

1 An Overview of Business Ethics

The Bhopal Disaster

While most of the population slept during the night of December 3, 1984, a toxic cloud of over forty tons of methyl isocyanate (MIC) gas escaped from a Union Carbide (UCC) plant in Bhopal, India.¹ Heavier than air, the lethal gas blanketed slums surrounding the facility and spread over the city of 800,000 people. At least 3,000 died immediately although accurate numbers are hard to come by. It is estimated that up to 20,000 people may have died prematurely and 500,000 were injured. The mortality rate for those exposed to the gas was almost a third higher than those who were not exposed, and they are twice as likely to die of cancers and three times more susceptible to kidney disease. According to medical reports, current residents exhibit compromised immune systems, growth retardation, and miscarriage rates seven times the national average. Children have unusually high rates of muscular dystrophy, autism, and learning difficulties, among other conditions. Infant mortality is twice the national average.² “It would be better if there was another gas leak which would put us out of our misery,” said a resident. “Just let it end. This is not life, this is not death, we are in the terrible place in between.”³ The chemical plant, long defunct, has polluted

¹ A. Madavilli (2018). “The World’s Worst Industrial Disaster Is Still Unfolding.” *Atlantic*, July 10, <https://bit.ly/3JHAKnd>; R. Ramesh (2004). “Bhopal Still Suffering, 20 Years On.” *Guardian*, November 29, www.theguardian.com/world/2004/nov/29/india.randeepramesh; C. Sharma (2005). “Bhopal: 20 Years On.” *Lancet*, 365, p. 111.

² K. Fortun (2001). *Advocacy After Bhopal: Environmentalism, Disaster, New Global Orders*. Chicago, IL: University of Chicago Press.

³ H. Ellis-Petersen (2019). “Bhopal’s Tragedy Has Not Stopped.” *Guardian*, December 8, <https://bit.ly/3A3OqvY>.

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the local aquifers with carcinogens and exposed open puddles of toxic waste. Local municipal workers tend to the area without any protective gear. Meanwhile, both UCC and the Indian government deny any culpability or obligation to remediate the effects of the disaster.

A decade before the disaster, India had actively solicited investment by foreign companies and formed a joint venture with UCC to build a plant producing Sevin, a common pesticide. However, by the early 1980s the Bhopal facility was operating at one-quarter of its capacity due to poor harvests, a reduction in the capital available to farmers, and lack of demand. In 1982, a visiting UCC team declared the factory unsafe. By July 1984 the plant was for sale and UCC was planning to dismantle some components for shipment elsewhere. However, despite cutbacks and warnings the plant continued to operate.

After the event, UCC maintained that the spill was due to deliberate sabotage by a disgruntled employee. Whether or not that is correct, other independent investigations have pointed to poor maintenance and lax safety controls leading to water mixing with the volatile MIC after several fail-safe mechanisms failed to operate, and found that the health and safety standards were well below those of its sister plant in West Virginia.

In 1989, the government of India negotiated a deal with UCC on behalf of the victims, restricting lawsuits to Indian courts. The company paid \$470 million in compensation and accepted moral responsibility with an average settlement to the bereaved of about \$2,200.⁴ In return, all pending legal action against the company was dropped. Nevertheless, the regional courts charged CEO Warren Anderson personally with manslaughter, and, when he failed to appear, seized UCC's Indian assets, including the now defunct and polluted plant. The company insisted that all claims arising from the gas release were discharged by the settlement and denied any enduring responsibility, maintaining that the regional government had now taken control of the situation. The central Indian government considers cleanup efforts to be a local responsibility, but the state of Madhya Pradesh has not been active in doing so, saying only the federal government

⁴ E. Broughton (2005). "The Bhopal Disaster and Its Aftermath: A Review." *Environmental Health*, 4(6), <https://doi.org/10.1186/1476-069X-4-6>.

has the required resources. In 2006, local activists walked 500 miles to the capital Delhi to demand action, apparently without much response from the government. In 2010, the Indian government submitted a petition to Dow Chemical, the successor company to UCC, to improve the earlier inadequate compensation. Documents from the organization WikiLeaks indicate that when the Indian government sought to renegotiate the settlement they met resistance from American authorities who did not want to chill American investment in the country.⁵ As Dow's website comments, "Although Dow never owned or operated the plant and was not connected to the event . . . we learned from the tragedy and do all we can to ensure that similar accidents never happen again."⁶ The tragedy no longer appears on the municipal corporation's website.

