Five questions for addressing ethical dilemmas

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We are currently suffering, on a global scale, the consequences of a series of unethical decisions and poor judgments by both organizations and individuals on Wall Street and across the world’s financial markets. Though the current “Great Recession” precipitated by these behaviors has few precedents, with the possible exception of the Great Depression, it was not that long ago that we were equally shocked by the ethical lapses of individuals at all levels of firms such as Enron, Tyco and Arthur Anderson, to name just a few. Unfortunately, history shows that such ethical failures should have been expected. Such events have been common throughout history and have been at the root of some of the greatest business failures of the last 25 years.[1] Leaders who learn to recognize and prevent potential ethical lapses sooner and more effectively than their rivals are better positioned to avoid costly repercussions – including calamitous stock price drops, lawsuits and serious damage to the reputations of their organizations and their management teams.

The nature of ethical dilemmas

While some of the key actors in each of the business tragedies cited above were clearly acting with malicious intent, many of the culprits were initially treated as innovative members of society. For example, Enron was once lauded in the business press as a pioneering company. Even the creators of exotic financial derivatives were initially seen as trendsetters. To spread the blame to government, for almost a decade, deregulation was a political crusade of some congressional factions.

Unethical acts vs. ethical mistakes. As ethicist Marianne Jennings points out, “Ethical collapse happens when organizations are not able to see that bright line between right and wrong.”[2] An unethical act has immoral intent. It is done with the full knowledge that it is fundamentally wrong legally, morally, or contravenes the prevailing societal or organizational culture. These unethical acts usually violate clear corporate codes of ethics as well as laws and regulations. They are actions or decisions that are clearly wrong and everybody is aware that they are – including the perpetrator. In fact, in most cases, this perception of dishonesty is obvious to all involved without the need to specify a violation of any code or regulation. As songwriter Leonard Cohen expresses it,

Everybody knows that the dice are loaded
Everybody rolls with their fingers crossed.[3]

By contrast, an ethical “mistake” is a decision or action that is unintentionally unethical and that the individual or group later regrets and wishes they could somehow undo. The three key factors that differentiate unethical actions from ethical mistakes are:

1. Intentionality – were your intentions good or bad? Did you know what you were doing was wrong? Did you try to hide or disguise your motives?
2. Remorse – do you regret what you did because you recognize you were behaving unethically? Or do you only regret being caught and exposed?

3. Accountability – are you willing to admit your mistakes, accept responsibility for what you’ve done, and be accountable for any unethical actions? Are you prepared to make amends and do your best to reverse, or at least mitigate, the negative effects of your actions?

Applications rather than theories

Ethics can be defined as: The art and discipline of applying principles and frameworks to analyze and resolve complex moral dilemmas. This definition obscures two fundamental problems inherent in its implementation. First, clear and simple principles are usually difficult to operationalize in messy situations. Second, complex and specific codes, policies, and procedures are often lengthy, difficult to remember, problematic to implement and frequently communicate conflicting requirements. An example of a less-than-successful code is Enron’s Code of Ethics that, in spite of its 64 pages of specific details and an inspiring foreword by its CEO, Ken Lay, failed to prevent one of history’s worst examples of systemic corporate ethical failure.[4] While over 85 percent of organizations have developed and distributed organizational codes of conduct, there is no evidence that they significantly affect ethical behavior.[5]

Using moral intuition

While ethical codes of conduct may be hard to define and even harder to operationalize, most people throughout the world have a well developed ability for distinguishing right from wrong. Recent evidence from a study of children by Jonathan Haidt, a moral psychologist at the University of Virginia, postulates the existence of two sources of what he calls moral foundations.[6] The first, which he calls moral intuition, is the more ancient and is based on emotion-laden moral beliefs that evolved in human beings even before the development of language. The second, moral judgment, is our conscious rationalization for what we have already concluded or decided based on our moral intuition. On a practical level, when we confront ethical issues, our moral intuition gives us an immediate emotional response that tells us whether something is right or wrong. Our moral judgment then attempts to analyze, understand, rationalize and articulate this for ourselves and for others. In his final column, after 12 years writing under the banner of “The Ethicist” in the New York Times Magazine, Randy Cohen put it this way: “[. . .] I came to see that what readers often sought was not a ruling on what to do – they seemed to know – but an argument for why to do it.”[7] It is the second step, one that often requires more time and effort to complete and communicate, that if not done thoughtfully, can result in ethical mistakes.

