



Addressing unethical practices in business organisations: Need of the hour

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Abstract

Addressing unethical practices in business organisations is need of the hour. The principles of ethical reasoning are useful tools for sorting out the good and bad components within complex human interactions. Accordingly, relevance and need of business ethics is unquestionable in the present times. Business ethics is the study of right or wrong in business. The main reasons for this are the power and the influence of business in any given society is stronger than ever before. Businesses have become a major provider to the society value, in terms of jobs, products and services. Business collapse has a greater impact on society than ever before and the demands placed by the firm's stakeholders are more complex and challenging. This has been experienced at the time of the collapse of Sathyam Computers, the Sahara issue, the Kingfisher case, etc. Only a handful of business giants have had any formal education on business ethics but there seems to be more compromises these days. Business ethics help us to identify the benefits and the problems associated with the ethical issues within the firm and business ethics is important as it gives us a new light into the present and the traditional view of ethics. In understanding the right and wrongs in business ethics, injected morality that is concerned with the norms, values and beliefs fixed in the social process which helps right and wrong for an individual or social community. Against this background, the present paper tries to focus upon the contemporary scenario of business organisations where ethics has got much more importance than ever due to failure risk.

Keywords: Bribery, business ethics, harshad mehta scam, insider trading, unethical practices

Introduction

If we trace the history of ethics in business, we would realise that ethics has emerged as a part of theological discussions prior to 1960. Catholic teachings through Papal Encyclicals emphasised the need for morality in business, such as the workers' rights and the living wages as in *Rerum Novarum* of Pope Leo XIII. Some of the Protestant seminaries developed ethics as a part of their curriculum. During the 1960s, we see the rise of social issues in business. During this period many business practices came under social scrutiny. President John F. Kennedy's Consumer Bill of Rights reflected a new era of consumerism. Only during the 1970s we see business ethics as an emerging field. During this period professors, teaching business, began to write about business ethics and philosophers began to involve themselves in the business ethics. Businessmen became more concerned with their public image and addressed ethics more directly. When we think from this background, we will be able to attach more importance to ethics in business today.

Ethics is closely related to trust. Most of the people would agree on the fact that to develop trust, behaviour must be ethical. Ethical behaviour is a necessity to gain trust. Trust will be used as an indicator variable of ethics. Basically, trust is three-dimensional, that is, the trust in supplier relationships, the trust in employee relationships and the trust in customer relationships. In such a situation, the entire stakeholders of the company are taken care of. If the company is able to maintain this trust-relationship with the internal as well as the external stakeholders, then we can call that company as an ethical company.

Trust leads to predictability and efficiency of business. Ethics is all about developing trust and maintaining it fruitfully so that the firm flourishes profitably and maintains

good reputation. Lack of ethics would lead to unethical practices in organisations as well as in personal life. One wonders, sometimes why even educated, well-positioned managers or employees of some reputed companies act unethically. This is because of a lack of ethics in their lives. We can point out to a number of examples of companies whose top managements are involved in unethical practices, to name a few, Enron, WorldCom. Earlier it was said that "business of business is business now there is a sudden change in the slogan. In the contemporary scenario where ethics has got a due importance, the slogan has taken the form "business of business is ethical business".

There are a number of companies which have succeeded in profit-making and public esteem by following ethical practices in their realm of business. Some of such companies are: Boeing, Johnson and Johnson, Larson & Tubro, Wipro, Infosys, Tata Steel, and Ford. They have gained the trust of the public through ethical practices. In India, the House of Tatas, for instance, adheres to, and communicates key ethical standards in several ways. The Tata Code of Conduct affirms: "The Tata name represents more than a century of ethical conduct of business in a wide array of markets and commercial activities in India and abroad. As the owner of the Tata Mark, the Tata Sons Ltd., wishes to strengthen the Tata brand by formulating the Tata Code of Conduct, enunciating the values which have governed and shall govern the conduct and the activities of companies associating with or using the Tata name and of their employees." Applying ethics in business makes good sense because it induces others to follow ethics in their behaviour. Ethics are important not only in business but, in all the walks and aspects of life. The business of the society which lacks ethics is likely to fall sooner or later.

