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**THE ROLE OF INSTITUTIONS AND ETHICS IN THE
GOVERNANCE OF THE SOCIETY**

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CHAPTER ONE
INTRODUCTION TO THE TERMINOLOGY:
“LAW” AND “ETHICS”

Summary: **1.** *Introduction.* **2.** *A short view on the interaction between law and social norm.* **3.** *The definitions of Law and Social Norm.* **4.** *What is meant by “culture”?* **5.** *What is meant by “formal institutions”?*

1) Introduction.

Influencing other people behavior is probably one of the most ancient and powerful goals that men could conceive. To gain it, there have always been two ways: brute force and imposition/acceptance of rules.

The rules or, as it would be better to call them, “institutions”¹, can be divided into two types: formal and informal. In this section, we will simply consider the first as “laws” and the latter as “social/moral norms”.

In both, we find two constant elements: a precept (that is what one have to do or to abstain from) and a sanction, a penalty due to enforce it.

Illegal behavior is sanctioned by specific means, while immoral or improper behavior causes blame, ostracism, marginalization (but sometimes also something different, as we will see).

¹ We will follow the definition given by North (1991), within his work: “Institutions”. For further explanations, please refer to the sixth footnote.

History is a magnificent anthology of laws and social norms: the first known collection of laws, the Code of Hammurabi, dates back to about 1754 B.C., or the Duodecim Tabularum Leges of ancient Rome to 451-450 B.C., just for examples.

Furthermore, the Decalogue: the basic code for Christians and Hebrews, given from God to Moses on Mount Sinai – according to the Bible, Ancient Testament².

In every time and in every context, surely, we have institutions: they can be written, elaborate, complicated (just like in our countries, nowadays) or basic verbal rules (like in some isolated and primitive tribes that survive in Africa, Oceania or South America). But they all have an unique goal: maintaining the established order and prevent antisocial behavior; or, to be more precise, to ensure a behavioral equilibrium, aimed to encourage cooperation and to reduce transaction costs.

People, actually, may respect the law because they believe that it is right and appropriate or just because they only want to avoid penalties and ostracism. But, as already mentioned, the law is not the only factor that is able to influence people's actions: indeed, also the “social norms” do that.

Its meaning and its importance – regarding the influence on human behavior – will be discussed in detail later; for now, we have just to consider that social norms involve values, ethics, moral, habits and

² The ten commandments appeared in the Exodus and in the Deuteronomy, both books of the Old Testament.

customs. All of them are taught us since our childhood, by influential sources such as parents, then teachers, friends and all the other people we come in contact during life.

Sometimes, what it wanted to be taught lies between the lines, other times it is expressed explicitly. Regarding the indirect teachings, we can regard the pedagogical purpose of some famous texts, aimed precisely to teach the values of society and how to distinguish what is good from what is bad. Just to give a particular – and definitely – famous example, let's think to “Odyssey” (but we will not discuss if this work belongs or not to Homer). The author described the peoples encountered by Odysseus with a mere pedagogical goal: the non-Greek civilizations are a negative example, in order to emphasize the importance of values and customs of the Greek people.

And Polyphemus³ can be a good and evident example. Indeed, the big one-eyed giant is described as a brute and cruel man-eaters: so the first – intuitive – negative element is the cannibalism. Moreover, Polyphemus is a shepherd who only eats products derived from his sheep: that indicates that he was not accustomed to agriculture and agriculture itself, for the Greeks, is a step higher compared to sheep farming. Lastly, Polyphemus places himself as equal to the gods, saying that he is not afraid about their reaction. Therefore, he sinner and his sin is the “hubris”: he disrespected his own

3 The story about Polyphemus is described in the ninth book of Odyssey.

gods, and that was quite inconceivable for a good Greek.

As shown, even at the time of the Greeks, there was a trial to influence the behavior of people through the teaching of values, ethics and morals.

Both the law and the social norm, therefore, figure out what is right to do and what is wrong, deciding what we should do.

2) A short view on the interaction between law and social norm.

Laws and social norms can interact in different ways: they can strengthen each other, the law can put an end to a social norm or help it to arise. Or, vice-versa, a social norm can, in time, be crystallized in a law.

We can imagine several scenarios: in a primitive society, culture⁴ could be enough to keep the order between the citizens. The rules prescribed by social norms are easy to apply, and the punishment for those who disobey is strong enough to persuade people to follow those rules and to dissuade them from any violation. The social norms could hold this kind of society.

But if there is a social development, if economy and technology arise, it will be necessary to adapt the rules set to the new needs: so the legal institutions take their the place in the governance of the society.

The interaction between law and culture is also important when we talk about the creation of “social norms”.

4 An excellent definition is provided by Guiso, Sapienza and Zingales (2006) in their work “Does culture affect economic outcomes”: there, culture is defined as “those customary beliefs and values that ethnic, religious, and social groups transmit fairly unchanged from generation to generation.” We will resume it in the fourth paragraph and in the seventh footnote, page 7.

This issue was analyzed by many lawyers and social scientists and for example, McAdams (1997)⁵, argued that there are different reasons behind it: first, the existence of a consensus is mandatory, so that means that this particular behavior has to be desirable. Secondly, there must be the chance that this behavior could be observed by other people; and the lastly: this consensus and this chance have to be part of the common knowledge.

If the consensus exists, the people will have an incentive to behave in that way, and they will be probably esteemed for performing it. Furthermore, if there is the chance to be observed by the others, a person will have another incentive to perform that behavior.

Without these two requirements, a person won't have the right incentives to act in such way.

And here the role of the law in the birth of a social norm is shown: a law about a specific behavior communicates to all the citizens that the two above-mentioned conditions exist.

5 **McAdams R.** (1997), The Origin, Development and Regulation of Norms, *Michigan Law Review* 96, 338 – 433.

3) The definitions of Law and Social Norm.

The connection between law and social norms is not easy as it could seem. It is extremely important, for a better understanding, to give a definition of the terms mentioned above, and to place them in the right set. First of all, laws and social norms are both examples of institutions, but each one represent a different kinds of them.

Following the classification made by Douglas North (1991)⁶, the laws are a kind of “formal institutions”, meanwhile social norms are “informal institutions”. When these definitions are used, we have to keep in mind the differentiation between them.

The first one includes not only the laws, but also rules, the constitutions, the property rights, etc...; meanwhile the second one comprehends traditions, social norms, ethics, values and all the codes of conduct.

It's also not uncommon to find these two kind of institutions with other names. Indeed, usually, we can find the informal institutions called “culture” and the formal ones called “institutions”.

It's quite difficult to find perfects definitions for them, because a lot of terms are used to define culture and institutions, so it is correct to argue that most of the problems are a matter of semantics: each author has his own preferences defining formal institutions, informal institutions and culture.

6 North D. C. (1991), Institutions, *Journal of Economic Perspectives*, 5 (1), 97 – 112.

4) What is meant by “culture”?

“Culture” has two different definitions: theoretical and empirical. Following the empirical concept, culture is made by “those customary beliefs and values that ethnic, religious, and social groups transmit fairly unchanged from generation to generation.”⁷. In this concept, there are no differences between beliefs and values.

The theoretical concept, on the contrary, distinguishes the two terms: the beliefs are seen as ideas, shared by the people, that are able to influence the interaction between them; the concept of “values” is more connected to a primitive notion of culture, based on the role of emotions.

Anyway, beliefs and values interact systematically: beliefs are influenced by experience and from other people's advices and suggestions, while values are more persistent: they are part of individual personality, absorbed in the first years of life, and it is quite difficult that learning from experience would be strong enough to change and influence them.

That is the power of social norms: the *intergenerational* transmission. Values and beliefs, but especially the first, are transmitted from a generation to the next one; and that's why the “cultural rules” are so persistent in time. Hence, values and beliefs are closely related to the family environment, but not only: indeed, even belonging to a specific social group involves the absorption and transmission of values/beliefs, that

⁷ Guiso L., Sapienza P., Zingales L. (2006), Does culture affect economic outcomes?, *Journal of economic perspectives*, Spring 2006, 20 (2), 23 – 48.

are proper of that particular social group.

As mentioned before, the culture had an important role especially in the primitive society: a kind of good and honest conduct were bounded into the family, a restricted circle of people. Outside of it, a different type of behavior could be accepted: even though it was selfish, opportunistic and utilitarian; but a primitive kind of society could find it acceptable.

It is obvious that this view of life is totally in contrast with the more modern and democratic societies, in which thinking that the correct code of behavior could be limited to a small network is inconceivable.

Indeed, the idea of having to maintain always a code of good behavior is part of this kind of society.

The rise of this kind of mindset is strictly connected with the diffusion of a generalized morality⁸. With the increase of cooperation, mutual trust, respect for the others and with the observance of laws and rights, the

8 A note about this topic: “generalized morality” is considered as opposite to “limited morality”. Tabellini, in his “Institution and Culture” used these two parameters to analyze the incentive to the economic development. The main theme, here, is the cooperative behavior. The “limited morality” is a characteristic of small societies, such as “the family” or “the clan”; while the “generalized morality” regards the case in which this behavior is extended in a large society. The analysis made by Tabellini is connected with the principle expressed by Platteau: “in hierarchical societies, codes of good conduct and honest behavior are confined to small circles of related people (such as members of the family or the clan). Outside this small network, opportunistic and highly selfish behavior is regarded as natural and morally acceptable. By contrast, in modern democratic societies the rules of good conduct are valid in all social situations, not only in a small network of friends and relatives”.

Tabellini G. (2008), *Institutions and Culture*, *Journal of the European Economic Associations*, 6 (2–3), 255 – 294;

Platteau J. P. (2000), *Institutions, Social Norms, and Economic Development*, Academic Publishers and Routledge.

reluctance on taking advantage of other people penetrates deep in the individual. This generalized trust produces effects in different social fields, such as politics, economy and public affairs.

But, also in this kind of society, and exaggerating, in the sophisticated society with the most complicated formal institutions, the culture is still playing an importing role. Indeed, also if the law seems more powerful than the social norm, the law still need it to survive.

If there are conflicts between legal and social norms, compliance, cooperation and enforcement inside the society will be weak; while, if the values, such as trust, are deeply rooted in the people, the performance of formal institutions will be facilitated: for example, there will be a greater respect for the law by citizens; and politicians will be less inclined to corruption. Shortly, citizens will be inclined to give priority to the social well-fare, rather than their own interests.

5) What is meant by “formal institutions”?

Two of the most famous definitions of formal institutions are made by Douglas North (1990)⁹ and Avner Greif (2006)¹⁰.

North argued that the human interactions are structured by “formal constrains (rules, laws, constitutions) and informal constrains (norms of behavior, convention, and self-imposed codes of conduct), and their enforcement characteristics¹¹”. Furthermore, for North, institutions are “the rules of the game”. Instead, Greif wrote that the “system of social factors that conjointly generates a regularity of behavior” is the institution.

It could be interesting underlining the difference between those definitions: for North, they are the rules of the game, and they are not the way the game is played (and that is not necessarily the same thing; there is a thin but difference in that); while Greif does not see them as rules, but as equilibria of the game¹².

9 **North D. C.** (1990), *Institutions, Institutional Change, and Economic Performance*, Cambridge University Press, Cambridge.

10 **Greif A.** (2006), *Institutions and the Path to the Modern Economy: Lessons from Medieval Trade*, Cambridge University Press.

11 This definition given by North has been criticized and contested by a large part of the scholars: they argued that it is not sufficient clear (See the following note).

12 “The problem with both definitions of institutions is that they overlap too much with culture, as “norms” and “conventions” are used to define both institutions and culture. This is especially true for Grief’s definition, which we find too broad and hard to quantify”. This is what was stated by Alesina and Giuliano, in “Culture and Institutions” in “*Journal of Economic Literature*, September 2014”; but it is not the only negative opinion about North’s definition (and, in this case, also about Grief’s definition). Indeed, also Geoffrey M. Hodgson in “What Are Institutions?” part of “*Journal of economic issues*, Vol.XL No.1 March 2006” disputes the distinction made by North. According to the author, the distinction between the two terms is too ambiguous and unclear. In addition, Hodgson continuous, North used – too many times – different terms to define the formal institutions and the informal ones.

Another interesting definition of “formal institutions” is dispensed by Helmke and Levitsky (2004): “formal institutions are openly codified, in the sense that they are established and communicated through channels that are widely accepted as official (...), informal institutions are socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels¹³”.

Specifically, the author criticizes the fact that depending on the interpretation adopted, the informal institutions are “impoverished” and less important than formal ones.

Alesina A., Giuliano P. (2014), Culture and Institutions, *Journal of Economic Literature*, September 2014.

Hodgson G. M. (2006), What Are Institutions?, *Journal of Economic Issues*, March 2006, 40 (1).

13 **Helmke G., Levitsky S.** (2004), Informal Institutions and Comparative Politics: A Research Agenda, *Cambridge Journals*.

CHAPTER TWO
HOW THE SOCIAL NORMS ARE DEVELOPED
AND HOW THEY INTERACT WITH THE FORMAL
INSTITUTIONS

Summary: *1. Preamble. 2. The “birth” of social norms. 3. Not all the social norms are “good norms”. 4. How human beings can influence a social norm. 5. The creation of “formal institutions” and their interaction with the “informal institutions”.*

1) Preamble.

After these necessary clarifications about the terminology, we will address the topic of the birth of formal and informal institutions. First we will focus on the creation of the latter, because of their role and their importance on the creation of formal institutions (on which we will not dwell too much). In the end, we will evaluate how these two types of institutions are interlinked and influence each other.

2) The “birth” of social norms.

As stated above, living without “social norms” would be impossible, because of their contribution in solving cooperative games¹⁴. But we do not have to believe that any kind of social norm performs this task. In fact, we can assert that “some” social norms are born for this reason – to manage problematic situations that people have to face – but not all of them are made for that. Our assumption must start from the idea that people are smart enough to notice the problem and to find, by mutual agreement, an appropriate solution to the problem.

“By mutual agreement” could have – talking about a civil society – different meanings: so, we could assume that the entire social group is involved in creating the right solution to the problem; but it could also be that only few people, or even only one of them, have been chosen to fulfill this role. This case is easy to imagine: given a specific problem, people work hard to create a solution for it. But it is not always like that.

Sometimes, it is not easy to discern when and by whom the rule has been created: in fact, the birth of the “social norm” may have taken place slowly, through the passage of time, evolving from several other institutions, and therefore, its source is now definitely impossible to identify.

¹⁴ As suggested by Ullman-Margalit and Ellickson in their works.

Ullman-Margalit E. (1977), *The Emergence of Norms*, Oxford University Press, Oxford;

Ellickson R. (1991), *Order without law: how neighbors settle disputes*, Harvard University Press, Cambridge.

So, the social norm may not have a clear origin, as it could have been generated from another rule or it could have evolved slowly over time.

This is possible because the social norms are closely influenced by the behavior of people. Indeed, the people, through their behavior, interact with each other: and this interaction is one of the possible causes of the birth/modification/extinguishing a social norm¹⁵.

Returning to the first hypothesis, which envisages the creation of a norm as a solution to a problem (or to a cooperative game), we must emphasize once again how difficult it is for a group of people (often very large) decide what to do: i.e. if they may elect, or not, some “leaders” and how to deal with the problem.

Moreover, and it is interesting to underline, different groups of people face the same problems, but without the possibility of exchanging information about the solution of the problems (due to lack of appropriate means of communication, or too distant geographical positions). How is therefore possible, for these social norms, to spread into the world?