When the moral questions are simple, the correct ethical response is usually equally straightforward and obvious: Stealing and cheating are wrong; don’t do either. When they are not so simple, determining the proper response may be more difficult. Rushworth Kidder, founder of the Institute for Global Ethics, points out the importance of being prepared to identify and deal effectively with difficult ethical issues:
What is needed is a capacity to recognize the nature of moral challenges and respond with a well-tuned conscience, a lively perception of the difference between right and wrong and an ability to choose the right and live by it. What is needed is ethical fitness.[8]

Although one can never be completely prepared for every possible moral or ethical issue, there are five questions that can help reveal the fundamental issues underlying an ethical quandary.

**The five questions**

The ethical landscape faced by most individuals in positions of authority and responsibility is complex and replete with dilemmas. But if we are clear on the central issue that underlies an ethical dilemma, the answer – that is, the right thing to do – is usually obvious. You don’t need to be a sophisticated ethicist to know that stealing company funds is illegal or that falsifying financial records is a breach of fiduciary responsibility. In these clear-cut situations, the issue is self-restraint or impulse control. For example, “I won’t cook the books to increase my compensation.”

In contrast, the nature of ethical dilemmas is that the “right thing to do” is not immediately or even eventually clear. These dilemmas are problems because their resolution is neither simple nor easy and they must be confronted under time pressures as well as conflicting financial and political demands. Often the “right answer” comes with a price tag. Moreover, in many instances, the crucial factors underlying the dilemma are not immediately obvious. So, how can individuals better resolve these dilemmas and reduce their chance of making a mistake that they will later regret? As in many areas of life, we often fail in ethics, not because we don’t know the right answer, but rather fail to ask the right questions. To tackle ethical dilemmas and avoid making ethical mistakes, executives, managers, and professionals can use the following five questions, which, while they will not guarantee making the right decision, can help prevent making the wrong one. They are:

1. What’s in it for me?
2. What decision or action would lead to the greatest good for the greatest number?
3. What rules, policies and social norms – written or unwritten – apply in this situation?
4. What are my obligations to others?
5. What will be the long-term impact for myself and important stakeholders?

These five questions have the advantage of being simple, clear and easy to remember. And although they are not the only questions that could be asked about an ethical dilemma, together they address the majority of ethical issues faced by individuals in their organizational and personal lives.

1. **What’s in it for me?**

Understanding and appreciating the impact of our self-interest. There is nothing morally wrong with asking this question first. How will I and those I care about benefit and what will...
it cost me – in terms of money, time, work and reputation? Rather than suppressing these thoughts and feelings, it is better to acknowledge them and understand how they might influence our perceptions, priorities, and decisions and weigh how they might conflict with other legitimate interests in the situation. One test of the appropriateness of your self-interest is to ask, “How comfortable would you feel about sharing your real motivations publicly?”

2. What would lead to the greatest good for the greatest number?

Understanding and appreciating the legitimate interests of others. This question is based on the philosophical argument that the correctness of an ethical decision should be measured by its outcome. This ethic is sometimes referred to as utilitarianism[9] or the social benefit function, where the preferred decision is the one that will return the highest net social benefit to stakeholders. This criterion is especially appropriate for public policy, legislation and government regulation but can also be equally appropriate for business organizations that have multiple constituencies. The difficulty in applying this principle occurs when not every group of stakeholders has the same values and priorities with regard to desired and undesired outcomes. On an organizational level, desired outcomes often differ among management, labor, customers, and shareholders. Applying utilitarianism in strategic decision-making requires an understanding of stakeholder values and utilities and the tradeoffs among them. Value conflicts can make this kind of outcome optimization difficult to achieve.

With utilitarianism, therefore, we are forced to ask, “How do we define the greater good?” It is not unusual for the answer to this question to conflict with the answer to the first question, “What’s in it for me?” Such conflicts can be helpful and the resultant dialectic can help illuminate what is at stake for you personally and for others.

3. What laws, rules, or policies apply?

The importance of principle. The third question considers the rightness or wrongness of an action from the perspective of how closely it conforms to some formal principle or set of principles. Immanuel Kant, the major contributor to this point of view, believed that a moral decision should be based on a single principle: Act as if the maxim of your action were to become general law, binding on everyone.[10] He called this the Categorical Imperative.

Patricia Werhane, currently Director of the Institute for Business and Professional Ethics at DePaul University, provides a list of possible questions implied by a rule-based perspective:

- Does the action set positive or negative precedents?
- Is the action acceptable to other reasonable persons?
- Is it applicable to other similar situations?
- Does it respect, or at least not denigrate, human dignity?[11]

This approach to ethical decision-making is accepted practice in many private organizations. In Western society, one of the most basic canons of behavior, the Golden Rule, is an example of the categorical imperative: Do unto others as you would have them do unto you.
In answering this third question, consider whether there are any conflicts among other laws or principles that may apply.