In recent years, India's economy has grown steadily at about 7 percent a year, outpacing many more developed countries. This is in part spurred by World Trade Organization rulings since 2000 that encourage foreign investment. Some commentators link the rapid growth and industrialization with poor environmental practices, dumping of pollutants, and risks to public health.

The Philosophical Contribution

The Bhopal case typifies the complexity, mixed motives, and potential for benefit or harm characteristic of contemporary business activity. Merely reciting the facts or reviewing the legal decisions will fail to tell us what values have been determined to have priority and how we might approach difficult issues in the future. Because of this complexity, it is critical to start by stepping back and trying to work out a normative response, that is, what we *should* do. In this way, philosophical inquiry is vital to any considered discussion since it can help us understand the nature of business and arrive at moral judgments.

⁵ J. Raymond (2010). "Obama Told to 'Change Stance' and Stop Protecting Dow Chemical from Bhopal Liability." *Storm Clouds Rising*, December 3, https://wikileaks.org/gifiles/attach/33/33718_Blog%2001-06-11%20Freechild%20interview.pdf.

⁶ <https://corporate.dow.com/en-us/about/legal/issues/bhopal.html>.

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Philosophy – literally, the love of wisdom – is hard to pin down as an academic activity. It embraces fundamental and abstract questions about human nature and our relationships, the existence of God, the meaning of language, and how we establish and implement our values. However, at the most basic level, philosophy has two primary functions:

- the examination of concepts
- the study of arguments.

At first glance, these may not seem to be highly important activities, and yet they underlie all human behavior. We literally shape our lives by the way we organize our world – by the way we create the conceptual framework we use to make sense of things and by the values we consequently embrace. For example, many people throughout the ages have laid down their lives for the sake of glory or liberty or have demanded rights of independence and sovereignty, and yet we rarely step back to examine exactly what these words signify. Thus, it is worthwhile to begin by examining these very basic concepts and how they apply to our lives.

This is especially true when we apply these concepts to business and the workplace. Most of the Western world operates under a capitalist economic system based on fundamental assumptions – assumptions that are often taken for granted, say, about the benefits of economic growth, what constitutes a fair return on investment, or who should be responsible for harms that result from faulty products. The consequences of these assumptions are momentous for our quality of life. Furthermore, many of us will spend the majority of our adult lives in a work setting, usually employed by an institution or someone else, and we will inevitably be affected by baseline moral assumptions about, for example, justice and fairness in such areas as working conditions, terms of employment, privacy, assumption of risk, and concerns about health and safety.

In the Bhopal case, the Indian government had made value-laden decisions about the desirability of foreign investment and UCC was looking to realize a profit for its shareholders. The company's actions reveal certain assumptions about safety and the environment, at least in the Indian context, because UCC appears to have applied less stringent safety standards there than at their American plants. Before rushing to judgment on

governments, corporations, and the consumer, it will be valuable at the outset to seriously examine the conceptual foundations underlying business and how they are put into practice.

The second major task of philosophers is to look at arguments. As viewed by philosophers, arguments are a linked series of statements that force a conclusion. They can go wrong in a couple of important ways: Either the statements themselves may be faulty or the links may not connect as claimed. Analysis of this kind is critical because we often decide what to do based on a set of claims and what they purportedly conclude. So, for example, Dow Chemical claims that UCC and its successors completely fulfilled their obligations to victims because the Indian government approved the legal settlement. A philosopher might examine whether paying a fine does, in fact, discharge one's duties of reparation. In another common practice, a business may lay off workers without notice because it believes employees who know they will soon be out of a job will slack off and lower the morale of the firm. A philosophical approach would be to question those empirical claims and ask whether they will in fact cause the result management suspects.

We may be misled by clever rhetoric or invalid arguments and one of the philosopher's tasks is to sort out sound reasoning about any particular claim. In the case of the business laying off workers without giving notice, the employer is making a causal claim about human behavior and comes to a conclusion primarily based on the purported effect on company efficiency. That is, a worker who begins to slack off may lower profitability, and profitability is the thing that matters most. But if we analyze the employer's argument closely we may see that the claim is not as obvious or compelling as it initially seems. For instance, we could empirically examine the premise that knowledge of the impending layoff will hurt productivity, or we might accept this premise yet still disagree with the employer's conclusion that it is right to keep employees in the dark. Perhaps there are moral reasons to treat people decently that are independent of the bottom line. If layoffs are imminent, perhaps it might be appropriate to give employees some time to adjust and make plans rather than making it a surprise and escorting them to the door on a Friday afternoon. In short, we need to look carefully at both the assumptions that are at work in

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an argument and at the way these assumptions are linked to arrive at a conclusion.