The answer can be provided by the evolutionary game theory; scholars of this topic explain the spread of social norms assuming that they are born into norm-free environment – which it is practically impossible by definition.

15 “A norm arises as the unintended aggregate outcome of a large number of such bargaining interactions” drawn from:

Eriksson L. (2015), Social Norms Theory and Development Economics, *World Bank Policy Research Working Paper n.7450*.

Unlikely, to say the least, a “new norm” will be really new; indeed, it will always be a kind of evolution of a previous norm. Some studies about social norms suggest that, sometimes some people, once having gained agreement from the other citizens, may arise as scholars and *intrepeneurs* and provide for the creation of a “new norm”.

The birth of a social norm, however, can take place via another route: what Ensminger and Knight (1997)¹⁶ called “bandwagon effect”.

It can happen, according to this theory, that some individuals, for some special reason (i.e. an ideological or religious reason) may prefer a different behavior. The fact that a number of persons differs from the majority, choosing to behave differently, following the “dictates” of a social norm that is not widespread but it is limited to that small social group, means that this behavior is raised in front of the other associates, not only as different, but also as an “alternative”. The utility functions of the individual subjects are different among each other, clearly.

But the fact that a certain group of people has decided to act in a different way, can ensure that some subjects – having a utility function similar to the one of those that are dissociated from the majority – will prefer to follow these people and imitate their behavior. By doing so, it is possible that more and more people, having noticed “the alternative”, could decide to follow this example, generating a wide change in behavior and the birth of another

¹⁶ Ensminger J., and Knight J. (1997), Changing social norms: Common Property, Bridewealth, and Clan Exogamy, *Current Anthropology* 38 (1), 1 – 24.

social norm. This effect, precisely “the bandwagon”, explains how, sometimes, some social norms arise and die very quickly.

The speed with which this phenomenon manifests itself can surprise all the people involved. This is even more likely if the bandwagon effect is connected to the “pluralist ignorance”. When we use this term we refer to a situation in which the vast majority of the citizens believe that a certain social norm is supported by the whole community. This belief means that no one has the intention to do otherwise.

Not only that: believing that this norm is supported by anyone, there is a concern that acting otherwise could implicate, as a consequence, a social sanction. This conviction makes people ignore the true state of affairs.

As it is easy to guess, the mix of these two phenomena leads to a very rapid escalation of events.

In this regard, we can mention the studies done by Kuran (1995)¹⁷, about the fall of communism. In fact, as reported by the scholar, before the fall of that regime, it was widely believed that it was supported by broad consensus. Both from outside and inside, it was taken for granted that everyone was satisfied with the communist regime. But as soon as a certain number of people began to complain against the Communist government, many others joined in the protest.

This protest, brought into being by those first people, did show to all the

17 **Kuran T.** (1995), *Private Truths, Public Lies*, Harvard University Press, Cambridge.

other citizens that the regime actually was not supported by the entire population, and so the bandwagon effect occurred.

About this effect, it is important to note some details: the fact that some people begin to deviate from the widespread (or, *rectius*, “the believed widespread”) social norm, is motivated by their own personal analysis of costs and benefits. The individual person, once understood to be ready to face with the current norm, acts in the way that is better for him.

Clearly, if there is only one person acting differently or protesting against a certain social norm, the social sanction would be virtually inevitable for him. But when a lot of people act in this way, then results can be different, as we already argued about.

Furthermore, there are also other important factors to mention about this phenomenon: first, the more people act differently, the more people would be punished, but this event could lead, ironically, to a reversal of positions (we can imagine a community made by 10 persons: if only one acts differently, the other nine will be able to punish him. But if the subjects to act differently are nine, unlikely they will be punished by the other one).

So we can assert that the more people transgress the social norm, the more people should be punished; but this is not always possible or desirable, as in the example above.

Another detail to consider is that one of the “social sanctions” is the contempt/disesteem¹⁸. But if a lot of people starts to “break” the social norm, the other people will see this behavior less badly.

Not only, in some cases, the social norm requires that each citizen must do its part, must perform his duty. But if a certain part of the community is not fulfilling its social duty, the other persons will feel justified to do not do their part.

Additionally, we must remember that social norms can be ambiguous and there could be conflicts between them¹⁹. Since there is not a guideline to resolve such conflicts, it is normal to seek support looking at other people behavior, not to punish them, but to emulate them.

These several aspects show us that not only the risk of social sanction will be reduced, but also in the case it was applied, it would be much less severe. By doing so, it is likely that more and more people will follow the different behavior and not the “active” social norm, *de facto* creating another.

18 Perhaps in contemporary society, the value of esteem has been slightly lost , but if you think about a small community, the disesteem could mean being ostracized from society itself.

19 We should say few words about this fact: social norms may conflict with each other and be ambiguous.

Often, in addition, according to the choices of other people, we are obliged to choose a suitable “reaction” between the social norms: this could not be so easy.

Usually, in cases of uncertainty, we tend to look at the behaviors of other people in similar situations, or to remember how we behaved in the past (this leads to a very high differentiation of behaviors, since every person has different experiences).

Look to the past in search of a solution also explains why it is so difficult to change a social norm: we tend to grow fond of a certain behavior, so when a new norm changes the set which we are accustomed to, we are reluctant to adapt to it.

3) Not all the social norms are “good norms”.

As mentioned above, a social norm arise, theoretically, to face and solve a cooperative problem, but not all of them are made for this reason. But it is wrong to think that every social norm is “good” (namely that involves positive consequences for the social well-being): some norms have not big consequences, while others have really negative consequences. We will call them “bad norms” and “neutral norms”:

- **Bad Norms:** as Lina Eriksson (2015) suggested in her work “Social Norms Theory and Development Economics”, we can think about the “vendetta norm”, “ an eye for an eye”²⁰. But how does a “bad norm” to stay alive?

The answer may seem controversial, but it concerns its effects. Clearly, a norm such as vendetta, of course, does not encourage peace among the citizens (on the contrary, it provides and promotes violence between them), but it serves to achieve it. In fact, almost all societies that provided this type of norm, were characterized by very peaceful and cordial behaviors inside them.

The motivation is, to say the least, obvious: the citizens, knowing

20 “The vendetta norm specifies that the appropriate response to an insult is to answer with an even greater insult, which the opponent – in order to preserve face – must then answer with an even greater one, and so it goes until at least one of the people involve (and often many) is dead (and sometimes it does not even end then)” again from:

Eriksson L. (2015), Social Norms Theory and Development Economics, *World Bank Policy Research Working Paper n.7450*.

that the first “bad mistake” could start a real feud (which it could mean, not only the death of the individual, but also the death of his entire family), were very likely prone to avoid any kind of conflict or tension.

Clearly, the social norm of vengeance is unsuited to contemporary civil society: not just because it allows the use of violence to promote peace, but precisely because if there is a contrast between people, the situation would quickly degenerate. Making peace a mere memory. All of these considerations raise another – legitimate – doubt: why there should be contrasts between citizens? Peace manifests itself to us as a Nash equilibrium (the best strategy for the various possible subjects is to be courteous and friendly), so, why someone should not want to achieve it?

Because, for different reasons (for example: anger) a person could play a kind of strategy called “out of equilibrium”.

Another problem is related to the fact that a norm could be linked to another one (quite often): for example, the “vendetta norm” was related to the social norms about the “honor”. Consequently, the reason why it is so difficult to change a norm appears really obvious: very often, to change one norm, we have to change – not only one, but – a group of linked norms. Changing a bad norm can be uneasy when it was created to support a certain group of

people, which certainly will fight to prevent any attempt to impair it, once established²¹.

- ***Neutral Norms:*** the best example of this type are the “expressive norms”. Our social behavior are almost entirely characterized by them: they help us to express what we feel and what we want to communicate to the others, only through our behaviors. They are conventional and often they stem from old customs and traditions; but their strength is to communicate easily, through a gesture, what it would be – perhaps – difficult to say verbally or in other ways. We can think about wearing black clothes at a funeral to show our respect and sorrow, or wearing elegant dresses at a job interview; but this should not persuade us that for every thing that we want to express there is an “expressive norm”.

21 There are other reasons behind the difficulty of changing a bad norm: the path dependency, the high transition costs, the pluralistic ignorance etc.

4) How human beings can influence a social norm.

The importance of influencing social norms derives from the fact that they, in their turn, influence human behavior.

Therefore, from the point of view of the social policy makers, it is better to influence social norms: so it would be possible to intervene on human behavior in an indirect manner and achieve the intended purposes.

The norms affect human behavior consciously (by acting on the beliefs of the subjects) and unconsciously (by acting on the habits and on the automatism). Below, the main methods of conditioning:

- **Using the behavior of others as an example: information as a conditioning method.**

Informing the people about the behaviors of others has always given great results. This method has been used repeatedly in campaigns against smoking, against domestic violence, etc...Through the diffusion of a “correct” pattern of behavior, this method tries to convince the audience to follow suit (the main channels can be newspapers, television, posters and so on).

Sometimes, in addition to suggesting a certain behavior, the information pertains to the negative consequences that would result by not following the example²².

²² It may be interesting to note that the information about the negative consequences can be very effective even for those that do not usually behave in the “not recommended” way. In fact, the

- **Using what other people think as an example: again the information as a conditioning method.**

Theoretically, there should not be much difference with the method of conditioning seen before. But in practice, there are divergences: in fact, while it is easy to demonstrate the behavior of certain people, it is very difficult to prove what they think. Furthermore, it is possible that this method loses heavily importance if “pluralistic ignorance” is widespread.

- **Social pressure.**

Using the social pressure has always been an excellent way to influence human behavior. We can imagine two scenarios: when the consequences – that are negative for the community – of a certain behavior are known, we can assume that if some citizens will behave in that way, the others – through social pressure – will strive to make them stop; secondly, if there is the need to prevent a behavior in a group of people, it is possible to apply the strict rule of “punish the whole group when a single entity

consequences could apply, not only to those who commit personally that particular action, but also to the people around them (we have to think again about smoking, and in this case, to the passive smoke). The diffusion of certain information concerning the risks of passive smoke often convince non-smokers to don't accept it; thus influencing twice the smokers: on one hand they receive the information already known – smoking kills – and on the other hand they will also receive the pressures of the non-smokers.

transgress”: it will ensure that the entire group will control itself, wanting to prevent the general punishment.

- **The symbolic meaning.**

Every behavior has a symbolic nature – its own interpretation – given by the people. Changing the way people conceive such behavior, we influence, implicitly, also the “social norm” that requires it. This may be preferable if influence/change the social norm is too costly.

Clearly, changing the interpretation of a behavior, it will make it ambiguous; with the attendant risks. In fact, this “method” may lead to negative, and not expected, effects: for example, it might make people more inclined to break the social norms that provide that “ambiguous” behavior (and the reason is easy to explain: since the behavior is ambiguous, people will be less inclined to “punish”, precisely because of its ambiguity; making the transgression more pleasing).

- **The signalling function.**

Any behavior can perform this function, if there is an audience to observe it. The intrinsic signal behavior can be influenced, but also it can influence, in its turn, the audience itself (but changing

the signal can also occur unintentionally, perhaps trying to change the social norm). Usually, the policy makers influence the signals, for example, by changing the transmission costs, or changing the costs that derive from the meaning of that behavior.

- **Changing incentives.**

Playing on the incentives can be a good way to influence a social norm. There must be, behind, a precise knowledge of what the purpose of this change will be, and about the possible resistance the audience could oppose; furthermore, this forecast can help to create a plan to make this resistance less significant and more easily to overcome.

- **Change the “messenger”.**

Even those who transmits the message is important: in fact, the audience is sensitive to the identity of the messenger. If this last enjoys the respect, the esteem, of the audience, it will be easier for the message to be absorbed (we can think about an expert, a particularly famous person, or a person with a very good reputation, a member of the own family, etc...).

In addition to these methods to influence the social norm, it must be

said that a good way to make “more digestible” a new norm is to link it to a previous one, in a clear way. As human beings, we are more accustomed to what is familiar to us. We can therefore draw up five steps to ensure that the new norm will be integrated among the people, in the best way:

- demonstrating the link between the new and the old norm;
- explaining the reason behind the creation of the new norm;
- using some examples concerning the way in which the norm has already been accepted in other similar contexts;
- using again some examples regarding the way in which the rule was accepted, by leveraging on the people who have applied it (especially if they are enjoying the respect of the people around them);
- connecting the norm to a meta-norm, so as to demonstrate how the new one is already practically inserted into the normative system.

5) The creation of “formal institutions” and their interaction with the “informal institutions”.

The analysis about the origins of the “formal institutions”, can be quite tricky and complicated; if, for example, we take the laws (as formal institution) as the objects of our analysis: we see that their “constitutive process” is long and complex; and in this context, decidedly out of place. But the analysis of the reciprocal influences between culture and formal institutions, in the creation of the latter, can be much more interesting and coherent with our topic,

We can understand this interaction looking at historical examples, provided by Fischer (1989)²³.

Fischer studied the institutions and their evolution in the United States, asserting as the four major waves of migration of settlers influenced (with their values and their beliefs) the creation of laws.

The four waves brought with them the set of customs and values of their place of origin:

- the Puritans, coming from the “East Anglia”, firmly believed in social order and education; therefore, their laws were characterized in this way, promoting such values;
- instead, the Virginia Cavaliers, from the South of England, believed in a sort of social inequality; supporting the diversity of

²³ Fisher D. H. (1989), *Albion's Seed: Four British Folkways in America*, Oxford University Press, New York.

classes. They introduced a tax system based on a reduced taxation and they did not support in a substantial way the education system;

- the Quakers, from the North of England, promoted personal freedom as a fundamental value; so their laws emphasized equality of citizens' rights and allowed a very limited government intervention;
- finally, the Scots-Irish believed in a – almost total – freedom of the individual. Therefore, they created a government with an almost non-existent power of intervention, with attached a very constrained justice system.

Another useful example to our discussion may be the one provided by Grief (1994)²⁴.

The author analyzed the commercial relationship between the Maghribi and the Genoese in the Middle Ages. The first ones were characterized by the typical values of the Jews and of the Islam; therefore, by a collectivist perspective. On the other hand, the Genoese – Christians by definition – had more “individualistic” values.

This difference in values was not a friction to the business relationship,

²⁴ Greif A. (1994), Cultural Beliefs and the Organization of Society: A Historical and Theoretical Reflection on Collectivist and Individualistic Societies, *Journal of Political Economy*, 102 (5), 912 – 950.

indeed: it drove the Genoese to create a set of “formal institutions” suited to the needs of business practices.

Grief even explains how these new institutions (such as bills of lading) are the foundation of contemporary business practices. Again, values have influenced the creation of a normative set of laws.

So, this influence is tangible: as soon as different values lead to different institutions. But as already mentioned, this relationship is not “a road with one lane” - but, instead, a mutual influence.

Richard McAdams (1997)²⁵, already mentioned in the first chapter, claimed as a formal institution can radically change an informal one (the examples made by McAdams are the American laws regarding smoking, duels, and discrimination). The author's thesis is clearly possible and consistent, although there have been some oppositions: in fact, some other authors have suggested that the effectiveness of the formal institutions on the informal ones was only partly true. In their opinion, the social norms regarding these issues (smoking, etc...) were already changing, and the new formal rules have done nothing but follow the trend of change, institutionalizing it.

In support of the “criticism” directed at McAdams' thesis, there are data on all cases in which new formal institutions have not had the desired – and predicted – effect on social norms.