4. What are my obligations to others in this situation?

The role of reciprocity and trust in the social fabric. In the view of Confucius, conflicts should be resolved by amicable compromise, thereby allowing nature to follow its harmonious course. For him, ethical behavior was grounded in the relationships of interdependence and trust between individuals.[12] He stressed the duties of individuals in their relationships, rather than their rights apart from others. To Confucius, each side is obligated to provide what the other side needs to achieve its goals and fulfill itself. Any other kind of behavior is insincere, exploitive, or contentious. The foundations of these relationships are trust and the principle of reciprocity.[13]

Reciprocity is a universal norm.[14] It exists in all human cultures whether pre-industrial tribal societies or advanced economies and it forms the basis for many of our day-to-day social and business interactions.[15] How do we feel when someone we’ve previously helped rejects us? Would we ever be willing to help them again? When a colleague whom you have helped multiple times does not reciprocate, will you ever forget? The answer is: no.

Implicit in the fourth question is: In this situation, are any of my obligations in conflict, and if so, what are my priorities?

5. What will be the long-term impact on me and important stakeholders?

Enlightened self-interest – taking the long-term perspective. This question assumes that an individual’s self-interest and those of society are indistinguishable, that is, if each person truly understands what that self-interest is. To some observers of society, such as the 19th century French historian Alexis de Tocqueville, wrong decisions are due to intellectual error and result from not understanding that one’s true self-interest lies in doing what is also right for others.[16] From this perspective, ethical people understand that their own long-term interests and those of society are one and the same. This approach is most obviously reflected in the behavior of environmentalists and those who make personal sacrifices for humanitarian causes. Even our mothers espouse this approach when they tell us as children: “Someday you will understand that I am telling you to do what is best for you in the long run.”

The keys to using this question are to understand and apply our most important and enduring values, take a long-term rather than an expedient perspective and reflect on the implications and possible consequences of the decision (see Exhibit 1).
The five questions as a framework

Each of the five questions views an ethical issue from a different perspective. By asking all five questions, we reduce the chance of overlooking a critical factor in our decision-making. Together, the five questions ask all of the following about an ethical dilemma:

1. What are my self-interests in this situation and how might they influence me? Self-interests are a natural part of human nature. They are neither necessarily good nor bad but should be acknowledged so as to prevent you from doing something unethical.

2. What are the interests of others and the larger society and to what extent should I take them into consideration? What would lead to the greatest good for the greatest number and to what extent should that be my predominant criterion in this situation?

3. What principles and values, laws and regulations, policies and procedures, or socially appropriate behaviors do I need to consider? Are the relevant principles or processes more important than outcomes? Am I willing to apply those same principles to myself regardless of the personal consequences?

4. In my job or role, my personal or professional relationships, or as a member of the larger society, what are my obligations to others? How should the principle of reciprocity apply? Are my obligations sufficiently important that I would be willing to sacrifice my self-interest, a fundamental principle or the greater good?

5. What is in my long-term best interest and that of society in general, and how can I simultaneously meet both those commitments? Where do my long-term interests and those of others intersect, and is there a decision or action that might satisfy both?

The challenge, having asked these five questions and considered their implications, is to understand and minimize any inherent conflicts among the values and obligations that they underscore. This can be addressed by focusing on three criteria for resolving such value conflicts – primacy, balance and acceptance. Primacy asks, “Which questions are most relevant to the values that are important to you and your organization in this situation?” Balance encourages seeking the best tradeoff if you must compromise among values. Acceptance asks, “How well will your decision and its underlying rationale likely hold up under public scrutiny?”

Applying the five questions: guidelines for leaders and strategic decision makers

- **Ask all five questions before reaching a decision.** Just because one of the questions may seem to provide an adequate justification for your decision or action doesn’t mean that other perspectives may not be equally helpful or even lead to a different conclusion. Be willing to challenge assumptions, both yours and those of others; wrong assumptions can render the best decisions worthless.

- **Always remember the central role of values in determining the implications of the issues raised.** When conflicts emerge, refer back to your core values or those of your organization to resolve fundamental issues or priorities. Be attentive to possible conflicts between your personal values and your organization’s culture; you may find that at times they conflict or are even incompatible.

- **Weigh short-term vs. long-term consequences.** While expediency is often tempting, most of the time the ethical decision is also the best long-term decision. Many ethical mistakes result from deadlines and budget pressures.

- **Be persistent and patient.** Ethical issues are often complex and difficult. It can be tempting to find a quick solution and move on to more concrete business problems. A quick but wrong solution may exacerbate the problem; the right solution may take longer but is usually worth the wait.