One way to critically assess an argument is to look for counterexamples that refute the claims being made. If it turns out that there are a number of cases where businesses have given notice of impending layoffs and found that employees still worked diligently, it would speak against the assumptions implicit in the claim that the best way to deal with layoffs is not to give notice. Similarly, we might contrast the Bhopal case with one where a company has undertaken to do whatever is necessary to remedy harms that its actions initiated, whether or not there have been intervening independent causes.

Another method of assessment is to discern the principles at work and see if they apply in other settings. For example, take the claim that a firm is responsible for any and all consequences arising from the use of its products. While this might be appropriate in, say, the case of damage resulting from exposure to toxic chemicals, the principle may not hold quite as well in cases such as obesity resulting from habitual consumption of fast food. Philosophers find it useful to examine the differences between cases and their underlying principles to determine the significant distinction – such as the acceptance of risk by the individual consumer – and then determine if the distinction has value in other contexts as well.

In this way, philosophy fundamentally differs from disciplines such as economics or sociology. In these disciplines, scholars study how people actually behave and produce *descriptive* reports. An economist might examine the nature of economic growth in central India and balance the wealth created against the costs incurred. However, this is a neutral endeavor until policymakers make the further value-laden claim that, for example, growth *ought* to be permitted as long as the benefits outweigh the costs. Similarly, it may turn out that a quarter of all students in MBA programs admit cheating at some point in their academic career. Importantly, this finding tells us nothing about what the students *should* do. The very fact that many students cheat is instructive, yet we must recognize the gap between a factual statement – one that can be verified – and the value claim that cheating is wrong. Economists and sociologists report behavior but do not suggest that it is right or wrong. If we read a news report telling us that there were 65 million

attempts by employees to extract source code from their corporate network in 2021, we have purely descriptive information.⁷ The report does not automatically carry the ethical implication that downloading and removing code is wrong and should stop. Disciplines such as economics are explicitly nonnormative in that they make certain presumptions about human behavior – such as the desire to increase personal welfare – but do not take moral positions about them or their consequences. To bridge the so-called fact/value divide between what there is and what there should be, we need to adopt a prescriptive moral framework – one that informs us how we ought to behave.

It is worth distinguishing philosophical ethics from religion. The two do not compete, in that both ask about what it is to have a good life and how we should behave. Both are teleological, meaning that they look to an end or purpose for what we do. A religious person will take certain beliefs as foundational and then derive how to act accordingly or they may be influenced by understanding that there is a supernatural being watching and they may subsequently be judged. Humanists, those who don't believe in a deity, may also share many bedrock assumptions, for instance, that we should be respectful of others, look after children and the elderly, and be good stewards of the earth. What sets philosophy apart is that it engages in assessment of our assumptions and arguments, relying on the value of critical analysis.

Philosophy consists of subdisciplines. Broadly speaking, *ethics* is the branch of philosophy dealing with issues of morality. Morality includes notions of good and bad, justice, fairness, right and wrong, and the way we develop and apply our values. *Metaethics* is concerned with the various theories that promote ideas of what constitutes the good. Another area, *normative ethics*, applies standards or norms and reaches conclusions about what we ought to do. Business ethics is the area within normative ethics that is concerned with the special moral issues and concerns arising in the context of business activities. These issues may be expansive, such as whether there should be any restraint on economic globalization, or

⁷ H. Murphy (2021). "Workers Increasingly Steal Company Data during 'Turnover Tsunami'." *Financial Times*, August 12, www.ft.com/content/a7a2b5c4-1653-4364-84c1-c322c5b56745.

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specific, such as how a firm should deal with a dangerous plant, a defective product, or an injured worker.

Two Meanings of Business Ethics

The term *business ethics* is ambiguous. It has at least two different meanings, each with significantly different implications depending on its use. The first meaning of business ethics is to set out rules of acceptable behavior or specific practices in a limited domain. In sports or competitive games, players know what behavior is acceptable. It may be fair to bluff or lie to win in poker but wrong to mark the cards or use a confederate. This sense of the term is sometimes used to describe, say, the ethics of a criminal gang, where shooting rivals is acceptable but ratting out someone to the police is not. When we use the term *ethics* like this to delineate a set of activities within a certain domain, it need not refer to concepts of decency or morality.