25 **McAdams R.** (1997), The Origin, Development, and Regulation of Norms, *Michigan Law Review* 96, 349.

For example, examining the situations in the United States and in the South America, similar laws have produced different effects, or they did not produce effects at all.

Furthermore, the Serbs maintained their informal institutions (values, ethics, culture, and so on) practically intact, despite the influence and pressure by the Turks and by their formal institutions.

Moreover, the existence of ghettos (where people belonging to the same ethnic and religious minority live – or is forced to live) seems to be partially justified²⁶ by this desire to keep intact a specific cultural identity, precisely.

But the case studies of their interaction are not limited to the – at least attempted – suppression of a social norm: it is also possible that formal and informal institutions may be – simply – in conflict; they may be neutral and ignore each other, and they may even cooperate.

The case of conflict between institutions, to tell the truth, is not that different from the case where a formal institutions try to suppress a social norm, because in contrast with each other.

We can say that they are two different levels of contrast: an early stage, and

26 It is worth adding that this “desire” simply explains how people prefer to stay with other people with whom they share the same cultural background, values and beliefs.

This argument can also be explained under a different view: indeed, knowing the values of a man, it is possible to understand his actions and sometimes even predict them.

Clearly, what was stated, however, it does not want to be a sponsor of the ghettos, or an incentive to divide people by ethnicity, religion and so on. I wish to state my opinion, totally contrary to the existence of the ghettos; in favor of the so-called “melting pot”, based on the personal belief that all men are created as equal, and so they must live and be treated like equal.

a stage where there is an attempt to cancel one of the two.

The reason behind the neutrality often lies in the own costs of institutions. In fact, McAdams – always in his “The Origin, Development, and Regulation of Norms” – citing the works of Lisa Bernstein (1996)²⁷ and Robert Ellickson (1986)²⁸, stated how sometimes people prefer resorting to the use of informal institutions rather than the use of formal institutions; and the reason would be that the former have lower operating costs than the latter.

Finally, the possible co-existence and/or cooperation of the two different types of institution can be explained by stating that they are strengthening each other if they confirm the same principle.

As it is easy to guess, when there is this cooperation between social institutions and formal rules, the entire system (where they belong) benefits from that cooperation. In fact, if the institutions are connected efficiently with each other – so for example, the values of the community are protected and strengthened by the laws – it will be much easier to achieve the objectives that the society aims. For example, an economic development is possible in a similar context.

At least in theory: it must be emphasized that it is very difficult to pinpoint exactly which institution has a positive effect on another, and so

27 **Bernstein L.** (1996), Merchant Law in a Merchant Court, *University of Pennsylvania Law Review*, 144.

28 **Ellickson R.** (1986), Of Coase and Cattle: Dispute Resolution Among Neighbors in Shasta County, *Faculty Scholarship Series paper n.466*.

on. In addition, the role played by fate and by exogenous factors is very critical, and yet difficult to quantify.

Therefore, it is best to say that the context described above can be a necessary reason at the base of achieving the stated objectives, but sometimes it can not be enough.

After having analyzed, briefly, what the institutions are and the way they arise and interact between each other, the next chapter will enter in the heart of the matter: the role of ethics today, and its relationship with formal institutions. Nothing different from the interaction between social norms and formal institutions, by the way, but we will try to examine how the evolution and increasing importance of ethics has upset the idea of making business.

CHAPTER THREE

THE RISE OF ETHICS IN THE BUSINESS

Summary: *1. Introduction. 2. The rise of the corporate social responsibility (CSR). 3. The kind of responsibility of the corporations. 4. From the birth of the CSR to the development of the Stakeholders Theory and Corporate Citizenship. 5. A new way to do business: the sustainable development.*

1) Introduction.

To talk about the development of business ethics concept, first of all, we need to give a definition of what we mean when we are using this term. An excellent explanation is provided by Andrew Crane and Dirk Matten (2010): “ethics is concerned with the study of morality²⁹ and the application of reason to elucidate specific rules and principles that determine right and wrong for a given situation”³⁰.

Therefore, the link between the informal institutions and ethics is quite evident: we can also argue that there is a certain overlap of the two

29 To be clear, here is the definition of morality, always given by Crane and Matten (2010): “morality is concerned with the norms, values and beliefs embedded in social processes which define right and wrong for an individual or a community”. Please refer to the following footnote for more details.

30 **Crane A., Matten D.** (2010), *Business Ethics: Managing corporate citizenship and sustainability in the age of globalization*, Oxford University Press Inc., New York.

terms. But it should, however, be underlined that while ethics is always part of what we consider informal institutions, the contrary is not always true: not all social norms regard ethics.

Informal institutions, such as social and cultural norms, strictly relate to the values and beliefs: exactly how ethics does; and this means that what has been said about them before can be applied to this last concept.

In detail, here, the evolution of this kind of institution is the most important aspect. We have already explained how values and beliefs are passed down from generation to generation within the family and other specific social groups. The *intergenerational* transmission – as mentioned above – makes them much more persistent over time: the changing (or rather, the evolution) of values and beliefs, indeed, happens very slowly. But it happens anyway.

Among the developments of ethics, the focal point of our discussion will cover how the relationship between ethics and “doing business” has changed.

Until the end of 1900s, economics and ethics were considered diametrically opposed: economics has often been conceived as unethical; a gray zone where the issues regarding the concepts of “right and wrong” were related only to the choices that must be made to reach the main objective: profit.

Indeed Albert Carr (1968)³¹ argued that there were just few differences between poker and business. In fact, in both of them, lying and bluffing are allowed and tolerated. Not only: they can lead to the “victory of the game”. Defining business as unethical can be explained considering that many companies, in order to reach an economic purpose, behave in an incorrect way (or at least, in a “undesirable” way). We can think about conducts such as the discharge of radioactive waste into rivers or the pollution due to a strong chemical activity. Citing Ovid: “Exitus acta probat”³².

But although the fact that companies behave unethically may seem convincing, it implies – necessarily – the existence of the concept of “ethics”, from which they are detached. In addition, on the other hand, the existence of ethics in the market is also discernible in the small things, in the details. If the mutual trust between buyers and sellers did not exist, not a single sale would be successful; in the same way, if the certain standard of conduct and respect between employers and workers did not exist, no bureau or company would be able to be productive. And so on.

For this reason we can say that even companies that behave in an unethical manner, must necessarily adopt and maintain the basic ethical behaviors (like trust and cooperation).

31 Carr A. (1968), Is business bluffing ethical? *Harvard Business Review*, January – February, 46.

32 “The result justifies the deed” drawn from *Heroides*, II Phyllis Demophoonti, 85, composed between the 25 and 16 B.C.

Publius Ovidius Naso (1475), *Heroides*, Napoli, Sixtus Riessinger.

So ethics in business is not an oxymoron as Collins (1994)³³ thought, but a true reality that is worth studying.

In addition, it is important to remember that not all the economists have considered the business as unethical, as Carr did: in fact, in both the thought of Adam Smith and Milton Friedam, the role of ethics is not marginal in the business. It is not even necessary to wait the thoughts of these famous authors to find out some reflections about the ethics in economics: Aristotle mused about it in the *Nicomachean Ethics*; and during the Middle Ages, St. Thomas Aquinas also spoke about the economic activity under an ethical-religious view.

Aristotle, specifically, in the *Nicomachean Ethics*, outlined what is ethics, what is its purpose and who may be worthy to study it.

It is to emphasize that the work of the Greek philosopher is a set of notes, published only after his death, in which – starting from common opinions – he develops his own ethical analysis, specifically refuting those ordinary and trivial beliefs. The philosopher considered ethics as a practical science, aimed to seek a concrete goal: with this statement of position he detached himself from what had been stated before by Plato, his teacher. Therefore, Aristotle wondered about what this ultimate goal could be, and he found the answer in the concept of “happiness”.

Actually, the type of ethics described by the Greek philosopher is an

³³ Collins J. W. (1994), Is Business ethics an oxymoron? *Business Horizons*, September – October, 1 – 8.

Eudaimonistic ethics, aimed to pursue happiness – to be distinguished from the *Hedonistic* ethics, which aims to achieve pleasure. Aristotle did not deny the connection between pleasure and happiness, but he considered that pleasure is only a secondary feeling, that man and animal may feel; on the contrary, pure happiness is the ultimate purpose of every action, being able, by itself, to motivate human choices.

After that, Aristotle continued by connecting the definitions of justice, virtue and friendship to it. Then, the philosopher explained how the economy is directed towards the attainment of wealth, but unlike the other practical sciences, economy is deeper, and the link that binds it to politics – the science par excellence – is stronger. But he did not fail to criticize - however - the economy itself, because wealth is not *our* ultimate purpose, but only a means to achieve some other secondary objective.

The studies of Aristotle were fundamental to the studies of St. Thomas Aquinas, who exalted Aristotle as the “*Great Philosopher*”.

But it is a mistake to consider St. Thomas only as a Christian Aristotelian; and it is also necessary to specify that Thomas never dealt directly with economics. The Italian intellectual wondered about the following questions: has the man – intended as a person who works in everyday life – the economic right to sustain himself? And is he allowed to have personal assets? Can a man engage in economic activities to have a certain wealth? If for Aristotle these questions are trivial, given the organization and the

level of development of the Greek *Polis*, for Saint Thomas, instead, they were a deep problem, because in the feudal organization people basically had to care about everyday subsistence.

St. Thomas also expressed his opinion about trading: he defined it a natural and legitimate activity, simply necessary to live. St. Thomas Aquinas, on the contrary, stigmatized that kind of uncontrolled economic activity, that is not necessary to gain what is necessary to human life, but depends on the desire of increasing enrichment. For the Saint, this type of economy is unnatural.

Aristotle's theories are to be included among “traditional” ethics theories, with those by Epicurus, Seneca, J. Locke, A. Smith, and other philosophers. They – according to the definition given by Crane and Matten – “have their origins in modernism, which emerged roughly during the 18th century Enlightenment era. *Modern* thinkers strove for a rational, scientific explanations of the world and aimed at comprehensive, inclusive, theoretically coherent theories to explain nature, man and society”³⁴.

The Traditional ethical theories belong to the *normative* category: in the sense that they promote general rules and general principles of conduct (and they differ from the descriptive theories, which only describe the ethical phenomena). Usually, from an ethical point of view, the normative nature of the theories also implies absolutism: and the absolutist ethical

³⁴ Crane A., Matten D. (2010), *Business Ethics: Managing corporate citizenship and sustainability in the age of globalization*, Oxford University Press Inc., New York, 123.

theories are concerned with the moral principles that must be applied in real situations. The terms “right” and “wrong” simply indicate objective qualities, which can be used to describe human actions: right and wrong are concepts beyond individual subjects.

Among the traditional theories, two types mainly stand out: the “*Consequentialist*” theories and the “*Non-Consequentialists*” theories. The difference lies in the object of the moral judgment: if you analyze the result of a specific action (if the result is good, the action is desirable; if the result is bad, then that conduct should not be engaged) then the theory in question is *Consequentialist* (or Teleological); but if the theory analyzes the intrinsic principles behind the action (not taking into consideration the result of the action) and the character of the acting subject, then the theory is called *Non-Consequentialist*.

Among the Consequentialists theories there are the *Utilitarianism*, the *Egoism* and the *Hedonism*; while among the Non-Consequentialists there are the *Deontology* and the *Agent's Virtue*.

- The Utilitarianism had among its major theorists Jeremy Bentham and John Stuart Mill; this theory stated that an action was morally right and desirable if its consequence and result had brought the greatest amount of happiness to the greatest number of people (the people has – of course – to be linked and influenced by the

action itself). So the right action par excellence is the one that maximizes the benefit and happiness; it does not matter if the acting subject is good or bad.

- The second Consequentialist theory is Egoism: this theory does not care to maximize the happiness of a large amount of people, but it theorizes that the right action is the one that meets and satisfies the personal interests of the subject. The connection between *moral* egoism and *psychological* egoism is made by the fact that each person acts in its own interest, motivated by personal desires and passions. The Egoism theory does not necessarily intend to encourage harmful behavior for third parties; it simply theorized that the right action for each subject is the one that allows him to pursue a certain advantage. Several scholars supported this theory, among which the names of H. Sidgwick, A. Rand and F. Nietzsche stand out.
- Epicurus and Aristippus of Cyrene, on the contrary, asserted that pleasure as the only supreme good a man can reach. The Hedonistic Theory indicates the pleasure as main objective for humans: but not all pleasures are good, in fact some of them do not lead to the real pleasure, and after an initial phase, they lead

to pain, a feeling that the man should always try to avoid.

- Among the Non-Consequentialist theories we have the Deontology, or *Ethics of Duties*: it analyzes the moral principle, the duty, which is the basis and the reason of a certain action. This theory was supported by I. Kant and W. D. Ross, who claimed that the moral value of an action does not depend on the consequences that it implies, but on the intention behind the action itself: so the actions are independent from their outcomes, being intrinsically right or wrong. Moreover, each subject has a number of duties related to its actions. Kant added that human actions could be motivated by pursuit of happiness and by reason: so, morality depended on both these factors. The problem, however, was about the mutability of happiness, having a personal nature and being different from person to person. Only the reason is universal and unconditional.

Kant therefore concluded that morality should depend only on the reason, which is the *Good Will*. The reason, not being bounded by personal interests, is based only on the duties, thus allowing the subject to act in respect of the moral law.

According instead to the theories of W. D. Ross, the duties called “prima facie duties” are the ones which determine what is right to

do. Those duties are closely linked to a very strong moral reason that justifies the existence of the duty itself; as example: to keep promises, gratitude, fidelity and so on.

- The theory of “Agent's Virtue”, places at its center the morally good character of the person or his disposition. Individual choices are analyzed according to the disposition of the acting subject: in this theory, the virtue has a leading role; it is a typical dowry of the right man. Among the biggest supporters of this theory, we find Aristotle: for the philosopher, the virtuous person always knows what is right to do, thanks also to the role of experience, and he is willing to behave in that way.

Regarding instead the Contemporary theories, they have been developed for the most part from the 20th century; modern philosophers and thinkers criticized the Traditional theories, judging them too abstract (Stark 1994)³⁵, too rational (Bauman 1993)³⁶, impersonal (Gilligan 1982)³⁷ or imperialist.

Among the Contemporary theories stand out: the *Ethical Relativism*, which aims to contextualize right and wrong, grounding the distinction on

35 **Stark A.** (1994), What's the matter with business ethics?, *Harvard Business Review*, May – June, 38 – 48.

36 **Bauman Z.** (1993), *Postmodern ethics*, Blackwell, London.

37 **Gilligan C.** (1982), *In a different voice*, Harvard University Press, Cambridge.

what a specific society considers right or wrong; the *Postmodern Ethics*, which regards morality as something that is beyond the sphere of rationality and that is strongly linked to the moral impulse rather than to other human impulses; and *Analytical Ethics*, focused on meta-ethics, that is aimed to analyze the status of ethical judgments and character of ethical reasoning more than anything else.

This *excursus* on ethical theories shows how – since the Greek Era and before – the human being is wondering about the importance of ethics on human choices; and it makes more understandable the birth and evolution of fields of study such as “*Business Ethics*”: “... the study of business situations, activities, and decisions where issues of right and wrong are addressed”³⁸.

We can try to understand the reasons behind this change of direction – or, in other words, this evolution of thought – trying to outline its main points. First, one of its key points lies in the growing importance of business nowadays.