Indian Scenario

When questioned about unethical practices, many companies claim that the conditions in India are not conducive to allow them the luxury of being completely ethical. Thousands of underhand deals are struck every day and go unreported. There is hardly a company which has not at some time or the other been either involved or suspected of some foul play. Even companies that started off with intentions to do business in an ethical manner have had to compromise their principles due to the highly politicised and bureaucratic business environment in the country. Growing corruption, increasing disparity between people and rapidly reducing profit margins add to the woes of organisations that want to be ethical.

Indian companies face two types of corrupt practices: (i) political corruption in which money is paid for favours done, and (ii) administrative corruption. In the early days of Independence, companies had to grease the palms of bureaucrats to make them do things they were not supposed to do, but now corruption has graduated to such an extent that companies have to bribe bureaucrats to make them. Do things they are supposed to do. Examples of this sort of corruption include "gifts" to the Factory Inspector, Boiler Inspector, Pollution Control Board Inspectors, and assessors for customs, excise, income tax, sales tax and Octroi. It is the administrative corruption, which most companies find unavoidable most of the time.

A study on the ethical attitudes of Indian managers conducted by Arun Monappa (1977) reported that business executives listed three major obstacles to ethical behaviour, namely: (i) company policies, (ii) unethical industry climate and (iii) corruption in government. Company policies tend to be unethical due to socio-cultural environment, and get reinforced because of the sense of frustration and helplessness that comes from the prevalent and all pervading unethical environment.

With regard to the socio-cultural reasons underlying the tendency of Indian corporates to be unethical are, the low priority accorded to business ethics in newly formed democracies as it seems there are more urgent demands that have to be dealt with first (Rossouw, 1998): The imperatives of the day-to-day survival for businessmen and the law-makers to be unduly concerned about the ethical and moral implications of their actions. This situation has been sharpened by the opening up of the economy wherein Indian corporates find it increasingly difficult to compete in a dog-eats-dog kind of global markets. Another factor that has contributed to the lack of ethical ethos and behaviour is the country's aspiration to build a strong and economically powerful nation in a short time.

The other factors affecting ethical dilemmas of corporates are

1. socio-cultural factors such as the sense of hospitality (not inviting a business associate could be construed as impolite, and once invited, showering him with gifts is an accepted custom) and reciprocity (You gave me a license with which I make money, and there is nothing wrong in sharing a part of it with you);
2. the psychological fear of losing jobs;
3. the lax government structures and regulations;
4. sanctions and discriminations in the society that can be offset with accumulation of wealth by fair or foul means;

5. the uncertainties and fears about the future;
6. the strong family traditions and the laws of inheritance in which parents want to leave substantial assets to their progeny;
7. an overall scarcity of resources and the difficulty of amassing wealth through normal and legitimate means;
8. an inequitable and scorching tax system (almost an unbelievable 97.75 per cent in terms of both direct and indirect taxes at the highest bracket in the 60s and the 70s of last century) which discourage the hardworking and honest tax-payers and lead them to bribe tax-collectors;
9. a belief that business and ethics are irreconcilable, and
10. a tendency to adopt an easy option, when confronted with difficult ethical choices "Well, if I can't beat them, I may as well join them", becomes a natural choice.

Lea (1999) gives another explanation to the deviant ethical behaviour found among the corporates in the developing societies. Transition from subsistence culture to the commercial enterprise of capitalistic culture can result in a moral chaos in which behaviour falls short of ethical expectations. In the traditional sub-cultures, rituals govern life, these rituals are insufficient behavioural guides in capitalism, which increases individual autonomy and responsibility and generates surpluses and wealth. Rapid economic growth leads to the development of a distorted understanding of capitalism and growth, in which money power, survival and profitability at any cost are considered as the primary goals of any business. The manifestation of this idea is very apparent in India and, especially in the case of some famous "rags to riches" stories.

