Fairness: Background Readings Related to a Daniels Fund Ethics Initiative Principle

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Fairness: Engage in fair competition and create equitable and just relationships

Fairness

The words fair and ethical are closely related. On the surface a business transaction may not meet the ideal of being fair, but it still might be, in some sense, ethical. The litmus test here questions whether there is there a tendency of a business to be fair? Take for example the constant competitive pressures on a supermarket. In order to market their products supermarkets almost universally lead their buyers to false expectations. What seems unfair is a traditional practice (see customary ethics and the learning curve). The pricing of a product might be confusingly labeled or concealed from view. There might be a special on pears but the supermarket might be trying to unload a bad batch of fruit. What the buyer expects and what they actually get do not actually match. These practices are not totally fair but they are customarily considered ethical because
shopping by nature is an acquired skill requiring considerable discernment and experience.

Non-business people do not appreciate the pressures many business people operate under. Business is sometimes a situation when one must swim with sharks and fend off predatory clients and vendors frequently. Thus, when a customer cites them for being unfair in a moralistic way it tends to leave the business person speechless, unable to communicate the realities of retail business, to the customer. There is a point where there is a disconnect between the buying public and businessmen and women.

Misrepresentation by accident or intension would be unfair; or claiming ignorance when the truth was otherwise. A car dealer would know from the feedback of its customers if the many cars it sold were actually on average good cars. They would know the degree of fairness a sale represented. An unfair sale might be as follows. You buy a used car and it is represented as being in good condition. Soon after you buy the car the engine stops working. The engine had never been worked on, a fact that would have been known if a mechanic had inspected the car prior to its sale. Those who sell used cars many times do not want to know the details of the mechanical condition of the cars they sell. They will authoritatively assert that the car is in good shape but they have no technical knowledge to back up their assertion that the car is in fact in good condition. But the fact of the matter is that being a successful used car dealer is all about knowing the minute details of what you are buying. If one did not know they would soon be out of business.

Concepts of fairness often influence business ethics

Source: Online Athens (Archie Carroll),

For many years, while teaching business ethics, I would invite an ethics officer from a leading company in Atlanta to speak to my classes. His role was to interpret business ethics as it applied in his company. He didn't use a sophisticated definition, but just offered a simple definition of business ethics—fairness.

His approach evoked a responsive chord with the students.

When college students have been presented with the choice of terms that most reflect their concern for business ethics today, they have typically chosen the concept of "fairness" over the concepts of "right and wrong." When I was growing up, this was not the case.

Being fair seems like a rather straightforward idea, but I quickly learned from my students that everyone has his or her own definition of fairness. For example, in arguing for a higher grade on an exam, many students appeal to the premise that they put in long hours or that they need the grade to keep their scholarships. Effort and need, in other words, drove their concept of fairness.

In short, they wanted me to be fair according to their understanding of the word and go along with their logic justifying their grade. Seldom did they mention the idea of merit or performance as the basis for fairness for their grades, but surely this is what college is all about. Nevertheless, this is human nature, so I didn't worry about this way of thinking too much, though I seldom was persuaded by it. Often, I didn't think the students really believed their own arguments, but were just disappointed they didn't do better and were "just asking" for further consideration.

However, each person's concept of fairness is significant because it is important not only to be fair but to appear to be fair. If your students don't think you are fair, or in a business setting, your employees or customers don't think you are being fair, then fairness might not be fully achieved.

In the ideal world, fairness refers to being consistent with rules, logic or ethics. It refers to being free from favoritism, self-interest or preference in judgment. Most of us know what fairness means in an objective sense, though we frequently argue some other basis when we want others to treat us fairly. Often, people want
to be treated specially to be considered that they were treated fairly.

Being fair in business can be analyzed both from the standpoint of process and outcomes. Of course, we always would want our decisions to be viewed as fair in their outcome. However, that is not always possible, especially when individual concepts of fairness come into play. The alternative is to make sure that the process of decision making is fair.