Large companies have more and more influence on government decisions, or at least this is the widespread belief in the home countries of these companies, according to research conducted by Cywinski³⁹ in 2008.

38 The authors, using this combination “right – wrong”, they intend to exalt the moral meaning, and not the strictly economic one.

Crane A., Matten D. (2010), *Business Ethics: Managing corporate citizenship and sustainability in the age of globalization*, Oxford University Press Inc., New York.

39 **Cywinski M.** (2008), *Influence of large corporations on government too strong, survey says*, 19 January 2008, in <http://canadaone.com>, last consultation: 29/06/2016.

Indeed, companies can produce services and goods that are desired by people. This capability – which enables the dreams of our collective imagination to come almost true and tangible (we can think about the technological innovations of recent years, from the *touch screen* to the current projects of *augmented reality viewers*) – can be interpreted as an engine of economic development. Not only that, the business can also be considered a useful tool to positively promote the improvement of society and not as a merely and cold tool for making money.

But the aspects that concern the growing importance of the business ethics are not only positive.

Nowadays, if the role of ethics in the economy is so important it is because the business malpractices are downright dangerous: they are capable of creating huge damage to individuals or to a multitude of subjects.

Furthermore, violations in this area are, still now, definitely too common, and these two factors explain why it is important to dwell on the analysis of business ethics.

This field of study provides the opportunity to understand the causes behind these failure and provides for finding a solution. Strengthening further the ethical values of future classes of managers, educating and making them ready for these new needs – perhaps – we will reach the goals that we set ourselves looking for an ethical economy.

2) The rise of the corporate social responsibility (CSR).

Another big and important consequence of the (increasingly important) role of ethics in the business is the birth of the concept of the Corporate⁴⁰ Social Responsibility.

This concept, according to the studies made by Carroll⁴¹ (2008), dates back to – almost – a century ago; but it was not always willingly accepted by the other scholars: for example, Milton Friedman⁴², in 1970, published an article (with a certainly provocative title), in which he stated his contrary opinion about the CSRs.

We will start exactly from these arguments to demonstrate the need for these responsibilities.

The main points of this controversial theory are three:

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- 40 First and foremost we must provide a definition of “corporation”: first of all they are not the individuals that compose them; in fact, according to the law, they are independent from those who work there, govern them and so on. They are separate entities.
To confirm this, when the individuals – that compose them – die, their corporations do not end with them. Simply, other people will replace the old ones in their own work tasks.
In addition, all the objects owned by the corporation, belong to it (and not to individuals, indeed – for example – a manager can not appropriate them thus).
Therefore we can say that the corporations are like “artificial persons”, but in the same way as physical and human persons, they have rights and duties and responsibility.
Among these responsibilities, first and foremost, the one that concerns the investments of shareholders stands out for importance. The managers of corporations must act in the interests of the shareholders, so as to guarantee them a certain profit; but otherwise the damage and the debts created by corporations do not affect the managers, who have a limited liability.
- 41 **Carroll A.B.** (2008), *A history of corporate social responsibility: concepts and practices*. In A. Crane, A. McWilliams, D. Matten, J. Moon and D. Siegel (eds.), *The Oxford handbook of corporate social responsibility*, Oxford University Press, Oxford, 9 – 46.
- 42 **Friedman M.** (1970), The social responsibility of business is to increase its profit, *New York Times Magazine*, 13 September.

- Firstly, according to the opinion of the scholar, the corporations can not have “moral” responsibility at all, because only humans are characterized by it. Friedman's premise is simple: corporations are not human beings, so they do not have this kind of responsibility.
- Secondly, Friedman asserted that managers are hired with the sole purpose to ensure profits to the corporation and its shareholders: this is the reason for their recruitment and it is the only and intrinsic reason of their work. The *raison d'être* of this premise is the legal framework established by society for the business activity. The shareholders invest to gain a profit, and for this reason they rely on managers.
- The third point is that dealing with social problems is not the job of the corporations. In fact, Friedman said that this “job” is a task of the State; that managers are not prepared to deal with these situations or to achieve particular social objectives (as opposed to politicians, who – at least in theory – should know what is best for the society and how to achieve those goals).

Starting from the first point, Friedman is not the only one to consider that the corporations do not have a moral responsibility: also Joel Bakan⁴³

43 **Bakan J.** (2004), *The corporation: the pathological pursuit of profit and power*, Constable and

(2004) expressed a similar idea in his book *The Corporation*⁴⁴.

For Bakan, they are inherently selfish and unable to desire anything but profit. But, apart from these opinions, in business ethics literature, the theories in support of the existence of this moral responsibility are not lacking. These above-mentioned theories assume that, although individuals take decisions, there is, inside the corporation, an internal structure that is

Robinson, London.

44 This book was also the basis of a famous documentary, likewise titled, which has won numerous awards and accolades.

This documentary, created by Bakan, Mark Achbar and Jennifer Abbott, and published in 2004, offers a careful and thorough analysis of corporations.

In particular, it aims to analyze their nature and according to this one, it aims to demonstrate the total absence of moral responsibility.

The documentary was inspired by the scandals (related to the activities of corporations) that occurred in the early years of the twentieth century; and it introduces a fundamental question for the analysis itself: the unethical behaviors are due to the individuals who work for corporations, or are they due to the corporations themselves?

With that question, the film branches out in two directions: the first one strengthens the idea of Bakan himself (i.e. the corporations have only selfish goals and they aim to provide support only to their own interests); the second one tries to figure out who actually is to blame.

The corporations – it is explained in the documentary – are seen as “artificial persons” by the law, but if we compare them to the human beings, they would be psychopaths (and here is the link to the main theory of Bakan).

Regarding instead the search for a “culprit” behind the unethical behaviors, the documentary offers a variety of interesting interviews with celebrities and influential figures, such as the aforementioned Milton Friedman (Nobel Prize for Economics in 1976) and Michael Moore (famous director and author); but not only: in fact, there are also the views of the people who work “behind the scenes” in the business and marketing world.

Listening these interviews it is possible to understand that they are not “evil”; but their presence in such a context, like the corporations, made them “less human”: somehow, pursuing money and power dehumanizes the people.

Although this view is very pessimistic and – in my opinion – tragic, the documentary ends by opening the doors to hope: for the authors, the situation is not entirely hopeless (also because the examined corporation models are those of the American-Canadian type, and therefore they are not necessarily spread around the globe).

Here are some excellent quotes:

Dr Robert Hare: “One of the questions that comes up periodically is to what extent could a corporation be considered to be psychopathic. And if we look at a corporation as a legal person, that it

specifically dedicated to decide which decisions have to be taken: this internal structure (also called the “corporate internal decision structure”) makes sure that those decisions are consistent with the targets of the corporation. In other words, it means that – although individuals make decisions – they express a will, that is no more their own, but is the specific will of the corporation.

Another factor in support of the moral responsibility of corporations is the presence of a set of beliefs and values that the same multinational corporations state as their own: this set is called “organizational culture” (G. Moore 1999)⁴⁵.

This alignment of values (which can vary from a corporation to another) not only influence the macro social decisions, but it is able to change (or at least, to influence) the values of the individual subjects who work there.

may not be that difficult to actually draw the transition between psychopathy in the individual to psychopathy in the corporation. We could go through the characteristics that define this disorder, one by one, to how they might apply to corporations. They would have all the characteristics, and, in fact, in many respects, the corporation of that sort is the proto-typical of a psychopath”.

Narrator (Mikela J. Mikael): “If the dominant institution of our time has been created in the image of a psychopath, who bears the moral responsibility for it's actions?”.

Milton Friedman: “Can a building have moral opinions? Can a building have social responsibility? If a building can't have social responsibility, what does it mean to say that a corporation can? A corporation is simply an artificial legal structure. But the people who are engaged in it, whether the stockholders, whether the executives in it, whether the employees, they all have moral responsibilities”.

Drawn from *The Corporation*, a film by Mark Achbar, Jennifer Abbot and Joel Bakan, produced by Big Picture Media Corporation and distributed by Zeitgeist Film.

45 **Moore G.** (1999), Corporate moral agency: review and implications, *Journal of Business Ethics*, 21, 329 – 343.

The managers, in contact with an *organizational culture*, gradually conform their values to this set⁴⁶. So, the existence of an internal structure – created for selecting which decisions are consistent with the values of the corporation – and the presence of this basket of values recognized as the *organizational culture* seem to manifest a sort of moral responsibility, or at least a kind of responsibility that is different from the mere desire for profit.

It must be said, however, that although a different type of responsibility is recognizable, it will never be equal to that kind of morality, that is proper to human beings.

Additionally, apart from the existence of a discourse about the moral responsibility, it is necessary to point out that even the mere doubt about it (or the mere fact that some scholars questioned about that) has created a kind of alternative choice. Until then, this alternative was not present on the behavioral choices of the corporations: now there is an expectation that corporations are obliged to behave in a certain – ethically acceptable – way⁴⁷.

Therefore, this has created an authentic internal interest: nowadays, being ethically acceptable can be preferable for the corporations.

This convenience find its reason in few possible rewards for the company:

46 In my opinion, this theory – although it points to a different conclusion, is similar to the Bakan's theory: individual subjects, in contact with a similar context (such the business one), will conform their values (or they will lose them, according to Bakan) to the set of values and beliefs of the corporation.

47 Further, we might recall the aforementioned *bandwagon effect*.

- first of all, it is possible that behaving ethically (and therefore, in line with the expectations of a growing number of consumers), results in a greater customer loyalty, and a reduction of possible boycotts or demonstrations against the corporation;
- it is also widely believed (The Economist, 2008)⁴⁸ that an ethical acceptable behavior enhances the reputation of the brand⁴⁹;
- looking at the internal organization, if the corporation treats its employees in the best way, they will be more related to the corporation – with a positive influence on productivity itself;
- in addition, according to another research (Globescan 2008)⁵⁰, the ethical and correct treatment of workers is one of the main reasons thanks to which a corporation is considered morally and ethically acceptable;
- further, it can be better for the corporation to act voluntarily in an ethical manner as soon as such behavior could be imposed by law and by the government – and not a single corporation could benefit from government influence over its choices;
- finally, a corporation, acting in an ethical and desirable way, contributes positively to the development of the society: this

48 **The Economist** (2008), A special report on corporate social responsibility. *The Economist*, 19 January 2008, 386 (8563), 1 – 24.

49 We will see in the next chapter some specific cases such as the Nike case documented by Simon Zadek in 2004.

50 *CSR Monitor 2008*, in pdf, in <http://www.globescan.com>, last consultation: 29/06/2016.

could be considered a long term investment. Creating a better and safer world, in which there is a kind of collective and ethical consciousness, can also set up an excellent environment for future economic activities.

Regarding these reasons, Friedman (1970)⁵¹ expressed, again, his contrary opinion in the existence of CSR: in fact all these reasons, although valid for the scholar, do not concern the morality, but are – actually – linked to the maximization of profit. Corporations have an economic interest in behaving ethically: if the market wants them to keep certain behaviors in order to sell, behaving in that manner translates itself into the economic interests of the corporation.

For commenting Friedman's opinion, we can mention two other scholars: Bowie (1991)⁵² and Orlitzky (2008)⁵³. The first stated that Friedman's theory was true: the focal point of the issue is the real and main intention of decision makers. The second scholar, instead, stated that in both cases (the profit or the intention to behave ethically) it is difficult to prove what lies at the basis of taken decisions.

51 **Friedman M.** (1970), The social responsibility of business is to increase its profits, *New York Times Magazine*, 13 September.

52 **Bowie N. E.** (1991), New directions in corporate social responsibility, *Business Horizons*, July – August, 34, 56 – 65.

53 **Orlitzky M.** (2008), *Corporate social performance and financial performance: a research synthesis*. In A. Crane, A. McWilliams, D. Matten, J. Moon, and D. Siegel (eds.), *The Oxford handbook of corporate social responsibility. Business Strategy and the Environment*, 12 (4), 227 – 239.

However, after having examined the possible motives behind the ethical behaviors of the corporations, we must dwell on the moral reasons that explain the need of CSR.

Corporations business activities generate externalities that can be both positive and negative; in the latter case they produce side-effects that can cause serious problems to the people (i.e. pollution, corruption, stock manipulation *et alia*⁵⁴), so it is desirable that they should strive to solve these problems – which they have generated – and that they should undertake to prevent them. Moreover, given the enormous amount of resources a corporation has, it is desirable that a part of it could be used to improve society (a sort of philanthropic responsibility).

54 As an example of the terrible consequences that can arise from industrial activity, we can recall the Bhopal disaster.

During the night between 2nd and 3rd December 1984, in Bhopal - Madhya Pradesh, India -, there was a gas leak from the UCIL (Union Carbide India Limited) pesticide plant. This incident led to the release of more than 42 tons of methyl isocyanate, causing about 4000 deaths only in the first weeks (although there were other estimates that indicated 8000 or 15000 deaths). It was calculated that in subsequent years the deaths related to the accident became – almost – 25 thousand.

Instead, the total number of people who have reported serious or irreparable damage and injuries amounts to 560 thousand.

The inquiry revealed that the probable cause of the disaster was due to lacks in the security and maintenance system.

The Union Carbide Corporation (UCC) was ordered to pay about \$ 470 million - as compensation - to the Indian government: a very low amount compared to the size of the caused damage.

Furthermore, after more than 25 years, the Indian Court condemned eight UCC employees – involved in the disaster – to spend two years in prison and to pay a fee of about 2000 dollars, the maximum allowed by the Indian Law. So, also in this case the penalty was inadequate.

Sources:

Cosa fu il disastro di Bhopal, 3 December 2014, in <http://www.ilpost.it>, last consultation: 29/06/2016;
Taylor A. (2014), *Bhopal: The World's Worst Industrial Disaster; 30 Years Later*, 2 December 2014, in photo, <http://www.theatlantic.com>, last consultation: 29/06/2016.

Apart from these two reasons, the activities carried out by the corporations also have more immediate and mundane effects: such as creating employment, or decreasing it, when they cease trading. However, almost every action of corporations has effects on citizens, therefore it is right that they have to assume liabilities resulting about those effects and, furthermore, not only in relation to the shareholders, but to all the stakeholders.

3) The kind of responsibility of the corporations.

Sharing theories which assert the corporation responsibility, implies the necessity to understand what type of responsibility it is.

One of the most popular models regarding CSR is the “Four-part model of corporate social responsibility” by Archie Carroll (2009).

This model dates back to 2009, but actually, his first draft goes back to 1979; then it was changed in 1991, only to be finally revised in 2009, with the participation of Buchholtz⁵⁵.

The model compares the CSR to a – sort of – pyramid formed by four layers/levels. Each one is a kind of responsibility: economic, legal, ethical and philanthropic:

55 **Carroll A. B.** (1979), A three dimensional model of corporate social performance, *Academy of Management Review*, 4, 497 – 505;

Carroll A. B. (1991), The pyramid of corporate social responsibility: toward the moral management of organizational stakeholders, *Business Horizons*, July – August, 39 – 48;

Carroll A. B. and Buchholtz A. K. (2009), *Business and society: ethics and stakeholder management* (7th edn.), South – Western, Cincinnati.