The need to adapt to the unethical environment is so strong that ever large multinationals setting up facilities in India have been unable to avoid cutting corners. In their eagerness to capture the Indian market and beat the competition, many companies have grossly broken their stringent codes of conduct, which in the West would be unthinkable. This was apparent when a major portion of the top management of a leading FMCG multinational in India were removed on the grounds of violation of the ethical code of conduct. However, there was no visible effort on the part of the company to own up or reverse some of the unethical actions performed by its erstwhile employees.

Roots of Unethical Behaviour

People often wonder why the employees indulge in unethical practices as lying accepting bribery, coercion, conflicting interest, etc. There are certain factors that make the employees to think and act in unethical ways. Some of such influencing factors are "pressure to balance work and family, poor communications, poor leadership, long working hours, heavy work load, a lack of management support pressure to meet sales or profit goals, little or no recognition of achievements. Company politics, personal financial worries, and insufficient resources." The statistical data given by Ethical Officers Association in 1997 shows how certain practices or factors contribute to unethical behaviour.

Balancing work and family	52 per cent
Poor leadership	51 per cent
Poor internal communication	51 per cent
Lack of management support	48 per cent
Need to meet goals	46 per cent

From the above statistics it is very much evident that conflicting interests lead to most of the unethical practices. Competitive pressures, individual greed, and differing cultural contexts generate ethical issues for organisational managers. Further, in almost every organisation some people will have the inclination to behave unethically (the ethical egoist) necessitating systems to ensure that such behaviour is either stopped or detected (after the unethical behaviour occurs), and remedied. Ethics (also called moral philosophy) involves systematising, defending, and recommending concepts of right and wrong behaviour.

Unethical Practices in Business Organisations

As we discuss business ethics, it is necessary to address the unethical issues that are involved in business. Right from the Harshad Mehta scam till the insider trading of L & T versus Reliance, and even more recently Satyam Computers, we see unethical practices taking place even in reputed organisations. Researches and studies show that several ethical issues are faced by an organisation, they are: bribery, coercion, deception, theft, unfair discrimination, insider-trading. Conflicts of interest. Some of these are dealt in detail below:

Bribery

Bribery is a manipulative method where one buys the power or the influence of other person in order to satisfy his selfish need. Bribes create a conflict of interest between the person receiving bribe and his/her organisation. This conflict would result in unethical practices. When somebody is bribed for something his thinking and actions are oriented towards his personal goals. This direction towards personal goals always results in a mismatch between the interest of the organisation and of the individual. When there is a mismatch between the goals, naturally, he cannot be loyal to the organisation, and in turn, he will indulge in unethical practices. Bribery undermines market efficiency and predictability, thus ultimately denying people their right to the minimal standard of living "Bribery does more than destroy predictability; it undermines essential social and economic system".

For example, companies like the Boeing and the GE (General Electric) have well formed policies to deal with this issue. These policies of the company protect the employees from indulging in such practices. The statement of the GE is worth mentioning. "No matter how high the stakes are, no matter how great the 'stretch is', the GE will do business only by lawful and ethical means. When working with customers and suppliers in every aspect of our business, we will not compromise our commitment to integrity"

Likewise, the Boeing is categorical with regard to this issue "It is the policy of The Boeing Company to deal with its suppliers and customers in a fair and impartial manner, business should be won or lost on the merits of the Boeing products and services. A business courtesy may never be offered under circumstances that might create the appearance of impropriety or cause embarrassment to the Boeing or the recipient. An employee may never use personal funds or resources to do something that cannot be done with the Boeing, resources. Accounting for business courtesies must be in accordance with the approved company procedures and practices". Nearer home, the Indian engineering giant, L & T makes its business policy

clear thus: "All marketing personnel will adhere to the highest standards of personal and corporate integrity, and thereby maintain and promote our reputation as an outstanding company with which to do business."