What constitutes a fair decision-making process? Fair decision making usually entails a process of understanding the situation or decision accurately, analyzing the situation, identifying the possible courses of action that might be taken, evaluating the pros and cons of these possible courses of action, deciding on the fair-minded, justified alternative, and then implementing the chosen decision. If the decision maker follows a process such as this, ethical due process is likely and most parties to the decision are likely to think the decision-making process was fair.

Being treated fairly not only fulfills a stakeholder’s expectations, but most importantly, ensures they have been dealt with according to a fair and balanced system of decision making.

**Fairness**
Source: *Josephson Institute* (Michael Josephson),
http://josephsoninstitute.org/business/blog/2010/12/fairness/

How old were you when you first experienced the sting of injustice? Perhaps you were blamed for something you didn’t do or excluded from a club or team because someone didn’t like you? Perhaps you were given a lower grade than you deserved because the teacher had it in for you. Or did you ever experience frustration and moral indignation at not being allowed to explain your side of the story? Beyond these mundane inequities, many of us have experienced the genuine pain and outrage of racial, religious, or gender prejudice. We learned early on that life isn’t always fair or rational. And we know now that this doesn’t change as we become adults. It seems as if we just exchanged arbitrary treatment from parents, teachers, and coaches for that doled out by spouses, lovers, bosses, and co-workers.

The workplace is where we tend to feel injustices most acutely, if only because that is where we spend most of our waking hours. When money, competition, and pride are at stake, both petty and serious unfairnesses are common—taking credit for another’s work, shifting blame, inequitable allocation of work load, promotions of the less competent for political reasons. And then there are all those double standards. Some do less work, and what they do isn’t good. They come in late, miss deadlines, and make mistakes. Yet they get the same raise as you. The company has strict rules, but when bosses do something you would get fired for, they receive only a slap on the wrist, if that.

As it happens, what is or is not fair is much more complicated and ambiguous than it seems from the vantage point of the person who feels shortchanged. Even though the underlying concepts of fairness and justice are simple, almost intuitive, applying them in real life proves very difficult. Distinguishing real injustice from self-serving justifications has become harder in recent years. It seems that whenever someone is denied something they want—a job, a promotion, a contract—they file a protest. As Ralph Waldo Emerson said, “one man’s justice is another’s injustice.”

Fairness is concerned with actions, processes, and consequences that are morally right honorable, and equitable. In essence, the virtue of fairness establishes moral standards for decisions that affect others. Fair decisions are made in an appropriate manner based on appropriate criteria.

We tend to think and speak in terms of fairness when we are dealing with the behavior of individuals and everyday interpersonal relationships. We talk about justice and equity in the context of broader social issues and institutional obligations to individuals. Yet all three words apply to virtually any situation where we want to judge whether an action contributes to a good, rational, caring society.
Our devotion to justice is deeply ingrained. Aristotle said that "all virtue is summed up in dealing justly," and the concept is so central to civilized governance that in 1215 the Magna Carta provided that "to none will we . . . deny or delay right or justice." This reverence for justice is evident in all of America’s founding documents, we even pledge allegiance to a republic that stands for “liberty and justice for all.” Even Superman’s motto, “truth, justice and the American way,” reveals the unbreakable linkage between the pursuit of justice and our national identity. Not surprisingly, we take very seriously our obligation to do justice and rectify injustice as best we can.

Fairness and fair play are less lofty terms than justice or equity yet, on the level on which most of us operate, the desire to be treated fairly and the duty to be fair and play fair are far more relevant.

The moral obligations arising from the core ethical value of fairness are almost always associated with the exercise of power to render judgments that bestow benefits or impose burdens. Almost everyone has the power to give or withhold benefits (including approval, praise, honor, and support) and to impose burdens (including disapproval, criticism, blame, and condemnation). Parents, teachers, employers, college administrators, building inspectors, and innumerable others make daily judgments that significantly affect our lives.

The moral duty to be fair places constraints on our judgments and actions. There are two aspects of fairness: fair results (substantive fairness) and fair procedures (procedural fairness).