- The economic responsibility is the base of the pyramid: each business brought into being by a corporation includes a series of elements, perhaps obvious, but necessary: employees must be fairly paid; shareholders need to see their money managed wisely by the managers, in order to gain a future profit; the final product/output on the market must satisfy the consumers, and so on. This is the base of the pyramid, the essence of the business, and as well, its *raison d'etre*. The corporation is responsible to these people. This type of responsibility is a *necessary* requirement for all corporations;
- the second level of the pyramid is the legal responsibility: it requires that all the corporation activities have to deal with the law, i.e. the formal institutions. Therefore, market strategies, such as collusion, are prohibited. As we can see, this is a *necessary* requirement for all corporations.
- After the essential requirements, there is the ethical responsibility. It provides that corporations have to do what is right and fair, even when these behaviors are not required or expressly prescribed by law. Simply, we can say that this is what people expect from corporations; indeed, this is just an *expectation*.
- The last floor of the pyramid, finally, is the philanthropic responsibility; it derives from the Greek word *φιλανθρωπία*

(philanthropy)⁵⁶.

It provides that corporations should improve, when and if possible, the lives of workers, the community and the society. This type of responsibility is desirable, but neither necessary nor required by law; for this reason this level (i.e. the type of responsibility) is weakest of the pyramid.

By the way, this model has been strongly and mainly criticized for two aspects: the first one concerns its incompleteness, because it does not take into account the possibility of conflict between the different types of responsibilities; instead, the second criticism is based on the origin of the model, since it is greatly based on the American experience rather than being inspired by an international context.

4) From the birth of the CSR to the development of the Stakeholder Theory and Corporate Citizenship.

Along with the spread of CSR, another theory – in support of the need for corporations responsibilities – was developed in the 80s.

This theory, called “the Stakeholder Theory” and made mainly by Edward Freeman (1984)⁵⁷, established that there was a responsibility by the

⁵⁶ It represents the concept of loving the humanity, generically, including all the possible aspects.

⁵⁷ **Freeman R. E.** (1984), *Strategic management: a stakeholder approach*, Pitman, Boston.

corporations towards the so-called “stakeholders”⁵⁸.

First of all, this theory is different from the “classic” approach of the CSR, focusing its attention on the groups of subjects related with corporations and to which the latter has responsibilities.

Clearly, it is important to define who are the “stakeholders”, because in their original conception made by Edward Freeman they are the group of people who “can affect or is affected by the achievement of the organization's objectives”⁵⁹. As it may seem intuitive, this original definition is very wide and general, and for this reason many scholars gave their own personal interpretation of this term.

For example, in 1992, Hill and Jones argued that, in their opinion, the stakeholders are the “constituents who have a legitimate claim on the firm (...) established through the existence of an exchange relationship who supply the firm with critical resources and in exchange each expects its interests to be satisfied”⁶⁰; or citing the definition jointly provided by Evan and Freeman (1993), they are who “benefit from or are harmed by, and whose rights are violated or respected by, corporate actions”⁶¹.

58 Usually, the term “*stakeholder*” is used to indicate: shareholders, creditors, customers, employees and syndicates. But we'll see in a few lines that several scholars have given different interpretations of this word.

59 **Freeman R. E.** (1984), *Strategic management: a stakeholder approach*, Pitman, Boston, 46.

60 **Hill C. W. L., Jones G. R.** (1992), Stakeholder-agency theory, *Journal of Management Studies*, March 1992, 29 (2), 131 – 154.

61 **Evan W. M., Freeman R. E.** (1993), *A stakeholder theory of the modern corporation: Kantian capitalism*. In W. M. Hoffman and R. E. Frederick (eds.), *Business Ethics: readings and cases in corporate morality*, McGraw – Hill, New York, 145 – 154.

This last definition gives us the cue for theorizing the existence of two principles, aimed at identifying the “stakeholders”: the first one involves the obligation – for the corporations – not to infringe any kind of right to any person; the second one, instead, requires that the corporations are responsible for their actions and for the effects arising from them.

Relying on the previous formulations and on these two principles, the scholars Crane and Matten (2010) gave a further definition of the term: “a stakeholder of a corporation is an individual or a group which either: is harmed by, or benefits from, the corporation; or whose rights can be violated, or have to be respected, by the corporation”⁶².

We can therefore guess how different the company's conception and its relationship are, compared to the traditional management model: in fact, according to this “classic” conception, the corporation would be only linked to four groups of people. Customers, suppliers, creditors and employees are part of these four groups, but the greater significance lies in this last one: the shareholders. They represent the true reason for being of the firm, indeed it is held responsible to them.

On the other hand, the new conception proposed by the theory of stakeholders, provides for widened firm's relationships: not only four groups but many more, all having the same importance regarding the profile of the responsibility. Thus, alongside the four initial groups, we will

⁶² Crane A., Matten D. (2010), *Business Ethics: Managing corporate citizenship and sustainability in the age of globalization*, Oxford University Press Inc., New York.

have the competitors, the Government and so on; all of them characterized by interdependent connections.

We must emphasise, however, that all stakeholders are subjected to responsibility, and specifically, how Rowley (1997)⁶³ theorized, they are accountable to their own stakeholders, and against those of the corporation; doing so, a real network based on mutual responsibility is created.

As anticipated by the title, in addition to the development of the Stakeholder Theory, in the 90's the term “*corporate citizenship*” began to be, gradually, more and more used. This term was used to identify the activities and the role that corporations had taken within the society; but corporate citizenship has had more than just one interpretation, thus making the term applicable in different contexts: in one case aimed to explain a certain activity or behavior, in other ones, assuming other connotations⁶⁴.

Although this ductility, the academic literature has established that there are mainly three different interpretations (or views) of this term: “*limited*”, “*equivalent*” and “*extended*”.

63 **Rowley T. J.** (1997), Moving beyond dyadic ties: a network theory of stakeholder influences, *Academy of Management Review*, 22 (4), 817 – 910.

64 Here, there are some examples the use of the term *corporate citizenship*:

“When operating effectively, the Company's community investment programmes should create sustainable, long-term value for our host communities and demonstrate the Company's citizenship. The critical question in regard to our success is whether we have managed to leave a lasting positive legacy in the communities where we operate” from the *BHP Billiton – Full Sustainability Report 2008*; or “Total is committed to contributing to the sustainable development of host communities around the world. In addition to being a normal part of good corporate citizenship, this policy fosters good relationships with neighbours and greater acceptance of our operations” from *Total - Corporate social responsibility report 2007*.

The first two of them, although they have the most widely spread interpretations, does not add substantially anything new in the discourse of corporate responsibility, going mainly to re-use the old concepts related to the definition of CSR.

More specifically, the *limited view* of the term follows the definition of “philanthropic responsibility” theorized by Carroll in 1991⁶⁵.

So, corporate citizenship takes the form of that kind of responsibility that the firm decides to undertake: in a primary concept, you can think about the activities that the corporation could do to improve the life quality of the community in which it resides and works. The problem concerning this interpretation is that – exactly as suggested by Carroll – this type of responsibility is the weakest type; moreover, the fact that this concept of corporate citizenship is re-using what was already said about the philanthropic responsibility, really does not seem to be enough to justify the coining of that “new” term.

Regarding the interpretation called “*equivalent*”, it is called so depending on the corresponding definition of CSR. It is the second most widespread interpretation, although it still does not add anything new. In confirmation of what has just been said, the aforementioned Carroll – in his paper “The four faces of corporate citizenship”⁶⁶ – used the same

65 **Carroll A. B.** (1991), The pyramid of corporate social responsibility: toward the moral management of organizational stakeholders, *Business Horizons*, July – August.

66 **Carroll A. B.** (1998), The four faces of corporate citizenship, *Business and Society Review*, 100 (1), 1 – 7.

definitions, which he had already used to describe the substance of CSR, to describe the corporate citizenship.

If the first interpretation does not justify the creation and the use of the term “corporate citizenship”, even this interpretation fails in this task; rather, it creates a kind of redundancy.

The “*extended*” view is the only one that offers an innovative profile of the term: it resumes the concept of “citizenship”, proper to the liberal tradition, which indicates the existence and the interaction with a set of individual rights (Faulks, 2000)⁶⁷.

This set of rights, in the opinion of T. H. Marshall (1965)⁶⁸, consists in three main areas: social, civil and political. These three kinds of rights – at least in theory – are ruled by government and they are under government's jurisdiction; therefore – at least apparently – they should not concern the sphere of action of corporations; but since the importance of the latter ones and their influence (into society and to the governments themselves) are constantly increasing (and on the other side of the issue, there is a steady decline in governments' governance capacity) it is not a surprise that, using the term “corporate citizenship” we are referring to how corporations are able to manage this set of rights. In this perspectives, corporations acquires a function and a role even in governing citizens.

67 **Faulks K.** (2000), *Citizenship*, Routledge, London, 55 – 82.

68 **Marshall T. H.** (1965), *Class, citizenship and social development*, Anchor Books, New York.

In the area of social rights⁶⁹, the number of corporations, which perform initiatives related to welfare state, is in in perpetual growth. Activities such as organizing canteens for needy and unfortunate people, implementing and improving school facilities and better conditions in the neighborhoods – and so on – are just some examples of the diverse range of initiatives in which some firms are involved. Often, corporations are much more active in developing countries: this is also due to the fact that in these countries the governments could not be able to deal with those issues. The problems behind these deficiencies can be varied, but it is exactly in these cases that the growing importance and growing influence of the corporations can be seen.

Also concerning the sphere of civil rights⁷⁰, the activities of corporations are more noticeable in the developing countries. They can influence government decisions, encouraging them to better assume their responsibilities, but they may also have significant adverse affects – such as in the (in)famous case of Shell against Ogoni, in Nigeria⁷¹. Even the

69 The social rights are also called as “positive rights”; they grant the opportunity to the individual to participate – freely – to the community, allowing him to enjoy rights such as health-care or education.

70 They are also called as “negative rights”, among the simplest examples we can remind the property rights. They protect the individual from potential abuse, interference or interference by third parties – such as the Government – thus explaining their epithet “*negative*”: they deny a range of behaviors – all those activities that could harm a legally protected right of the individual – to third parties)

71 Shell (Royal Dutch Shell), the famous multinational company dedicated to oil and fuel production, began its activities in Nigeria in 1958. Precisely Shell settled in the Niger Delta Region, in south of Nigeria: an area called Ogoniland, inhabited by the Ogoni ethnic group. The population was not pleased with the arrival of the multinational: the advent of oil, its extraction and production had caused the pollution of the surrounding environment, thus causing the impoverishment of the inhabitants, who were for the most part farmers and fishermen. The opposition of the Ogoni, however,

political rights⁷² can be “helped” or “hampered” by corporations. For example, enjoying the support of a multinational ahead a political election can be crucial for success.

Clearly, this participation in the sphere of human rights by the corporations can be – maliciously – regarded as a further way (and, perhaps, the most underhanded) to make profit. On the other hand, we may think that corporations are obliged to interact with these areas of human rights just because communities expect this behavior and give rise to a social pressure on the firms.

was strongly repressed by the Nigerian police, following the request of Shell (the Nigerian government and the multinational famous firm had a close working relationship). In addition to the impoverishment of the area, and its pollution, Shell was said to be indirectly responsible for the murder of nine activists of MOSOP (The Movement for the Survival of the Ogoni People), including the well-known activist Ken Saro-Wiwa. Various organizations for the protection of human rights (such as the Center for Constitutional Rights “CCR” and Earth Rights International “ERI”) denounced the multinational company for repeatedly violating human rights. Only after years and years of litigation, Shell was sentenced to pay 15.5 million dollars in favor of the plaintiffs, although the oil company has never fully admitted his guilt. Even though the Shell has stopped its oil production activities in Ogoniland, not all the facilities have been disposed: this has led to several oil spills, which further aggravated the environmental situation of the region. This damage, in the opinion of the “United Nations Environmental Programme”, will be disposed in about 30 years of treatment.

Sources:

Environmental Assessment of Ogoniland, in publications, in <http://www.unep.org>, last consultation: 29/06/2016;

Factsheet: The Case Against Shell, 24 March 2009, in <http://ccrjustice.org>, last consultation: 29/06/2016;

Keates E. (2015), *After Decades of Death and Destruction, Shell Pays Just \$83 Million for Recent Oil Spills*, 11 January 2015, in <http://www.greenpeace.org>, last consultation: 29/06/2016;

Zandonini G. (2015), *Delta del Niger, nulla cambia dopo 20 anni dall'uccisione dell'attivista che sfidò la Shell*, 4 November 2015, in *solidarietà, diritti-umani*, in <http://www.repubblica.it>, last consultation: 29/06/2016.

72 They allow the individual to vote or be voted, but they also allow to occupy certain political offices or to perform certain activities within the community.

Aside from these criticisms, it is possible to affirm that this concept offers – unlike the previous two – a new meaning and a different possibility to use of the term; although this interpretation seems to describe what happens in real life, rather than regulating what should happen.

5) A new way to do business: the *sustainable development*.

The commercial and economic activities, carried out by firms and corporations, have several collateral effects that can not pass unnoticed: for the most part, we are talking about massive damages to the environment and/or to the communities. Phenomena such as the environmental pollution, the climate change, the increased production of wastes and the destruction of local cultures are just some of the dramatic effects that the intense activity of corporations may cause.

For this reason, there is a new kind of responsibility for the corporations: the responsibility related to *sustainability*.

Actually, this term has become widely used and therefore it started to take on different connotations: not only it is strictly used in the field of study related to Business Ethics, but also the same corporations and governments have increasingly made use of that term. Although this widespread use, the main concept of sustainability is related to “*sustainable development*”; namely, as defined by the “World Commission on Environment and Development” of 1987, it is the “development that meets the needs of the

present without compromising the ability of future generations to meet their own needs⁷³”.

The above definition is the starting point for few considerations: first of all, this concept refers to the “intergenerations equity”; in other words, the fairness of treatment between different generations (the present ones and the future ones). In addition, the sustainable development is not just about the environmental sphere, but it also would concern the social and economic spheres.

The reason behind this conceptual expansion is attributable to the previously mentioned definition: the “intergenerations equity”, to be true, must have a specific starting requirement: in order to achieve a situation of real equality in the future, a fair treatment must already exist between today's generations. So the concept of intergenerational equity does nothing but foresee a fair treatment for each person. This conceptual expansion, however, also makes clear the difficulty of the achievement of this project: indeed, in order to reach this kind of equity, it is necessary to address issues such as extreme poverty and hunger.

However, having set the sustainable development in this way, we can highlight its three main aspects: environmental, social and economic; hence we can regard the sustainable development as a long-term investment, aimed to not change the system in a negative way (indeed, if

73 **World Commission on Environment and Development** (1987), *Our Common Future*, Oxford University Press, Oxford.

possible, it could be aimed at improving it) complying with its three main pillars.

The scholar John Elkington theorized the concept of the *Triple Bottom Line* (TBL), which almost encompasses what it was previously said: doing business can not have just the purpose to get a gain, but it must have a wide range of social and environmental goals. By analysing these issues one by one, the targets related to the environment are – above all – the objectives most related to sustainability.

The analysis of the concept of sustainability from an environmental point of view has its origins from the concept of resource scarcity. In fact, assuming as true the following assumptions:

1. each resource is not infinite, by definition,
2. the production capacity of every resource is finite and limited,
3. there is a constant demographic growth,

it emerges that sustainable development must aim primarily to not waste resources and to regulate their utilization, in order to allow future generations to enjoy the same standard of living and to give them the same kind of treatment, thus excluding a potential disadvantage .

