

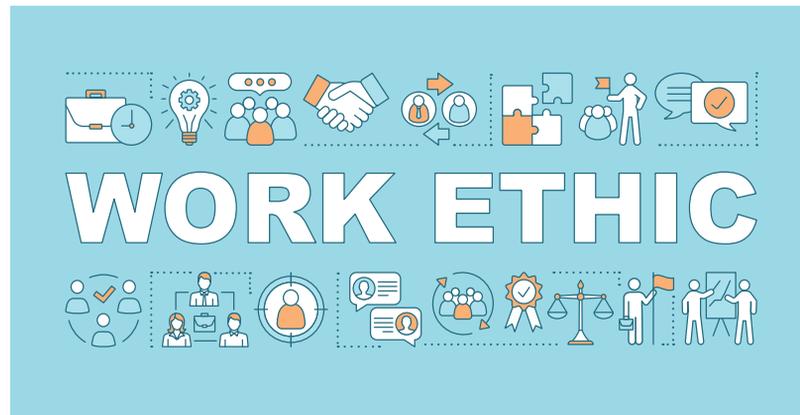
Ethics of Ethics - Dealing with Ethical Dilemmas

Sometimes Chartered Accountants, whether in practice or in industry, face a situation of performance review and result oriented reporting where they are asked to window-dress the performance of a company. However, if they are willing to follow the right practice, they will always be supported by the law makers and regulators, who set the standards of ethical conduct for professionals. Situations of ethical dilemma can be addressed in three major ways. Firstly, through continuous efforts to stick to standards and ethical practices. Secondly, by promoting greater transparency while reporting, and lastly, through an unrelenting emotional state of mind to justify why one should act morally. Read on...



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Understanding Ethics

We use the words values, morals and ethics somewhat interchangeably. However values often involve, weighing the competing considerations with underlying reasoning, differentiating between right and wrong. Values are reference points which aid us in resolving dilemmas whereas, morals have a social element. While we use values to assess, we rely on our morals to judge. Ethics on the other hand, are a set of principles which are often explicitly adopted by a group of people. ICAI's motto, 'Ya Aeshu Suptaeshu Jagruti', means 'A person who is awake in those that sleep', puts significant emphasis on ethics and ethical behavior in all situations. This glorious

Institute of ours is vital to socio-economic growth of the country. As the torchbearer for financial discipline in India, ICAI is associated with and regularly contributes to the Government agencies like RBI, SEBI, IRDA, MCA, CAG, etc. to help them formulate and improve their policies. It is now on the members and everyone associated with ICAI to exemplify the motto given to ICAI by Sri Aurobindo in the year 1949.

We work in a very regulated environment wherein every business activity is well-defined. Like organisations, who are governed by their charters, human beings are obliged to follow certain principles, called as ethics. In a few instances, a Chartered Accountant's professional

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career path faces ethical challenges which test the core values and principles of the professional. The rise of capitalism worldwide has further exacerbated the occurrences of such dilemmas. On one extreme, people may argue that the business is all about making money, no matter how it is made and that ethics and business practices are poles apart. At the other end, this remains a fact that chartered accountancy as a profession, at its heart, is all about trust and transparency. Responsibility towards ethical behaviour should flow from within.

Some major causes for ethical dilemmas and ways to deal with them effectively are:

Ethical Dilemmas – Dealing with Legal but Unethical situations

Ethical dilemma is a situation which is considered as a grey area and to deal with such a situation is a real challenge. One may argue that ethics is

not an ideal procedure that is noble in theory, but not good in practice. However, the reverse of this is closer to the truth. Greed and lack of commitment towards welfare have been in the forefront of all major financial crises. Every situation has two connotations – Fair and Unfair. Quite often audit firms have decided to stick to ethics and morals and stepped out of the involvement into unethical practices while, on the other hand, we have seen instances, however rare, of firms which were unsuccessful to follow them. The very reason why one would tend to think towards unfair side of the situation is that they rationalise their greed and try to explain that it is legal. No matter how, every legal situation or decision may not be ethical or fair. While it is easy to understand the laws and the regulations, but it is much harder to implement the same or even to comprehend the spirit of the law. Hence, it is sometimes not just the regulation or law but the dilemma that every chartered accountant faces. The concept

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of utilitarianism defines an action as ethical if its conduct makes others or majority of the people happy. It purely focuses on others interests and benefits. Similarly, if we know that a client is operating well legally, but its practice is not ethical then it is our duty to draw attention to it and stop such activities. This topic is very easy to write and discuss, but its practice needs enormous efforts.