Coercion

"Coercion is forcing a person to act in a manner that is against the person's personal beliefs". It is an external force or a man-made constraint created in circumstances asking the other to act against his free will. Authority of the person who demands certain activity plays an important role that is, blackmailing or arm-twisting an individual in an organisation. This may be in the form of threat of blocking a promotion or the loss of a job. This sort of unethical practices in the organisation will lead to further unethical behaviour of an individual. For example, the Tylenol tampering case of Johnson and Johnson was done with an intention of damaging the image of the company and forcing it to incur heavy financial expenses in correcting the problem.

Deception

Deception is another unethical practice commonly seen in the corporate governance. Financial reports and annual accounts are the main media through which a company connect with its stakeholders. Mostly new investors and shareholders depend on this document for their investment decisions. Even though strict regulatory framework are there for the preparation of financial statements and annual reports, many companies which are not very much ethical use a number of deceptive practices in reporting. They also use accounting and a regulatory loophole to create a different impression about the company among the users from what it actually exists. People who are to oppose such unethical practices, sometimes show cold shoulders to such events. For example, when the Enron Corporation and the World Com magnified their profit by converting revenue expenditure to capital expenditure and capital receipt to revenue receipt the director board and audit committee shut their eyes. Similarly, the wrong market to market accounting, creation of special purpose entity to pump money intended to deceive the shareholders and market who are the main users of financial statements was unnoticed by the auditors. The same was the case when the Sathyam Computers management magnified its staff strength by 10000 employees and diverted 20 crore rupees per month for several years was not noticed by the auditor or even the independent directors.

What constitute deception? This is an important question while addressing this issue. There is no uniformity among management professionals regarding such questionable practices. However, all are agreed on one aspect that while considering the question of such unethical practices the focus must be to safeguard the interest of the company and its stakeholders who invest money in it at the micro level and the society at large at the macro level. Some of the deceptive practices followed by unethical companies while preparing the financial statements, prospectus for new issues and other documents aimed to communicate to outsiders are as follows:

- False and misleading presentations
- Deliberate omission of needed information
- Implying a benefit that do not exist
- Use of complex business models

- Trade-puffing and exaggerations
- Use of unnecessary technical jargons
- Creating ambiguity in the minds of the stakeholders, and
- Creating fear in the minds of the users

Insider Trading

This is one form of misuse of the official position by an individual in the organisation. Here, the employee leaks out certain confidential data to outsiders or to other insiders, which in turn ruins the reputation of the company. Insider-trading may lead to the bad performance of the company.

This is how it is done: If the employees trade the confidential matters, the competitor may intervene and make use of the opportunity. Inside-traders often defend their actions by claiming that they don't injure anyone. It may be true with non-public information but certain moral concerns arise because of this act. For example, the report of L & T versus Reliance (The Hindu, 23 November 2003) issue which was reported in the media shows that such practices are taking place in reputed companies and at the top management level.

Tax Evasion

There are major unethical practices towards tax evasion. Many large corporations hire the services of professional tax consultants to take advantage of loopholes in the law and evade taxes to the extent possible. The reason, they attribute for such behaviour, is the prevalent rate of corporate taxation, which is very high. In fact, this has generated a parallel economy in spite of government's continuous endeavours to channelise this money towards legitimate purposes.

The well-known tax consultant, Dinesh Vyas, says that J. R. D. Tata never entered into a debate over tax avoidance, which was permissible, and "tax evasion," which was illegal; his sole motto was "tax compliance." On one occasion, a senior executive of a Tata company tried to save on taxes. Before putting up the case, the Chairman of the company took him to JRD and Vyas explained to JRD: "But sir, it is not illegal." JRD asked, softly. "Not illegal, yes. But is it right?" Vyas says that during his decades of professional work, no one had ever asked him that question. Vyas later wrote in an article: JRD would have been the most ardent. Supporter of the view expressed by Lord Denning "The avoidance of tax may be lawful, but it is not yet a virtue."