Here it seems necessary to make a connection with the provisions and the theories made by Harold Demsetz⁷⁴ in 1967. Although the author – father of classical economic analysis of law – wanted to affirm the

⁷⁴ **Demsetz H.** (1967), Toward a Theory of Property Rights, *American Economic Review* 57, 347 – 359.

indispensability of private property to the detriment of the common property (as, indeed, some of his successors – as Garrett Hardin⁷⁵ – wanted to do), we can point out the similarity between what was said by the scholar and what is provided by the concept of sustainable development from the environmental point of view.

In fact, if on one hand the private property is seen as the passage from the state of nature to the more civilized, complex and rational forms of organization, through which you can internalize more efficiently the negative externalities derived from the conduct of the individuals, on the other hand, also the sustainable development it is a more complex form of civil and rational organization, aimed to avoid the early end of resources and reduce the negative effects related to a not-regulated use of resources.

Furthermore, a Demsetz's sentence is emblematic for our topic, when he is referring to the effects of the common property: “[t]he effects of a person’s activities on his neighbors and on subsequent generations will not be taken into account fully”, where the term “subsequent generations” is perfectly pertinent with our discussion.

A critical issue concerns the use of non-recyclable substances: since they can not be utilized for a second use, they become a kind of ballast for the environment, damaging it further. Even the economic concept of sustainable development originates from the concept of the limited scope of

75 **Hardin G.** (1968), The Tragedy of the Commons, *Science*, 162,1243–1248.

the Earth.

Future generations are likely to be disadvantaged by the utilization choices that present generations decide to adopt: in this perspective, it is very likely that future generations will not be able to afford the same standard of living, since these standards will be subject to decay. For this reason, this conception provides that corporations should be able to conceive and develop a long-term investment system. Instead of aiming only immediate gains, they will have to aim and to achieve lasting profits, which will protect future generations.

So, the sustainable development – from the economic point of view – would provide that corporations must avoid bad behaviors (such as the constitutions of cartels, corruption *et alia*) because they undermine the foundations of long-term economic activities.

Regarding the social conception, it is fairly recent: it was born in the 90s, linked with the principle of Social Justice⁷⁶. This kind of justice strongly recalls the concept of equity between generations and between all the people, and therefore it is in contrast with the current distribution of wealth. In fact, according to an UN report about the World Social Situation, it is clear how the wealth is not equally distributed: about the *world's gross domestic product*, its 80% is owned by almost 1 billion people, specifically

⁷⁶ Although the birth of this perspective is quite recent – and largely due to the impact that the business activities, made by many corporations, have had on local communities in which they were allocated – we should not think that before the 90's there was any ideology related to social justice.

those who are living in developed countries; the remaining 20% is shared by almost 5 billion people, all of them living in developing countries.

Clearly, there is a willingness, at least apparently, to change this reality and to work in order to accomplish each task related to the concept of sustainable development, but to change this state of things, it will be necessary to deal with other big problems – and not only the problems related to the externalities of economic activities – such as fighting against child mortality, diseases such as HIV, poverty, *et alia*.

CHAPTER FOUR
INSTITUTIONS AND ETHICS EVOLUTION:
FOUR SAMPLES

Summary: *1. Introduction. 2. The bifurcation of the forms of cooperation: the clans in China, corporations in Europe. 3. Historical analysis of the facts behind the spread of clans and corporations. 4. The unique case of the Kuba Kingdom. 5. Obedience to the rules: comparison between Kuba descendants and the descendants of other villages. 6. Ethics influences on business strategies: the Nike case. 7. Ethics influences on business strategies: the McDonald's case.*

1) Introduction.

In order to strengthen what has been said in previous chapters, it could be appropriate to examine a few cases in the evolution of the institutions.

The first two cases will focus precisely on the development of association and cooperation forms in China and Europe and the influence of cultural norms (informal institutions) on formal institutions and vice-versa. It will be also examined how historical context, customs and traditions and various other external factors can lead to reinforce the

already present institutions, in order to entrench them in the society, or to elicit changes in the citizenship behavior.

On the other side, instead, we will see how the impact of ethics on the market has upset the strategies of multinational companies, such as Nike and McDonald's, which – all of a sudden – had to review their plans, in order to adapt them to the new – ethical – market demands.

Although it is less obvious, also in this case we are talking about an evolution in informal institutions, which are changing with all their related values.

2) The bifurcation of the forms of cooperation: clans in China, corporations in Europe.

The historical and cultural differences – which characterized, respectively, pre-modern China and Europe – have led to two different forms of association and cooperation: clans and corporations.

Clans are forms of social organization based on kinship: entire families and relatives, connected to a certain male ancestor, are linked by constraints of mutual loyalty. In times of need, clan members have (and that is the mandatory nature of the constraint) to help other members in need. This type of bond could arise in two ways: clearly, to be born in a particular clan implied the membership, but it was also possible to join a clan later, for examples, when several clans were fused together, or when a

man wanted to boast a supposed descent (that is because, in the majority of cases, the descent was self-proclaimed, which implied that it was nearly impossible to control it).

On the other side, the corporations: forms of voluntary organization, par excellence. In this context we use this term to refer to all forms of voluntary aggregation made by people who share a common purpose⁷⁷.

The main differences are obvious: on one hand we have a kinship relation that is, almost, inevitable; on the other hand we have a mandatory relation born as expression of will; one bond is made by membership, the other by interests. Although these differences, both these forms of organization can serve the same purpose and they are suitable to provide the same services: indeed, they may either provide the supply of different

⁷⁷ Regarding this point, some explanations are necessary: here, the term “corporation” is used in the most general way, and it does not only cover the modern sense of that word.

In fact, if we refer only to the modern corporation, we consider just one of many types which I am referring to, citing the work of Grief and Tabellini. The modern corporations are companies acting and recognized in law as a single entity/person; they are characterized mostly by two factors: the capacity to issue – or not – stock and if they are working to gain a profit, or not.

The corporations allowed to issue stock are called “stock corporations”, while the other kind is called “non-stock corporation”: the differences are about the ownership of the corporation, in the first one is through stock, in the second one is related to the membership.

Non-stock corporations are always not-for-profit corporations; while the stock corporations could decide to be or not to be for-profit. It is to underline that a registered corporation is seen by the law as a single person, and it has a legal personality; but its shareholders have a limited liability, limited to their investment. The corporation must then be distinguished from partnership.

Partnership is a form of aggregation, such as corporations: but in this case, each partner contributes economically (money, skills, property) and shares the profits and losses.

On this point, the partners may decide to share them equitably, or establish that some partners have limited liability.

(Every legal system regulates with specific rules the structure of these two types of aggregation. This is done in order to protect the people who work and interact with them).

types of assets (club goods and/or public local goods)⁷⁸; they may coordinate the relationship between state and market; and they are certainly appropriate means to promote cooperation between different actors.

According to the studies made by Avner Grief and Guido Tabellini⁷⁹, (2015) these two forms of cooperation begin to spread in correspondence to a different phenomenon: the weakening of the state (if not event the total disappearance or lack of it). Precisely this phenomenon manifested itself in the late 9th century, when the State provided to be inept in its tasks, and people had to find other ways to live.

The diffusion of clans and corporations was very broad and lasting: since they began to spread, they become more and more important for people's life.

In China, on one hand, the clan took care of providing almost all the possible kinds of goods and services that members might need, as confirmed by Reynold's studies: “these clans are bound to assist each other in any way that may be required”⁸⁰.

78 A slight in-depth analysis: a *club good* is a kind of good that is characterized by non-rivalry (or partial non-rivalry) but from which it is possible to be excluded by the suppliers.

The exclusion, for example, can be caused by a control of members credentials at the entrance of a club. As a consequence, the revelation of preferences is not a problem for club goods. By choosing to be part of a club – in order to enjoy its benefits – a person reveals his preferences.

Regarding the local public goods, it applies what was said for club goods, but a local public good has a particular characteristic: its benefits are confined to a particular geographic area. A subject to be able to enjoy, must reside in that zone.

79 **Grief A., Tabellini G.** (2015), *The Clan and the Corporation: Sustaining Cooperation in China and Europe*, *CESifo Working Paper No. 5233 Category 6: Fiscal Policy, Macroeconomics and Growth February 2015*.

80 **Reynold's**, (1869), *Miscellany of Romance, General Literature, Science and Art*, 20 (42), 157.

And for this reason, the creation of clans and the subsequent membership was definitely the best option for the Chinese people: indeed, as reported by Rowe⁸¹, more than half of Jiangxi province – the southern province of China, lying between the Yangtze River and the South hills – was divided and organized into clans, during the 1800s.

The situation in Europe was not so different: the corporations, under different forms, provided the various public goods and services: e.g. cities took care of school and legal enforcement, while monasteries and churches were concerned to feed the poor. In Europe, as mentioned before, there was not a single form of corporation, but a varied number: European people understood that corporations represented the best way to achieve their common goals.

Although both of them performed – mostly – the same tasks, their initial differences, due to their composition, created other deeper differences: indeed both clans and corporations developed diversified ethical codes of conduct, disciplinary and judicial systems.

An example of these differences may actually be found in the penalty system: although inside the clans there were punishments for those who committed crimes and did not act properly – according to the standards of the clan – the attention was focused mostly on the rules that they could not break, rather than on the real offenses. Indeed, according to the Great Qing

81 **Rowe W. T.** (1998), Ancestral rites and political authority in late imperial China – Chen Hongmou in Jiangxi, *Modern China*, 24 (4), 386.

Code, crimes were simply defined as behaviors that “ought not to be done” (Article 386); moreover, since the clan were based on kinship relations and on loyalty among blood relatives, we should assume that the intention to deceive or commit some crime against another clan member was not too common and it was rather the *exception* to the rule.

On the other hand however, European corporations went on creating *ad hoc* formal procedures, aimed to strengthen law and the rules (i.e. the legal codes), to forbid people from putting in place misconducts – being them connected only by common interests – or at least less frequently than *their Chinese counterparts*.

Another fundamental difference is how these two kinds of social organization strengthened internal cooperation: the reciprocal moral obligations were defined by kinship, and therefore they were stronger than those defined only by a common interest, which indeed turned out to be “impersonal”.

This discussion recalls what has been said by Tabellini (2008)⁸² regarding *morality*: the exclusive loyalty aimed at their relatives is an indicator of a limited morality; while the interactions between people with shared interests imply – on the contrary – a generalized morality. The number of initial differences between China and Europe have led to the

82 For further informations, see the 8th footnote.

Tabellini G. (2008), Institutions and Culture, *Journal of the European Economic Associations*, 6 (2–3), 255 – 294.

establishment and therefore to the spread of various social institutions and a different distribution of the “*morality*” parameter.

3) Historical analysis of the facts behind the spread of clans and corporations.

As anticipated, clans and organizations began to spread, respectively, in China and Europe around the end of the 9th century. Clearly, social organizations related to kinship had been pre-existing in both these two parts of the world.

The importance of the family name, in China, dates back at least to the time when Confucius lived (551 – 479 B.C.), since the famous Chinese philosopher defined marriage as a “union of two surnames, in friendship and in love”⁸³.

However, the first clans were made by the nobles, while *families* were the most widespread form of association among lower-class people. Towards the end of the Song Dynasty (around the 1200s), however, clans made by people without any title of nobility were already widespread: indeed it was during this dynasty that the vast majority of the clans was formed.

In Europe, as anticipated, the social groups linked to kinship were mostly *tribes*; they played a key role after the fall of the Western Roman

83 Dawson M. M. (ed.) (1915), *The Ethics of Confucius*, Putnam, New York, 153.

Empire (476 A.D.). Germanic tribes had specific rules of conduct, and – like clans – imposed a rule of mutual aid to blood relatives; and especially when it was necessary to take the law into their own hands and to pay back the wrongs⁸⁴.

Although the concept of the corporation was already present during the Roman Empire, it did not have a great importance as a social organization: indeed, a corporation would need the Emperor's permission to be formed. Furthermore, they were used to pursue the interests of the state and of the Emperor.

Corporations, as we understand them in this context, date back again at the end of 900s⁸⁵ (Grief 2006, 2006a); but – while, at the same time, the clans were spreading in China as the main form of cooperation – in Europe they had a marginal role. Towards the late Middle Ages, indeed, the corporations had become the form of cooperation par excellence in Europe. The fact that the State was particularly weak, between the 9th and 10th centuries, was the excellent premise to allow the creation of these forms of cooperation and it consisted in an incentive to migration. The individuals were able to choose which organization they could become part, basing

84 **Fischer Drew K.** (1991), *The Laws of the Salian Franks*, University of Pennsylvania Press, Philadelphia.

85 As Grief reported in two of his works:

Greif A. (2006), *Institutions and the Path to the Modern Economy*, Cambridge University Press, Cambridge;

Greif A. (2006a), Family Structure, Institutions, and Growth, *American Economic Review*, 96 (2), 308 – 312.

their choice on parameters such as cultural affinities and common interests. So, the migration allowed a sort of new beginning: there was a re-settling of the already present population in both the territories in question⁸⁶.

In China, individuals had to choose between staying with their relatives – and forming a clan which would provide for their needs – and migrating, in order to build a new clan – always related to kinship⁸⁷ (Rowe 2002). It is interesting to note that, although they restarted from zero, the Chinese migrants continued to create clans, also if they were inserted in a different context, having the possibility to create and join a form of association more similar to the European corporation. Same thing happened with European immigrants: both these two civilizations were attached to their traditions.

Several explanations may lie behind these differences between China and Europe, such as religion, penalty and criminal system, charity and donations.

- **Religion:** it is one of the main differences between the two

86 This event seems to recall the Tiebout theory, which argued that the efficiency will always be obtained with local public goods. Given the fact that the market failure can be caused by the difficulties involved in transmitting information, Tiebout asserted that being able to choose rationally the town in which to live – which therefore offers the provision of local public goods that is closer to the ideal of the consumer – their preferences are revealed. So, if there are enough different types of communities and enough consumers with different preferences, we will get a fully efficient market result, since all the consumers will be situated in the optimal communities, according to their criteria.

In practice, the subjects will vote with *their feet*.

Tiebout C. (1956), A pure theory of local public expenditures, *Journal of Political Economy*, 5, 64.

87 **Rowe W. T.** (2002), *Social Stability and Social Change*. In D. Twitchett and J.K. Fairbank (eds), *The Cambridge History of China*, 9, Cambridge University Press, Cambridge, 473 – 562.

civilizations. Christianity spread the idea of a society that is based on the individual and not on the family; in fact both the original sin and the possible salvation of the soul are characteristic of every single human being. Although they were shared by every human being, they have peculiar characteristics related to the private and personal sphere. Moreover, rules as: “...who loves his neighbor has fulfilled the law” and “Thou shalt love thy neighbor as thyself” (Romans 13:8 and Leviticus 19:18) indicate how the concept of brotherly love, in the Christian religion, is extended and applied to all the human beings. It is to underline how the Church tried to counteract the too broad relatives groups: measures against the adoption, divorce and subsequent remarriage, polygamy – and so on – were the means by which the Church wanted to neutralize and discourage this kind of habits. In China, religion imposed that true loyalty was rooted in the kinship ties. To confirm this, we can quote Confucius, who repeatedly underlined the indissolubility of kinship ties: in fact, the relatives had a moral obligation to support each other, even when one of them was clearly guilty (Anaclets XIII 18).

- **Penalty and Criminal System:** by definition, the crime is immoral; but in these two civilizations, the penalty system has

evolved in a very different way. Although today it may seem obvious that – at least in theory – the severity of the punishment has to be correlated to the gravity of the committed crime; but initially, in those two civilizations there was a significant correlation between the severity of the punishment and the identity of the author of the crime.