This use of the term *business ethics* typically appeals to people who have a strong sense of role morality, where individuals take on the behavior of the office they hold rather than relying on their personal judgment. By this way of thinking, it would be appropriate for a professional to ask a client whether they should respond to a question as a friend or as an accountant, with the idea that different standards apply depending on the function that a person undertakes. When managers reporting to NASA were deliberating whether to ask for a postponement before what turned out to be a fateful launch of the space shuttle Challenger, the chair of the meeting literally said, “Take off your engineering hat and put on your management hat.”⁸ The hats symbolize the various roles people take on in different situations.

Therefore, if the overall rule of business is just to maximize profit, businesspeople would be allowed to act as if business were an amoral game where success is measured solely in financial terms. Part of this game, like not hiding cards up your sleeve in poker, is minimal compliance with the law; beyond that, any artifice or brinksmanship that brings in more profit is not only appropriate but encouraged. Often those who hold

⁸ D. Vaughan (1996). *The Challenger Launch Decision*. Chicago, IL: University of Chicago Press.

this point of view will make claims to the effect that they have done nothing illegal, or they have paid the required penalty and therefore have done nothing wrong.

The second understanding of business ethics makes no distinction among the different roles in our lives and in fact rejects the notion that we can divide our moral lives into discrete sections labeled “home,” “family,” “business,” “romance,” and so on, each with its distinct set of rules. Instead, this view proposes that we have a single set of standards that apply throughout our lives. The difference is that business presents us with new and different situations that require specialized assessment. Thus, relationships between producer and consumer may involve a set of considerations that do not apply to interactions between two people without the element of commercial interest and questions of how to treat employees during a downsizing require special analysis. Nevertheless, the baseline of moral decency would be consistent throughout and the same moral principles of justice, fairness, goodness, and what is right would hold in business as they do in our everyday dealings. By this light, the legal and ethical spheres may overlap, but we gauge correct action by personal morality rather than by reference to a legal code or set of rules of behavior for specific situations. Typical maxims of a manager who adopts this approach might be stated as questions such as “Would I be prepared to have my actions printed on the front page of the newspaper?” or “Would I think it acceptable if others treated me the way I treat them?”

Instrumental and Prudential Approaches

We can also think about morality in terms of intrinsic and instrumental motivation. Those holding intrinsic views believe good should be done for its own sake, whereas instrumentalists would take the action that results in some form of personal benefit whether or not it is also the “good” thing to do. Imagine that a company could make a significant amount of money in a negotiation if it lies. Company officials could decide to be honest because it is intrinsically wrong to lie and, irrespective of the consequences, decide not to exploit the advantage. On the other hand, instrumentalists would examine the situation to see what course of action is most economically

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beneficial. Again, the answer might be not to lie. Although lying would provide an immediate reward, there may be greater economic payoff in the long run from acting honestly and thereby benefiting from an enhanced reputation in the marketplace. For instance, research has found that sellers with negative customer feedback on the web-based auction house eBay are likely to sell their items for up to 10 percent less than those with positive feedback.⁹ The technical term for following the moral path because of an anticipated benefit is prudence.

Prudential benefits need not be immediate. For example, a company might invest in a poor community because it believes that doing so will mean it will have an educated pool of workers in the future. Similarly, individuals may donate blood although they do not perceive any immediate personal gain. Rather, they may see that this behavior enhances everyone's welfare and they are better off in a community where there is an attitude of common concern. Actions that have a general benefit, although ultimately motivated by personal well-being, are described as *benign self-interest*. Take the case of a car repair company: It may benefit in the short run by inflating the amount of work that needs to be done to customers' cars, but as with many firms it will retain its customers based on its credibility and if that is lost it will have nothing to fall back on. If customers start to question their bill or suspect shoddy workmanship, they are less likely to return and may post their concerns on social media and the company will falter. Hence, a prudential company might adopt the attitude that it makes economic sense in the long run to build a reputation for fair dealing and trust.

In another case, think of a firm that sponsors a charity run to benefit sick children. The firm prominently displays its logo on the start and finish lines and prints its logo on the event T-shirt. The company is allocating resources to the charity, which may result in increased sales, but the beneficial consequences may not be immediate or obvious. However, the elusive evidence may not matter as long as there is a general sense that doing good has a financial payoff. As an analogy, a faithful religious believer might resist

⁹ R. Mickey (2010). "The Impact of a Seller's eBay Reputation on Price." *American Economist*, 55 (2), pp. 162–169, www.jstor.org/stable/41429205; E. Laitinen, T. Laitinen, and O. Saukkonen (2016). "Impact of Reputation and Promotion on Internet Auction Outcomes: Finnish Evidence." *Journal of Internet Commerce*, 15 (2), pp. 163–188.