- **Trust your gut but be willing to seek the counsel of others.** As this article discussed at the beginning, most people know intuitively what is right and wrong. Even if you are not sure why, trust your instincts. If you find yourself having trouble reconciling the objective facts with your feelings, seek the counsel of someone whose values, experience and judgment you respect. The advice may help you clarify and articulate the discrepancy.

- **Be courageous.** It is not unusual for the ethically right answer to be politically unpopular. Being ethical sometimes requires swimming against the tide and taking personal risks.

- **Remember the fifth question.** “What will be the long-term impact on me and important stakeholders?” In the end, this may be the most important question of all.
Berkshire Hathaway and Lubrizol case

Berkshire Hathaway founder Warren Buffet called the purchases of Lubrizol stock by his former top aide and heir apparent, David Sokol, “inexplicable and inexcusable.” Citigroup had recommended the company to Sokol as a possible acquisition by Berkshire in December 2010. In early January 2011, Sokol bought nearly 100,000 shares of Lubrizol for his personal account. Soon after, he recommended Lubrizol to Buffet as a possible takeover target for Berkshire. When the deal was consummated in March 2011 Sokol’s shares rose dramatically and he may have made as much as $3 million in profit on his equity position. Although he had told Buffett that he owned some Lubrizol stock at the time he recommended the acquisition, he did not disclose that he had bought the shares only a few weeks earlier and after Citigroup had proposed it as a possible Berkshire acquisition.

At a shareholders meeting in March 2011, Buffett said that Sokol had violated Berkshire’s insider trading rules and code of ethics when he bought shares of Lubrizol prior to recommending that Berkshire buy it. Sokol resigned under pressure later that month but refused to concede that he had done anything wrong; he believed that he had behaved ethically with regard to the Lubrizol imbroglio. On April 27, 2011 Berkshire’s audit committee accused Sokol of violating company standards and misleading Berkshire about his personal stake when he recommended the Lubrizol acquisition to Buffett. In addition, the SEC is investigating the incident to determine whether a criminal investigation is warranted.

Even if we give David Sokol the benefit of the doubt, his failure to recognize that he had done anything wrong may be a good illustration of an ethical mistake. How might the five questions have helped avoid such tragic consequences? His error was clearly in considering only two questions: “What’s in it for me?” and “What rules apply in this situation?” Let’s consider how he might have thought through his situation using all five questions.

**What’s in it for me?** Clearly one thing that was in it for him was a significant increase in wealth; but he also should have considered the possible damage to his reputation and his future with Berkshire Hathaway.

**What would lead to the greatest good for the greatest number?** As the audit committee has alleged, he engaged in “usurpation of corporate opportunity,” or wrongly capturing profit that rightfully belonged to Berkshire stockholders. As a Berkshire executive the stockholders’ interests should have been his priority, not his own enrichment.

**What rules should apply in this situation?** Obviously the company, through its audit committee, and the SEC, seem to be claiming that he broke the rules, both those of Berkshire’s code of ethics and possibly federal and state regulations regarding insider trading. At the very least he created the perception of violating these rules.

**What were Sokol’s obligations to others?** As a Berkshire executive being mentored by Warren Buffett, he owed his boss the absolute honesty and candor that is essential to maintain the trust implied in that relationship.

**How would I feel about this decision in the long term?** Evidently Sokol failed to fully consider the possible long-term consequences of his actions. As a result he lost his reputation for integrity, forfeited his position and future at Berkshire Hathaway, risked incurring tens of millions of dollars in legal fees defending his actions and faces possible criminal charges for insider trading.

Had Sokol taken the time to ask all of the questions, he would have realized that there were many other factors, and possible consequences, to consider in this situation. What factors were most critical to Berkshire and his own professed value of integrity? How might he find the right balance among his different priorities? What decisions or actions would likely be most acceptable to Buffett, his stakeholders and himself in the long run? Certainly it wouldn’t have been the decision he chose.

**Notes**


3. First recorded in 1988, Leonard Cohen’s lyrics state in a very clear (and poetic) way the pervasive nature of unethical behavior in various parts of our society and points out that all too often “everybody knows.”

   Everybody knows that the dice are loaded  
   Everybody rolls with their fingers crossed  
   Everybody knows that the war is over  
   Everybody knows the good guys lost  
   Everybody knows the fight was fixed  
   The poor stay poor, the rich get rich  
   That’s how it goes  
   Everybody knows


11. Werhane, P.H. (1994), A Note on Five Traditional Theories of Moral Reasoning, University of Virginia Darden School Foundation, Charlottesville, VA.


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