Conflicts of Interest

Even the most loyal employees can find that their interests collide with that of the organisation. Sometimes, this clash of goals and desires can take the serious form of conflicts of interest. In an organisation, conflict of interest arises when employees at any level behave with the private interests that are substantial enough to interfere with their job or duties. This conflicting interests in the individual and the decisions taken may act against the desire of the employer. Conflicts of interests are morally worrisome, not only when an employee acts to the detriment of the organisation but also when the employee's private interests are significant enough, that they could easily tempt the employee to do so. Great men like J. R. D. Tata had been trying all their lives to reduce such conflicts of interest in the workplace. JRD's strong point was his intense interest in people and his desire

to make them happy towards the end of his life, he often said: "We don't smile enough" Once, he told a friend about his dealings with his colleagues: "With each man I have my own way. I am one who will make full allowance for a man's character and idiosyncrasies. You have to adapt yourself to their ways and deal accordingly to draw out the best in each man. At times it involves suppressing yourself. It is painful, but necessary. To be a leader, you have got to lead human beings with affection." It is a measure of his affection that even after some of them retired, he would write to them. He was always grateful and loyal. To him, ethics included gratitude, loyalty and affection. It came about because he thought not only of business, but also of people.

In dealing with his workers, he was particularly influenced by Jamshetji Tata, who at the height of capitalist exploitation in the 1980s and the 1990s gave his workers accident insurance and a pension fund, adequate ventilation at the workplace and other benefits. He wanted workers to have a say in their own welfare and safety, and he wanted their suggestions on the running of the company. A note, which he wrote on personnel policy, resulted in the founding of a personnel department. As a further consequence of that note, came about two pioneering strokes by the Tata Steel: a profit-sharing bonus and a joint consultative council. The Tata Steel has enjoyed peace between management and labour for 70 years.

Pollution

The unethical practice towards pollution affects society and population to a major extent. The high levels of pollution due to the indiscriminate and improper disposal of effluents by industries has rendered the world a highly unsafe place for progeny. In his last years, J. R. D. Tata was very conscious of the environment and industry's part in spoiling it. He wrote in his Foreword to *The Creation of Wealth* in 1992: "I believe that the social responsibilities of our industrial enterprises should now extend even beyond serving people to the environment." The J. R. D. Tata Centre for Ecotechnology at the M. S. Swaminathan Research Foundation was created in furtherance of his desire.

Way Ahead

At the macro level, the culture and value system of the society influences the ethical behaviour of the companies operating in each country. The wider society includes religion, culture, political system, governance system, regulatory environment, norms and sanctions, reward and punishment system, the level of transparency, legal environment, etc. For example, in a society where the politics is highly corrupted, it is very difficult for ethical companies which are against corruption to successfully operate. In such a case, some companies follow the policy of 'if the system is corrupt, we will go with it'. Similarly, bribery, nepotism, absence of transparency, etc., all influence the ethical behaviour of corporations. For example, since the introduction of the RTI Act, the transparency level has increased in all walks of life to a good extent and hence, the administrators at least have started showing some reluctance to decide issues unethically. The 2G spectrum and the Coalgate scams are best the examples for this. In this aspect the American companies are mostly affected as their societal ethical

framework is much tougher than many other countries like China, Russia, India, etc.

For example, The Foreign Corrupt Practices Act (FCPA), introduced after the Water Gate scandal in the USA is to make it illegal for companies and their supervisors to influence foreign officials with any personal payments or rewards. The FCPA applies to any person who has a certain degree of connection to the United States and engages in foreign corrupt practices. The Act also applies to any act by the US businesses, foreign corporations trading securities in the US, American nationals, citizens, and residents acting in furtherance of a foreign corrupt practice whether or not they are physically present in the US. Any individuals that are involved in those activities may face imprisonment. This Act was passed to make it unlawful for certain classes of persons and entities to make payments to foreign government officials to assist in obtaining or retaining business. Under this Act several US companies such as ABB Limited, the Airbrake Technology Corporation, the Walmart, the Dow Chemical Company, have been fined with huge penalty for bribery and corrupt practices. Similarly, in the so called "Panama Papers Case" many US companies are under the scanner of the Federal administration and facing punishment. Huge penalty has been levied against the Lockheed Martin Corporation for bribing other country defence people for getting orders for the supply of tighter aircrafts. Many people have criticized this by saying that it is a display of moral imperialism and related to extra territorial sovereignty of the US.