**Substantive Fairness**

In general, a fair result is one in which people receive what they are due and what they deserve, their just deserts. Unfortunately, there are no agreed to criteria to determine what a person “deserves.” Different contexts and political ideologies yield different and often incompatible criteria for substantive fairness. Some argue that true fairness is equality (each person receives an equal share of benefits and burdens). Others believe the better criterion is merit (those who are most competent and who produce the most deserve the most). Still others believe that benefits should be allocated based on need and burdens on the ability to carry them. Other theories of “distributive justice” include resource allocation based on effort, social contribution, seniority, and legal rights.

The wide variety of approaches to fairness means that for every decision there will be people who claim it is unfair. And they're right — according to their personal criteria. Thus, in making difficult decisions that affect several stakeholders who have conflicting interests, it is impossible to come to a single, indisputably fair result. Nor is it possible to satisfy everyone. Generally, those who consider themselves winners in the decision will consider the result just, and those who see themselves as losers consider it unjust. This observation suggests three important rules about the fairness of decisions.

First, since disagreement and criticism are inevitable we must content ourselves with doing our very best to reach a fair judgment based on personal conscience and ethically justifiable standards of fairness. If you need to be liked or approved of by everyone, avoid accepting any responsibility that requires tough choices. Charges of unfairness come with the territory.

Second, we should be clear in our own minds about the criteria of fairness we are using and let others know, ahead of time if possible, what those standards are. For example, in making a hiring decision, we evaluate “qualifications” and make comparisons. It is helpful to everyone if we know and disclose what we think is relevant and irrelevant to the decision and, if we can, how we rank various factors. It is likely, for example, that all of the applicants will have one or more attributes that they think should be given great weight—seniority, experience, academic credentials, a proven track record, excellent references, evident potential, good interpersonal skills, blood kinship to the president of the company, etc.

In addition, a fair decision has to weigh deficiencies or blemishes. Applicants tend to believe that flaws in their competitors should be fatal while minimizing their own shortcomings—absenteeism, lack of pertinent experience, erratic personal relationships, a drinking problem, an opinionated personality, a bad reference, etc. In fact, all of these positive and negative factors are potentially relevant. With so
many potentially relevant factors, any decision will be arbitrary unless there is some orderly way to sort and rank the issues. And though any good-faith decision that balances the strengths and weaknesses of candidates according to stated criteria is fair, one must still expect charges of unfairness from those who weigh the factors differently. The third rule in making decisions is that the procedures used must be and appear to be fair. In many cases, a judgment is defended primarily in terms of the process used to reach it. In effect, one can argue that a fair process always yields an ethically justifiable result.

Procedural Fairness

Fairness requires that the process of decision making reveals a conscious concern with reaching a fair, just, and equitable result. Decisions should be made, and should appear to be made, carefully, honestly, and objectively, with the knowledge that even a process of the greatest integrity does not always produce certainty and that something less will have to do.

There are two major types of decisions that are subjected to the scrutiny in terms of fairness: comparative selections (whom to hire or fire, which applicant to admit to medical school, who should be cut from the team) and factual determinations, often of an accusatory nature (did a person lie, cheat, or steal). Though personal and business matters should not be encumbered with the formal due process requirements of a court case, there are five principles derived from the judicial system that help assure fairness: notice of the standards by which a person will be judged, impartiality of the decision maker; thoroughness in gathering facts; in cases concerning blame or punishment, the opportunity of the accused to be heard; and careful evaluation based on an appropriate standard of persuasion.

Suppose you have good reason suspect, but are not sure, that your child lied to you; that your mate cheated on you, that your baby-sitter molested your child, or that your employee came to work intoxicated. How do you deal with these matters fairly, short of having a full-blown trial?

1. Fair Notice. First, you should determine whether the person accused had fair notice that the conduct was wrong. In the case of lying, cheating, and stealing, this is not a problem, but more technical violations, such as accepting improper gifts or using company assets, require more inquiry. If you determine that the person knew or should have known about the proper standards of conduct, further action on your part is fair. If, however, you decide that the person did not know and reasonably could not be expected to know of a rule, fairness may dictate nothing stronger than a warning.