In Europe, the rejection of this kind of ideology was developed only later in time; and principles of equality – claiming that the law should be equal for all the people – were finally affirmed; on the contrary, in China, the relationship between offender and victim gradually gained more and more importance. Specifically this concept was linked to kinship relation between involved subjects (even in the early 20th century there were deep differences and inequalities of this kind).

- **Charity and donations:** there are mainly two types of donations: personal and impersonal. Personal donations provide that charity will be in favor of a familiar/known subject; on the contrary, the impersonal ones are in favor of unknown subjects. In China, where the limited morality was widely spread, the first kind of donations prevailed; in Europe – mostly characterized by generalized morality – the second type prevailed.

These exogenous influences did nothing but consolidate the initial differences between Europe and China; but they were not the only forms of institutions which contributed to the social development of the two civilizations: even state and commercial institutions influenced decisively on this development.

These types of institutions were born in different shapes just because the existing differences between the two civilizations and – as the other exogenous influences – they did nothing but reinforce this diversity: in Europe, characterized by generalized morality and by cooperative relations which were not related to kinship, impersonal trades were very popular and they represented the predominant kind of business; needless to say, in China it was all the contrary.

In Europe, thanks to this type of trades, credit institutions and insurance were spread since the Middle Ages, while in China the first forms of these institutions date back to 1800s. The European corporations also stimulated the creation of institutions aimed to ensure fair treatment to every trader: both in the cases when the trader was a member of the corporation, and when he was not.

Therefore, Tabellini and Grief mention the *Community Responsibility System* (CRS), an institution aimed to fill and fix the *lacks* of the local courts, forcing them to punish the own members inside the corporations, when they were found guilty.

In China, meanwhile, the trading system provided – at least in theory – that there was not a distinction between clan members and non-members: “a clan should always watch its reputation by preventing its members from harming outsiders and by refusing its offenders clan protection”⁸⁸(Liu 1959). But in practice, the Chinese penalty system was still influenced by the limited morality – typical of the Chinese clans – in fact: “the punishment of a member who misbehaves against a non-clan member is usually oral censure”⁸⁹ (ibid.); as it may seem obvious, it was certainly not a sanction which would discourage such behaviors (and on the contrary, the crime committed by a foreigner against a clan member was much more severe).

Another difference that emerges from the comparison between China and Europe is about the role of state administrators: if in Europe, the bailiff was a free man who performed public offices; in China, the so-called *runner* (in Chinese: *yamen*) was regarded as a slave or a prostitute: an immoral person who usually belonged to the lowest class, if not totally a pauper.

So, we can say that the clans in China – having become the main form of social aggregation, aimed at promoting cooperation between members – have influenced the types of obligations and interactions,

88 **Liu Hui-Chen Wang** (1959), *The Traditional Chinese Clan Rules*, *Monographs of the Association for Asian Studies*, 7, 152.

89 Ibid.

making them mostly more “personal”. In Europe, instead, this role was taken over by corporations, characterized by generalized morality, which influenced the obligatory relations toward the “impersonal” kind.

These differences still persist, showing how both the types of institutions have adapted themselves to social and cultural change over the centuries.

4) The unique case of the Kuba Kingdom.

The influence of institutions on the culture will be examined, specifically, regarding a particular kingdom created in Central Africa in the 1700s: the Kuba Kingdom.

Before the creation of the aforementioned kingdom, in the same region there had been a strong migration of the Mongo's population; this stream of migration brought the *Bushong*, the *Pyang*, the *Bieeng* – people who integrated themselves in the Kingdom – but also people who did not made part of it, like the *Lele*.

According to the tradition, the inhabitants of Kuba shared their origins with the Lele: from the ancestor Mboom, (a kind of divinity/entity), to his son, Woot, *the first man on Earth*.

Woot was not the only son of Mboom, and all of them lived in a sort of first village; until Woot had an incestuous relationship with his sister. This relationship involved the expulsion of the couple and their children from

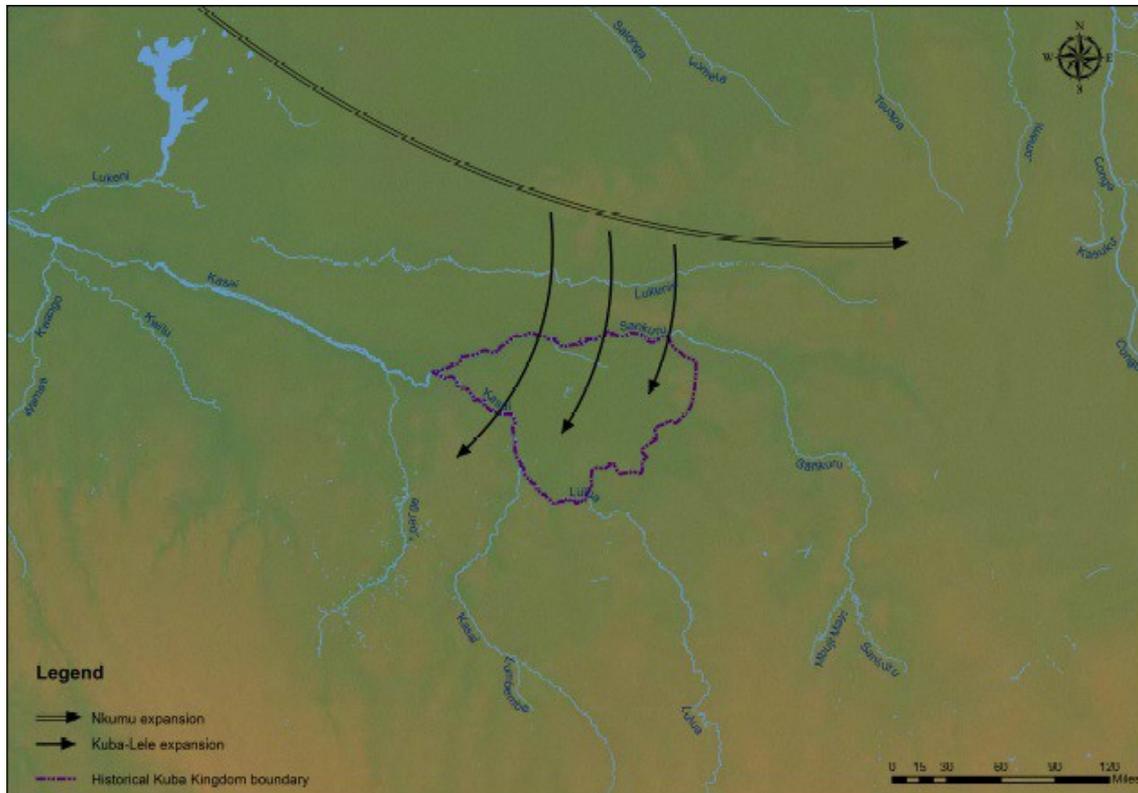
the village, creating the first migration stream⁹⁰ (Vansina 1978). Always according to tradition, both the Kuba and the Lele had their origin in the generations of the sons of Woot; so, at least in theory, they had the same birth and traditions.

The Kuba kingdom was created in the 17th century (the most common date for this event is the year 1620) by a foreign king, Shyaam.

Shyaam was an eclectic king: he was originally a doctor and a magician, he desired to introduce several technological, institutional and further kinds of innovations, such as tobacco, palm wine, and initiation rituals; and he self-proclaimed as the king of the Bushong⁹¹ (Varsina 1978). Although some stories narrated that the creation of the kingdom was peaceful, other sources attested that Shyaam killed the previous king of Bushong. Once he was the leader of this people, he united all the adjacent villages under his control, creating effectively a fairly vast kingdom.

90 **Vansina J.** (1978), *The Children of Woot: A History of the Kuba Peoples*, University of Wisconsin Press, Madison, 32.

91 *Ibid*, 59 – 65.



It was expanded between the three rivers which formed its natural limits: Kasai River, Sankuru River and Lulua River. These rivers not only delimited the domain of the kingdom, but they also served to separate the Kuba from other populations⁹². The territory between the rivers was divided into nine provinces, which were further divided into counties, and each one of them had its own chief⁹³ (Vansina 1978).

92 The picture is taken and belongs to the scientific article “The Evolution of Culture and Institutions: Evidence from the Kuba Kingdom” made by Sara Lowes, Nathan Nunn, James A. Robinson, Jonathan Weigel, and published on 16 November 2015.

93 **Vansina J.** (1978), *The Children of Woot: A History of the Kuba Peoples*, University of Wisconsin Press, Madison, 128.

The king granted to specific individuals, called *Kolm*, a part of the executive power and he instituted four councils for the division of powers and duties (such as: bureaucracy, rituals, governmental tasks *et alia*). So, as Vansina attested, one of the main features of the Kuba Kingdom was the balance of powers (and their subdivisions)⁹⁴.

To confirm the fact that this kingdom was one of the most bureaucratized throughout the sub-Saharan Africa, the Kuba Kingdom was also famous for the establishment of annual census (about births and deaths), and for the establishment of annual fees for each village.

The kingdom was definitely developed even from a legal point view: not only there was a real police authority to ensure the compliance of the rules, but a trial by jury for quarrels and disputes was foreseen, and in some cases even a sort of appeals court was required by law.

It is very particular that, despite having a real developed legal system, the Kuba Kingdom did not know the handwriting: for example, the penalty system was based on a simple principle: “the gravier the offense, the heavier the penalty”⁹⁵ (Vansina 1971).

The Kuba Kingdom came into contact with Europe in 1885, Dr. Ludwig Wolf was the first one to reach this realm. But the first to reach its capital, Mushenge, was William Sheppard, a Presbyterian minister with

94 Vansina J. (1978), *The Children of Woot: A History of the Kuba Peoples*, University of Wisconsin Press, Madison, 145 – 152.

95 Vansina J. (1971), *A Traditional Legal System: The Kuba*. In Yehudi A. Cohen (ed.), *Man in Adaption: The Institutional Framework*, Aldine-Atherton, Chicago, 141 – 142.

African-American origins. He was only the first of many of visitors; as long as in 1910 the entire Congolese territory became a Belgian colony. Incredibly, the Kuba Kingdom – compared to other African kingdoms – did not change much during the colonial regime. Varsina dedicated an entire book in 2010 to this phenomenon; inside the seven chapters – in which this book consists – the author described the kingdom as “the only precolonial kingdom to survive nearly intact, the only territory of its kind and its size encapsulated in the colony's administrative grid like a fly in amber”⁹⁶ (Varsina 2010).

But after the colonial period, the information about the Kuba Kingdom decreased, although the existence of the kingdom has, in any case, been ascertained by the expedition that the scholars Sara Lowes, Nathan Nunn, James A. Robinson and Jonathan Weigel have undertaken in 2013⁹⁷.

96 **Vansina J.** (2010), *Being Colonized: The Kuba Experience in Rural Congo, 1880-1960*, University of Wisconsin Press, Madison, 179.

97 **Lowes S., Nunn N., Robinson J. A., Weigel J.** (2015), *The Evolution of Culture and Institutions: Evidence from the Kuba Kingdom*, *NBER Working Paper No. 21798*.

5) Obedience to the rules: comparison between Kuba descendants and the descendants of other villages.

During their expedition, Sara Lowes, Nathan Nunn, James A. Robinson and Jonathan Weigel wanted to examine how culture and institutions can influence each other; to reach this objective, they carried out two different experiments on a group of people from different ethnic groups, but all from the same region.

The group had been composed in this way in order to have the chance to examine both the behavior of the direct descendants of the original Kuba Kingdom – namely the descendants of ethnic groups as the Bushong – and also the conduct of the descendants of those villages that had never entered in the domain of the kingdom, such as the Lele.

The experiments were the Resource Allocation Game (RAG) and a variant of the Ultimatum Game (UG).

The first experiment, a non-strategic game, provided that each individual had a classical dice (a six sides dice): half of the sides was white and the other half was black. Along with the dice, each subject had also included a budget of 3000CF, divided into 30 parts, each one made by 100CF (the total corresponded to almost 3 days wage). It was explained to every participant that he would have to roll the dice for 30 times during a single game, betting each time on the color of the side that would come out. Before each launch, the player had to associate a color to himself (e.g.

white) and the remaining color (in this case: black) to a hypothetical second player. The game would have been repeated for 4 times then, each time with a different second player:

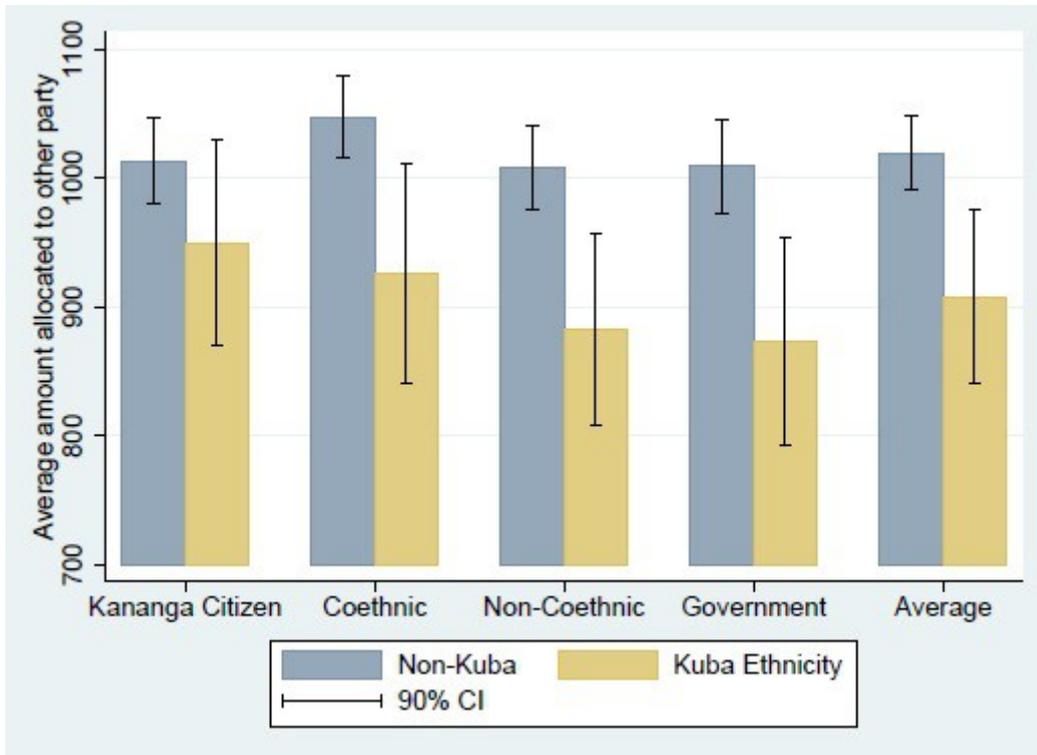
1. a fellow citizen,
2. a person belonging to the same ethnic group,
3. a person who was not part of the same ethnic group,
4. the government.

If the dice, after the launch, had shown the side with the color which was assigned to the first player, he would have won 100CF. This budget would be put aside in a specific bag; otherwise, if the dice showed the other color – matched to the hypothetical second player – he would have to put 100CF in a specific container destined to the unknown other player.

Once all the games were over, if the participants had followed the rules correctly, there would be an average of 1500CF assigned to both sides: in short, the total amount of CF would be divided equally.