If a shoe is smaller it will hurt our feet and if it is too big it will affect our walking and we may tumble. There is a misconception about values, morals and ethics that these are the prohibitions which does not allow someone to act or not to act in a particular way. As Mahatma Gandhi once said, “*In this world there is enough to meet everybody’s needs, but not everybody’s greed.*” Values in society influence the markets and Government. It is possible to do legally right things, but there may be indulgence of questionable practices. As chartered accountants, we often find ourselves caught in the crosshairs between the rampaging market forces looking to boost profitability and regulatory authorities upholding the law. Each profession has its own set of ethical norms like business ethics, medical ethics, etc. Mr. Dave MacLennan, the Chairman and CEO of Cargill, in his interview on ethics, explains that the company’s work in communities, its emphasis on diversity and the importance of keeping the

employees safe is *ethics* for him in his business.

Our profession too, has a Code of Ethics, which questions why we should act morally or ethically when there are more benefits if we rationalise the circumstances. There is no right answer to this question, but one may firmly argue that the benefits of following ethics and morals are long term and are inevitable. Moreover, ethical behaviour in our profession as well as in any other situation should never be related to benefits. The Code of Ethics issued by ICAI sets the principles for right conduct and also, principles every chartered accountant has to follow no matter what are the circumstances. Additionally, it is not a prohibition to act or not to act accordingly. It sanctions the ethical behaviour when we are in a state of ethical dilemma and these principles provide us the clear guidelines how to act and why should we act morally.

Ethics gets built into one's spirit. It takes shape of behavioural, religious, family or professional ethics over some time. Morals however, is something which gets triggered externally such as do's and don'ts set by a particular group which might change in the long run. What was considered morally correct in the past might not be correct now. As a professional, while dealing with ample financial transactions, more often

than not we are forced into an ethical dilemma, wherein our psyche does not permit it and yet we may attempt it and later feel guilty. There were instances in the past where it was found that professionals failed to adhere to professional standards and the conduct of due diligence. What is important is how do we stand steadfast to our ethical standards. It is worth noting about global financial crisis of 2009 where the four largest banks of US were found to have lost half of their values, the very reason was unrealistic expectations to make profits. However, there must be certain signs or early warnings where the auditors as well as the top management who were part of the housing bubble were in ethical dilemma and rationalised their decisions, result of which the entire world has seen later in January 2009. In his book on 'A Theory of Moral Sentiments',¹ Adam Smith (Godfather of modern capitalism) suggests that a stable society is based on sympathy, a moral duty to have regard for one's fellow human beings. He emphasised on ethical aspect of economics.

To summarise, we take the value of ethical behaviour to be axiomatic, but there are times where we may be tempted to rationalise the situation arising out of the grey areas that puts us into ethical dilemmas. The question remains unanswered is where do we need to draw the line. Moreover, ethically indefensible behaviour is

not always irrational. There are always laws and social pressures that will sanction such behaviour against the violation of ethical standards. Ultimately, the solution lies in the strength of character of the professional handling the situation.

Contribution of Government and Educational Institutions

The role of Government is to develop the industry, control and monitor what is happening. One may argue that regulations and rules imposed by the Government should be stricter or should ensure its effective implementation. On the other hand, when we question whether greater regulation is needed or not, we should not overlook the cost of compliance. The balance between principle-based and rule-based regulations helps achieve regulatory compliance beyond expectations. A Regulator who can read the pulse of the market knows how to effectively channel the innovative forces by prescribing ground rules. One of the examples is the actions taken by Indian Government to curb money laundering by setting up agencies like Financial Intelligence Unit (FIU-IND) and regulations like Prevention of Money Laundering Act and Unlawful Activities Act, 2002.