2. Impartiality. Second, you should be sure you are a fair and impartial judge. This means you are willing to suspend judgment until all the information is in. It also means you have to set aside any conclusions you may have made and clear your mind of prejudice (prejudging) or predispositions about the person or issues involved.

3. Gather Facts. Third, you must make reasonable efforts to gather facts. Thoroughness without being compulsive is important. What do you actually know? Are there ambiguities that can be clarified? If you are making comparisons do you have sufficient information on each candidate concerning the factors you think are most important? If you are adjudicating facts, is there any way of confirming your suspicions or the accused’s claim of innocence without unduly embarrassing that person (a significant injustice could result simply from disclosing your suspicions to others)?

4. Fair Hearing. Fourth, in an accusatory setting you should allow the person accused an opportunity to tell his or her side of the story. This means confronting the accused with your suspicions and the facts or inferences you have to back them up. The “right of confrontation” is not only an essential Constitutional safeguard in criminal cases, it is a fundamental prerequisite of fairness in personal and business relationships. What is worse than discovering that you have been judged a liar, a cheat or a thief without a chance to stand up for yourself? The confrontation phase can be informal but it should allow the person to explain, clarify, and ask questions, and you must listen with a truly open mind.

5. Evaluation. Finally, you must carefully weigh and evaluate all the information you have, separating facts from opinions and opinions from speculation. Don’t be afraid to draw reasonable inferences but know when you have done so
and the premises on which you base your conclusion. Before you reach a judgment you have to take up the issue of burden of proof. Does the accused person have to persuade you that he did not do it or do you have to be persuaded that he did? In most cases, if you are assigning blame or imposing a punishment, the “innocent until proven guilty” maxim of criminal law is the proper standard. That doesn’t mean, however, that you need to be convinced “beyond a reasonable doubt.” In most matters it is quite enough that after considering the facts, you are persuaded that the person did or did not do whatever it is he is suspected of doing or in comparative judgments that the balance of the evidence supports your decision.

Generally, the higher the stakes in terms of consequences to the accused, the higher level of certainty you should have. For example, your confidence in the person who takes care of your baby is so important that even small, lingering doubts may be enough to persuade you that you don’t want this person around your baby any longer. On the other hand, your level of confidence in the baby-sitter’s guilt should be considerably higher if you are going to report the matter to the police or make a damaging public accusation (something you may have a moral duty to do for the sake of other children and other parents). Similarly, if an inquiry into an employee’s drinking is likely to result in counseling, you don’t need to be as convinced as you should be if the employee will be fired.

Principles of Fairness

Fairness requires that we:

- Treat all people equitably based on their merits and abilities and handle all essentially similar situations similarly and with consistency.
- Make all decisions on appropriate criteria, without undue favoritism or improper prejudice.
- Never blame or punish people for what they did not do, and appropriately sanction those who violate moral obligations or laws.
- Promptly and voluntarily correct personal and institutional mistakes and improprieties.
- Not take unfair advantage of people’s mistakes or ignorance.
- Fully consider the rights, interests, and perspectives of all stakeholders, approach judgments with open-minded impartiality (setting aside prejudices and predispositions), conscientiously gather and verify facts, provide critical stakeholders with an opportunity to explain or clarify, and carefully evaluate the information.

Distributive Justice


**Distributive justice** concerns the nature of a socially just allocation of goods in a society. A society in which incidental inequalities in outcome do not arise would be considered a society guided by the principles of distributive justice. The concept includes the available quantities of goods, the process by which goods are to be distributed, and the resulting allocation of the goods to the members of the society.

Often contrasted with just process, which is concerned with the administration of law, distributive justice concentrates on outcomes. This subject has been given considerable attention in philosophy and the social sciences.

In Social Psychology, Distributive Justice is defined as perceived fairness of how rewards and costs are shared by (distributed across) group members.[1] For example, when workers of the same job are paid different salaries, group members may feel that distributive justice has not occurred.

To determine whether distributive justice has taken place, individuals often turn to the distributive norms of their group.[2] A norm is the standard of behaviour that is required, desired,
or designated as normal within a particular group. If rewards and costs are allocated according to the designated distributive norms of the group, distributive justice has occurred.