Similarly, Piracy is a big issue in the US. There are several laws dealing with piracy like the Net act, the Digital millennium Copy Right Act, the Computer fraud and Abuse Act, dealing with such issues. These are not big issues in China. Another aspect is the environment protection and pollution issues have got highest priority in some countries like the UK, the US, where strict laws are there for preventing environment degradation by companies. Environment orientation is a part of the basic culture of the US. Consumer protection is also another area which is given high priority by the developed countries. The US culture gives highest priority to transparency also.

In India the values and ethics are greatly influenced by the Hindu culture and value system as it is the major religion in the country. It is also influenced by the Bhagavad Gita (Krishna's advice to Arjuna in the battle fields), life and teachings of the Buddha and the Mahaveera, and that of Mahatma Gandhi, Jainism advises their community "to follow truthful and peaceful means of earning wealth". Panchasheela, namely Ahimsa, Satya, Asteya, Brahmacharya and Aparigraha are the five principles of Jainism. Buddhism focuses on eight principles such as Right view, Right thought, Right speech, Right action, Right livelihood, Right effort, Right mindfulness and Right concentration. Gandhism focuses on five management principles such as Customer is the most important visitor, Manager is a trusty, and Harmony is the basis for relationship between the employees and the employer, Leadership of the self and Means-ends relationship.

Another aspect is the regulatory environment prevailing in the country where the company is operating. In India during the last several years the regulatory environment was not conducive for maintaining good ethical behaviour. Most of the regulations were focused on preventing wrong doing rather than promoting ethical behaviour. The MRTP Act,

the FERA Act, etc. Are examples for this, but during the last two decades, sea changes have taken place in the regulatory environment. Instead of the reactive involvement, we have started proactive involvement Also we have shifted emphasis from the rule-based regulatory system to principle-based regulatory system. Shift has also taken place from forced compliance to voluntary compliance as is existing in some developed countries. All these macro environmental changes in the societal environment are contributory to a higher level of ethical behaviour from companies.

Summing-up

With the globalisation of business, monopolistic market condition or state patronage for any business organisation has become a thing of the past. A business organisation has to compete for a share in the global market on its own internal strength, in particular, on the strength of its human resource, and on the goodwill of its stakeholders. While its state-of-the-art technologies and high level managerial competencies could be of help in meeting the quality, cost, volume, speed and breakeven requirements of the highly competitive global market, it is the value-based management and ethics that the organisation has to use in its governance that would enable it to establish productive relationship with its internal customers and lasting business relationship with its external customers. It is for these reasons that in the present day's environment the value-based management and the practice of ethics have become imperatives in corporate governance, and also in the foreseeable future. "If values are the bedrock of any corporate culture, ethics are the foundation of authentic business relationships."

There are a number of reasons given hereunder as to why businesses should act ethically

- Protect its own interest (prudence).
- Protect the interests of the business community.
- Keep its commitment to society to act ethically.
- Meet stakeholder expectations.
- Prevent harm to the general public.
- Build trust with key stakeholder groups.
- Protect themselves from abuse from unethical employees and competitors.
- Protect their own reputations.
- Protect their own employees.
- Create an environment in which workers can act in ways consistent with their values

Moreover, if a corporation reneges on its agreement and expects others to keep theirs, it will be unfair. It will also be inconsistent on its part, if business agrees to a set of rules to govern behaviour and then to unilaterally violate those rules. Moreover, to agree to a condition, where business and businessmen tend to break the rules and also they can get away with it, is to undermine the environment necessary for running the business. Additionally, an organisation has to be ethical in its behaviour because it has to exist in the competitive world.

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