Test evidences showed instead that the amount of CF assigned to the second player was – on average – 1002CF (the 33% of the total). Furthermore, by the experiment, it was clear that the Kuba descendants were more inclined to cheat than other ethnic groups⁹⁸.

98 The picture is taken and belongs to the scientific article “The Evolution of Culture and Institutions: Evidence from the Kuba Kingdom” made by Sara Lowes, Nathan Nunn, James A. Robinson, Jonathan Weigel, and published on 16 November 2015.



The second game – a variant of the ultimatum game (UG) – provided that a budget of 1000CF would be divided between two subjects; the first player would decide how to divide it, the second player could accept or not the division. In the case in which the second player had not considered the division satisfactory, and he refused it, none of the participants would have gained any CF.

Therefore the test provided the following rules: for three times, a subject – taken by the same group in question during the previous experiment – would decide how to divide the amount of CF and for three other times he would received the offer of other players and so he would

have to decide whether to accept it or not.

A peculiarity of the experiment is that computers or other devices – suitable for a digital simulation – were not used; instead, this experiment was based on the use of real money. A further detail: the players would have divided the 1000CF in a lonely tent – in peace and solitude – simply putting the money in two separate envelopes. In addition, it was made clear the closed envelopes would be opened in a special office and only later, and if the offers will be accepted, the players would be recalled – always anonymously – to withdraw the amounts of CF.

The purpose of the test was not related to understand how the division would take place, but the scholars wanted to see if the subjects, in the solitude of the tent, would have stolen some money, at least in one of the rounds. In fact, since the incomes were not certain (if the offer was refused), the only way to get an immediate profit was stealing. And that is what is happened.

There were evidences that, at least in one round, 4.8% of the players had stolen money; also in this case, the descendants of Kuba distinguished themselves negatively by a higher percentage of thefts than the other subjects of the test.

So the results of the experiments pointed out that the descendants of that kingdom, which had distinguished themselves so much – for all the entire range of factors seen in this paragraph, from the administration

system to the penalty system – in comparison to the other kingdoms and to nearby villages, had a higher propensity for breaking the rules.

Scholars as Elias⁹⁹, Foucault¹⁰⁰ and Weber¹⁰¹ had explained how the evolution of sophisticated institutions would lead to a kind of evolution of people, making them more inclined to the civil life and respect for the rules; the study done by Sara Lowes, Nathan Nunn, James A. Robinson and Jonathan Weigel shows on the contrary how institutions and culture (i.e. formal and informal institutions) actually influence each other, but without giving the desired result every time¹⁰².

6) Ethics influences on business strategies: the Nike case.

Having examined the evolution of formal institutions and their relationship with informal institutions, we still have to examine the evolution of ethics, as an informal institution, in some specific cases.

The Nike brand is very famous in the sports world. Although Nike's success was undisputed, even at global level, in 1990s, (when Jeff Ballinger, a famous activist, published a not too flattering article in which he contested the low wages and pitiful conditions of Nike's workers in

99 Elias N. (1994), *The Civilizing Process*, Blackwell, Oxford.

100 Foucault M. (1995), *Discipline and Punish: The Birth of the Prison*, Vintage Books, New York.

101 Weber E. (1976), *Peasants into Frenchmen: The Modernization of Rural France, 1870-1914*, Stanford University Press, Stanford.

102 The researchers, then, have been striving to find specified and direct causes of this behavior disposed to break the rules, but they have shown that neither geography, colonialism nor other exogenous influences have really affected this behavior trend.

Indonesia) the famous American brand was strongly criticized.

Consumers – increasingly sensitive to corporate social responsibility and eager to a better respect for those moral and ethical standards, that were gradually establishing themselves in those years – gave life to a wave of protests, that became more and more constant. The protests were mainly related to the work conditions in the supply chain, even if it is to emphasize that Nike workers' conditions were not different from those of other brands. Indeed, Nike ended up in the eye of the storm essentially for its interplanetary fame and not because it had been *behaving* in a way that could be considered worse if compared with other corporations' choices: in this case, its reputation played as a disadvantage.

The US firm, initially, did not want to react to the accusations: owning a large sales volume, the corporation decided really not to worry about these complaints. But this choice increased problems and criticisms, so the firm decided that it could not sit there and just watch the events, realizing that the phenomenon was not going to stop, and it seemed rather destined to constant growth. Consumers were actually demanding a new way of doing business: companies should not only had to pursue profit, but they also had to care about moral, ethical and social issues in the contexts in which they were operating.

The first attempts to demonstrate how the conditions at the workplace were more than good, surprisingly, did not lead to the desired result.

Nike hired real teams (and entire companies) to control the conditions of workers in the chains supply. But the problem was the lack of experience of these teams; so, when the reports – documenting the compliance with working conditions standards – were released, they were judged as superficial, increasing the criticism (e.g. the report by Andrew Young, former ambassador of United Nations).

The various failures in its attempts to appear ethical and sustainable led Nike to create, in 1996, a specific department, aimed to check the conformity of the supply chain management also in Nike's partner firms. Not only: the US brand decided to establish, in 1998, a Corporate Responsibility Department, and to make CSR the beating heart of its business. Therefore, Nike was engaged in a tight control of its nearly 9000 suppliers, but it was again strongly criticized when the reports do not mirrored expectations. Clearly, this situation was very frustrating for the managers; so, an additional team, headed by Maria Eitel, the CR department Vice-President, was set up, having the task to give an ultimate answer. The drafted report unmasked the cause of all these problems: and it was the same firm's attitude in doing business.

The problem was in the balance between ethical development and economic development: in fact, although the company had tried in every way to meet expectations, starting from an ethical and moral point of view – in this specific case, the expectations about working conditions – Nike

could not stop colliding with the fact that the profit was still seen as the ultimate goal.

As example, the fact that Nike – like many other business brand – did offer incentives for better performance (based on criteria such time, quality, price, etc.) has scuppered several efforts to be ethical and sustainable. In fact, it encouraged suppliers to disregard the ethical code of conduct, in order to reach those bonus, promised by the company. Furthermore, for each endogenous problem Nike was losing reputation and its image appeared degraded to the customers eye.

Changing the incentives system could be a possible challenge in theory, but very difficult in practice: that foolish attempt to change the way of doing business turned out being almost an insult for all its suppliers; especially because that same pattern had guaranteed for 30 years the success of the brand (but clearly, the success was not only due to that incentive model).

Nike itself proved to be reluctant to change its business model; reducing the suppliers, changing the agreements – and so on – were seen as a huge risk from an economic view, potentially more harmful than the protests.

The challenge for the company was therefore to adapt its strategy to the new need, balancing the disadvantages of the present with the possible future earnings.

So, in those years, many campaigns were launched and funded by brands such as Nike, and from Nike itself: for example in the US, during the Clinton administration – and with the support of the same – the *Fair Labor Association* (FLA) – a non-profit association for the protection of workers' rights – was launched.

The Council of Economic Priorities Accreditation Agency (CEPAA) created in 1997 the standard SA 8000 (Social Accountability 8000:2008) to control and standardize some aspects – in particular, those related to corporate social responsibility – of business management.

Clearly, every initiative that was launched had different but similar objectives, partners and other donors, including NGOs, public institutions etc; all of these initiatives, however, responded to the need to standardize the business with those standards that were now required by consumers – as now required by UN conventions.

Nike took part in several of these initiatives (such as the FLA, above cited); in 2000, the CEO of the brand, Phil Knight, was one of 50 (approximately) participants to the launch of initiative promoted by Kofi Annan (Ghanaian diplomat and the seventh UN Secretary-General): the Global Compact. This initiative was designed to encourage the adoption of a type of sustainable and responsible business.

In this case, Nike, thanks to the presence of its CEO, distinguished itself positively because Phil Knight was the only CEO of an US company;

furthermore he publicly declared, after the launch of this initiative, that Nike would have given his “support of mandatory global standards for social auditing...” also adding that “...every company should have to report on their performance”¹⁰³ about those standards.

Clearly, after this event, many other companies – made in USA – decided to follow the Nike example.

Thus, Nike undertaken a policy aimed not only to counter the received criticism, but also to promote a fair way of doing business: “Nike is one of a few companies that believe, regardless of how this situation arose, they must be part of the solution if they don’t want to be seen as part of the problem”¹⁰⁴. The experience of Nike case shows that responding to criticism trying to save the reputation of the brand, and furthermore with immediate solutions – to remove the problem as quickly as possible – may not be the right choice and can not bring effective results.

Nike, although there were relentlessly criticisms – even after the first reactions of the brand – did not give up; and, indeed, changing its ways of thinking and doing business, it has gone from being the subject of criticism to being part of a sort of movement and evolution of work standards inside the firms. In this case, it is clear how the development of ethics has totally affected the rules of the game, which were adopted by the US firm until then.

103Zadek S. (2004), The Path to Corporate Responsibility, *Harvard Business Review*, 132.

104Ibid.

7) Ethics influences on business strategies: the McDonald's case.

McDonald's – just like Nike – is a multinational corporation with interplanetary fame.

Spread throughout the world, with about 420000 employees divided in approximately 36000 restaurants, and an annual turnover of around 25 billion, McDonald's is certainly the giant of the fast food par excellence. But although its success is indisputable, the criticisms were not lacking: between the '80s and the '90s the the fast food chain began to be targeted by various activist groups.

Indeed, McDonald's ended in the eye of the storm: it was criticized by nutritionists, who accused the restaurant chain to promote a kind of very unhealthy and hyper-caloric food, considered also a joint cause of the increasing obesity, especially among the young; by the participants of anti-globalization movement, who attacked and occupied some buildings, owned by McDonald's; by environmentalists and by animal rights activists, who accused the firm of cruelty to animals; and so on.

In addition to the direct actions, such as those that were carried out by Jose Bové and his “radical farmers” (it was a real campaign in defense of the French local food, and against the import of American products), McDonald's was targeted on the web, specifically from McSpotlight – a site that dealt to spread criticism, especially related to the fields of nutrition and health.

These areas were certainly the most criticized: being the fast food giant, McDonald's became the scapegoat for the fight against obesity: the menu – proposed by the restaurant chain – definitely not balanced and hyper-caloric, and the incentive to excess due by the sponsorship of Supersize Menu were among the highest causes of McDonald's troubles.

It was even shot a film-documentary, entitled mockingly “Supersize Me”¹⁰⁵ – kidding precisely the big menu portions.

The firm's first reaction was around 2000s, when – to counter criticism from nutritionists – McDonald's introduced in its menu some healthy products, such as salads, baby carrots instead of chips inside the *Happy Meal* and fruits; and it stopped producing the supersize menu. McDonald's also sponsored several sporting activities aimed at young audiences, to suggest how the secret behind a good health is a balanced diet and a bit of sport.

The fast food chain, then, tried to link its name to international famous sports events, so it became the sponsor of the football tournament UEFA EURO 2008 (and nowadays again: McDonald's is the sponsor of UEFA EURO 2016).

However, these initiatives, taken by McDonald's, were viewed with skepticism by many: also because some analysis turned out that the amount

¹⁰⁵The documentary was starring and directed by Morgan Spurlock. In the documentary, Spurlock decided to eat for a whole month always and only McDonald's, to show how a diet based on that type of food is highly damaging. To confirm this, Spurlock was followed by a team of doctors, taking note of how his body was deteriorating gradually during this experiment.

of calories present in the dressing sauce for salads was greater than in the classic burger! Although these initiatives were not entirely well accepted, the McDonald's strategy proved to be successful: the customers majority has continued to order burgers, fries and sugar drink, despite criticism and awareness about the unhealthiness of these products.

Probably, for an average consumer, having a choice between the classic burger menu and the salads is already an ethically acceptable and sufficient goal; in facts, McDonald's is still the king of the fast food restaurants. To confirm that the company is out from the eye of the storm, the McSpotlight site was closed around 2005. Furthermore, McDonald's has recently been one of the official sponsors of the Expo 2015, held in Milan.

Although the criticism received for this participation, the presence of the American brand at an event like that, indicates the McDonald's will to appear ethically appropriate and acceptable.

FINAL REMARKS

This thesis wanted to use the knowledge proper of the analysis of institutions in order to frame the phenomenon of the ethics development. In the first two chapters, I defined the terminology needed to understand the work. Starting from the division suggested by Douglas North in 1991, I described how the institutions, the rules of the game, are divided into two types: formal and informal.

The first are real codified rules; the second ones are behaviors rooted in time and customs, related to the spheres of ethics and values. After, I explained the reciprocal influence of these two types of institutions: they can strengthen each other and/or lead one of them to the end. Furthermore, a social norm can crystallize in a codified law, or fall into disuse: the possibility of interaction are numerous.

The entire second chapter is based on these interactions, and a significant point is the assumption that not all social norms are “good”. Although they are created to make life easier and help us in solving cooperative problems, they may also be “bad” norms (such as the vendetta norm) or “neutral” norms (mostly intended to easily express sensations and feelings).

I later described how a human being, conscious of the importance of social norms, can try to influence them.

The reason behind this desire could appear simple, but it hides a sophisticated intent: social norms influence human behavior; knowing how to influence those rules means indirectly to be able to influence the other people.

The third chapter is totally focused on the development of the concept of ethics – and specifically of the concept of business ethics – since it is the main informal institution which is examined in this work.

Starting from opposite opinions to the existence of such concept within the sphere of competence of economy, there is a long series of opinions of famous scholars, from Carroll and Carr passing by Friedman, Freeman and Moore. The evolution of the moral and ethical conscience in people overturns the way to make business, leading to the creation of extraordinary theories such as Stakeholder Theory and Corporate Citizenship.

Having analyzed these various theories, the chapter ends with a parenthesis on sustainable development, one of the main objectives of the ethical business.

This thesis wishes to highlight how often the studies in this field do not consider that set of values called “ethics” as an informal institution, a rule of the game. Personally, I tried and wanted to emphasize that ethics belongs to a field of studies proper of institutions, hoping to be able to continue the research in future.

The practical examples of the fourth and last chapter wanted, firstly, to highlight how institutions, formal and informal – laws and culture – influence each other:

- in a predictable way, as in the case of corporations and clans. Different cultural traits affect the first formal institutions, thus creating a kind of cycle – the informal institutions influenced the creation of formal institutions, which change over time but always reconfirming those values and cultural traits that gave them a start;
- unexpectedly, as the surprising propensity to steal of the descendants of the Kuba Kingdom compared to the descendants of other villages. From an evolved kingdom like that, one would expect that the – so sophisticated – formal institutions could influence the people behaviors in a positive way, reconfirming that need and those will that had once led to the creation of those sophisticated formal institutions themselves.

The latter two cases are not so distant from these instances: Nike and McDonald's are actors and audience of that change that started in the 90s: the research and claim to an ethical business. Both the companies saw the rules of the game suddenly changing and imposing an unforeseen

correction of their strategies.

Once again there were *just* rules that were affecting other rules; but with such strong influences that, if in a first moment they were *only* informal institutions, it did not take long since they imposed themselves and spread among the people, becoming real formal institutions: the UN conventions are an example.

So, if at first the corporations may simply not agree with the demands of consumers (who realize that they can have a choice: between a business which is only aimed to profit, and an ethical one), over the years they saw promulgating real laws, bearers of these values: changing and adaptation became necessary.

But this influence can be seen again in the Nike case: not only the corporation adapted its business strategies, but it was so influenced to become a promoter of those values, which initially had not been taken into account and which had caused so many problems.

In my opinion, the study of institutions – an already deep and interesting study area – can embrace the study of ethics, thus increasing the difficulty of the challenge in *game*.

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