Types of Distributive Norms

(1) Equity: Member's outcomes should be based upon their inputs. Therefore, an individual who has invested a large amount of input (e.g., time, money, energy) should receive more from the group than someone who has contributed very little. Members of large groups prefer to base allocations of rewards and costs on equity.

(2) Equality: Regardless of their inputs, all group members should be given an equal share of the rewards/costs. Equality supports that someone who contributes 20% of the group's resources should receive as much as someone who contributes 60%. Women prefer equality more often than men do over equity, even when they are the outperforming party. This does not mean that all women have this preference.

(3) Power: Those with more authority, status, or control over the group should receive more than those in lower level positions.

(4) Need: Those in greatest needs should be provided with resources needed to meet those needs. These individuals should be given more resources than those who already possess them, regardless of their input.

(5) Responsibility: Group members who have the most should share their resources with those who have less.

Distributive justice in organizations

In the context of organizational justice, distributive justice is conceptualized as fairness associated with outcomes decisions and distribution of resources. The outcomes or resources distributed may be tangible (e.g., pay) as well as intangible (e.g., praise). Perceptions of distributive justice can be fostered when outcomes are perceived to be equally applied (Adams, 1965).

Outcomes

Distributive justice affects performance when efficiency and productivity are involved (Cohen-Charash & Spector, 2001). Improving perceptions of justice increases performance (Karriker & Williams, 2009). Organizational citizenship behaviors (OCBs) are employee actions in support of the organization that are outside the scope of their job description. Such behaviors depend on the degree to which an organization is perceived to be distributively just (Cohen-Charash & Spector, 2001; Karriker & Williams, 2009). As organizational actions and decisions are perceived as more just, employees are more likely to engage in OCBs. Perceptions of distributive justice are also strongly related also to the withdrawal of employees from the organization (Cohen-Charash & Spector, 2001).

References


Procedural justice is the idea of fairness in the processes that resolve disputes and allocates resources. One aspect of procedural justice is related to discussions of the administration of justice and legal proceedings. This sense of procedural justice is connected to due process (U.S.), fundamental justice (Canada), procedural fairness (Australia), and natural justice (other Common law jurisdictions), but the idea of procedural justice can also be applied to nonlegal contexts in which some process is employed to resolve conflict or divide benefits or burdens. Other aspects of procedural justice can also be found in social psychology and sociology issues and organizational psychology.

Procedural justice concerns the fairness and the transparency of the processes by which decisions are made, and may be contrasted with distributive justice (fairness in the distribution of rights or resources), and retributive justice (fairness in the punishment of wrongs). Hearing all parties before a decision is made is one step which would be considered appropriate to be taken in order that a process may then be characterised as procedurally fair. Some theories of procedural justice hold that fair procedure leads to equitable outcomes, even if the requirements of distributive or restorative justice are not met. It has been suggested that this is the outcome of the higher quality interpersonal interactions often found in the procedural justice process, which has shown to be stronger in affecting the perception of fairness during conflict resolution.

Procedural justice in relation to communication

In relation to communication, procedural justice deals with the perceptions of fairness regarding outcomes. It reflects the extent in which an individual perceives that outcome allocation decisions have been fairly made. The use of fair procedures helps communicate that employees are valued members of the group. Procedural Justice can be examined by focusing on the formal procedures used to make decisions. Procedural justice, a subcomponent of organizational justice, is important in communication and in the workplace because it involves fair procedures, it allows the employees to have a say in the decision process, it gives employees fair treatment, and allows them to have more input in the appraisal process. Additionally, research by Tom R. Tyler and colleagues found that giving disgruntled group members a voice regardless of whether it is instrumental (i.e. a voice that affects the decision-making process) or non-instrumental (i.e. a voice that will not have any weighting on the decision-making process) is sometimes enough for a process to be viewed as fair. The ability and right to a voice is linked with feelings of respect and value, which emphasizes the importance of the interpersonal factors of procedural justice. This is important in the workplace because employees will feel more satisfied and respected, which can help to increase job task and contextual performance. There is an emphasis on the interpersonal and social aspects of the procedure, which result in employees feeling more satisfied when their voices are able to be heard. This was argued by Greenberg and Folger. Procedural justice also is a major factor that contributes to the expression of employee dissent. It correlates positively with managers' upward dissent. With procedural justice there is a greater deal of fairness in the workplace. There are six rules that apply to procedural justice, "Leventhal's rules", are consistence, bias suppression, accuracy, correctability, representativeness, and ethicality. With procedural justice in the workplace and in communication, things need to be fair to everyone, when something is applied it has to
be applied to everyone and procedures need to be consistent with the moral and ethical values.

