative case history developed student understanding and appreciation of corruption. This deeper and

more nuanced understanding was framed within Carroll's CSR pyramid and behavioural ethics themes, which can be summarised as follows:

- Students demonstrated that they understood that the legal case against BLMIS was also an ethical case. This view was evinced in the depth of discussion and in the conclusion expressed in student presentations.
- Carroll's 'Economic Legal, Ethical and Philanthropic' responsibilities were discussed with reference to key stakeholders, and student responses indicated that they had developed appreciation of the integrated nature of each of Carroll's categories.
- Students group presentations expressed nuanced understanding that corruption is complicated. For instance, in terms of perceptively discussing whether the investors were victims or collaborators in the fraud.
- In terms of behavioural ethics themes the first theme produced a number of stimulating responses that argued that the rational model was unrealistic and needed to be augmented with a greater appreciation of ethical framework and moral awareness. One excellent presentation concluded that Madoff was acting in accordance with rational strictures of motivation and behaviour. This group developed the theme to consider the view that there is no reason for a rationalist to exclude force or fraud, other than the risk of being apprehended and punished. It was noted by these students however, that in economic behaviour there are many instances when individuals could use force or fraud with little chance of being caught, but choose not to: hence the 'policing mechanism' did not explain their actions. An alternative understanding discussed is that the economy needs ethical values to function.
- The second behavioural ethics theme elicited different student response but the majority response was that Madoff's punishment was suitably harsh and should not be reduced. The majority view was that he deserved to be punitively punished, one student did though make a spirited case that Madoff's tariff was more than given for crimes considered more heinous, and hence needed to be revisited.
- The third and fourth behavioural ethics themes produced the liveliest debates, with contrasting and strongly held opinions expressed for and against the BLMIS' investors, as either victims or collaborators. No agreement was reached on these themes, which provided a good illustration of the contested nature of business ethics and the complicated nature of corruption.

### **Conclusion and Recommendations**

The conclusion is that case histories, in this instance using archival sources taken from the court records, have the potential to enhance teaching and learning in business ethics and responsible management education. Furthermore, innovations in business school pedagogy, such as this case history, can contribute to enhancing the ontological, epistemological and pedagogical assumptions in business schools, with the aim of placing more significance on ethics and responsible values. The outcome of these philosophical innovations will be to facilitate a more attuned perception of corruption and the anti-corruption agenda.

The paper has also emphasised that the GFC has created the opportunity for expanding the ontology of business schools, which would facilitate an epistemology open to more interdisciplinary pluralist approaches to business ethics. Hitherto, business ethics theory has been

limited to Kantianism, Utilitarianism (Act/Rule), Egoism, Social Contract Theory, Virtue Ethics, Discourse Ethics, Post-Modern Ethics and Ethics of Care (Spence, 2014). Post-GFC this epistemology can also be expanded. In this case examples of this crossing of divides was achieved with inputs from, criminology, jurisprudence, under-utilised areas of ethics and business history.

Furthermore, this pedagogical research set out to acknowledge and respond to broader societal trends of raising expectations, as a consequence of the changed ethical climate, which is perhaps the only positive consequence of the GFC. It follows that business schools need to re-focus their attention to foster greater levels of legal, ethical values and morality in their students. It is also worth noting that such a development would be return to the moral roots of economics, as Adam Smith was above all a moral philosopher (Patterson, 2000, p. 39-56) who wrote about moral philosophy and empathy in the economy in his, 'Theory of Moral Philosophy' (1759). It would also be return to earlier understandings of business education, as its original purpose as established at Wharton School in 1881 was, '...to serve the broader interests of society' (Kharuna, 2007).

Finally, a limitation of this research is that it is reporting on one instance of a classroom delivery of the case study. In consequence, a recommendation for future research is for CSR and ethics focussed educationalist to conduct similar case study teaching to add to and complement the conclusions reached in this paper.

#### Notes

1. See, Sunderland, who first used the term 'White-Collar Crime' in a 1939 paper. Also, see Smith et al, (2011, p.7) for a discussion of the dispute between criminologist who define the area very precisely, as opposed to those who understand it as a broad interdisciplinary subject focused on criminal behaviour. This paper will take the latter, broad definition as detailed by Payne (2012, pp. 435-462).
2. 'Affinity fraud refers to investment scams that prey upon members of an identifiable groups, such as racial, religious and ethnic communities, the elderly, professional groups, or other types of identifiable groups. 'The fraudsters who promote affinity scams frequently are-or pretend to be- members of the group' (Perri and Brody, 2011, p.34).
3. Mao Zedong and Zhou Enlai may have been referring to civil disobedience in Paris in 1968.
4. Madoff targeted charities for his fraud, but he never accepted any investments from his favourite charity: 'Lymphoma Research Foundation'. His son Andy suffered from lymphoma and the Madoff's were generous donators, over \$1 million in 2007. See, Levensen, E. (2008). 'One Madoff charity goes Unscathed', *Fortune*, December 17<sup>th</sup>. Available at: 'archive.fortune.com'.

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