**Perfect, imperfect, and pure procedural justice**

In *A Theory of Justice*, the philosopher John Rawls distinguished three ideas of procedural justice:[5]

1. *Perfect procedural justice* has two characteristics: (1) an independent criterion for what constitutes a fair or just outcome of the procedure, and (2) a procedure that guarantees that the fair outcome will be achieved.

2. *Imperfect procedural justice* shares the first characteristic of perfect procedural justice—there is an independent criterion for a fair outcome—but no method that guarantees that the fair outcome will be achieved.

3. *Pure procedural justice* describes situations in which there is no criterion for what constitutes a just outcome other than the procedure itself.

**Models of procedural fairness**

The theory of procedural fairness is controversial, with a variety of views about what makes a procedure fair. Traditionally these views tend to fall into three main families, which can be called the outcomes model, the balancing model, and the participation model.

**The outcomes model**

The idea of the outcomes model of procedural justice is that the fairness of process depends on the procedure producing correct outcomes. For example, if the procedure is a criminal trial, then the correct outcome would be conviction of the guilty and exonerating the innocent. If the procedure were a legislative process, then the procedure would be fair to the extent that it produced good legislation and unfair to the extent that it produced bad legislation.

This has many limitations. Principally, if two procedures produced equivalent outcomes, then they are equally just according to this model. However, as the next two sections explain, there are other features about a procedure that make it just or unjust. For example, many would argue that a benevolent dictatorship is not (as) just as a democratic state (even if they have similar outcomes).

**The balancing model**

Some procedures are costly. The idea of the balancing model is that a fair procedure is one which reflects a fair balance between the costs of the procedure and the benefits that it produces. Thus, the balancing approach to procedural fairness might in some circumstances be prepared to tolerate or accept false positive verdicts in order to avoid unwanted costs (political) associated with the administration of criminal process.

**The participation model**

The idea of the participation model is that a fair procedure is one that affords those who are affected by an opportunity to participate in the making of the decision. In the context of a trial, for example, the participation model would require that the defendant be afforded an opportunity to be present at the trial, to put on evidence, cross examination witnesses, and so forth.

**The group engagement model**

Models have also been proposed to understand the psychological basis of justice. One of the more recent of these models is the group engagement model.[6]

The group engagement model (GEM), devised by Tom R. Tyler and Steven L. Blader, incorporates past psychological theories to explain the underlying psychological processes of procedural justice. Based on social identity theory and relational models of procedural justice, this model suggests that a group’s procedural justice process influences members’ identification with the group, which in turn influences their type of engagement within the group.

According to the model, group engagement is seen as either mandatory or discretionary behavior. Mandatory behavior is defined by Tyler and Blader as behavior that is required by the group and thus is motivated by incentives and sanctions. Conversely, discretionary behavior is motivated by internal values and is
seen as more cooperative and therefore ideal within a group.

Depending on the procedural justice processes of the group, the social identity of the members will be influenced accordingly and different values will be emphasised. The more a member agrees with the type of procedural justice employed, the more they will identify with their group. This increased identification results in the internalization of the group's values and attitudes for the group member. This creates a circular relationship as the group's procedural justice processes will affect group members' levels of identification and, as a consequence, this level and type of identification will affect their own values of what is fair and unfair. This, in turn, will then affect how the individuals will engage with their group, with higher identification leading to discretionary and more desirable behavior.

References