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¹ Book on A Theory of Moral Sentiments – Adam Smith

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national and state levels do not move away from basic commitment of character formation, to more immediate goals of knowledge of technology and vocations. The industry and educational institutions should also encourage adoption of proven values education models in the institutions. As a professional accounting body, ICAI too has contributed a lot on Code of Ethics to be followed by the members as well as by making stricter rules for compliance.

Contribution of Financial Institutions

Thanks to RBI's rules and regulations, India was one of the countries which got least affected by the Global Financial Crisis in 2009. The role of Financial Institutions

is thus, very crucial in making ethical behaviour effective and enforceable. The qualities of fairness, integrity, transparency and openness in entire dealings by the financial institutions – whether it is with markets, market participants, regulators, customers – wherever they operate brings trustworthiness and ultimately, encourages right conducts and ethical behavior. If such institutions start identifying deviant behaviours at early stages of unethical conducts, it would be easier to ethically deal with the dilemmas. It is never that suddenly someone in an organisation will deviate from rules or ethics and end up themselves putting into trouble but there will always be red flags. Escalations made at the right time, could help in tackling the situations altogether in a different way. However, financial institutions are artificial persons in the legal context. It is the tone at the top who has to be active in verifying whether everyone in the organisation is carrying out right practices or not. Additionally, it is the professionals associated with such Financial Institutions in fiduciary relationship who will have to act as a whistleblower. There are always people

who will try to bend the rule in order to satiate their greed. For example, to increase business, funding an unstable company is

nowhere written as a right practice. Utmost care should be taken at this stage when any financial institution is funding any unstable company or a very low rated organisation. To conclude, identification of glitches at the right time, firm actions against those, more layers of audits and checks, qualities of fairness, integrity, transparency and openness, more efforts towards altruism may bring the attitudes in people to follow fair way of dealing with a situation of an ethical dilemma.

Contribution of Professionals, Media and Civil Society

Economists, educationalists, professionals like chartered accountants have a moral duty to embark on sincere soul-searching exercise and take such corrective measures. Being part of such a noble profession, we as chartered accountants have onerous responsibility to adhere to the rules and regulations without any fail and to report precisely if any shortcomings are found. For chartered accountants, who are under constant pressure to give business results are facing the challenge of ethical dilemmas. If the business is not delivering what is expected then there might be pressure on CAs working in an industry or working as an auditor to make the results look better. This is a common dilemma a CA may face no matter where the professional is working. To resolve this, strict adherence to the standards, more transparent reporting and



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incentivising ethical behaviour could be considered. To add to that, while digitisation of every business process is happening rapidly, times are not far where IT audits and online audits will be the major practice area of our profession. The responsibility on us will be, are we well versed to take up the new challenge or are we technologically sound to provide findings which will involve compliance of ethical practice while digitising the processes.

Media, electronic as well as print, is the most powerful tool to influence and reach out to millions of people just in a fraction of time. Media freedom is generally accepted as a corner stone of modern democratic society. Efforts to utilise media as second line of business as a broadcaster and purveyor of ethical practices may prove to be effective. Media has remained an integral part of human civilisation. In most of the scams that happened in the past, media acted as a catalyst compelling Government to swing into action.

The character building process starts early in a person's life. A strong foundation of character

of a person leads to right and ethical conduct in personal as well as professional life. It is worth to mention profound words by Mr. Montesquieu, a French Philosopher, "It is the leaders who establish institutions and later it is the institutions that will create leaders".

Conclusion

It is quite likely that the majority of decisions every day around the world are perfectly honourable. Collective responsibility for global ethics in decision making is embryonic but growing. Corporate social responsibility programs, ethical marketing, and social investing are increasing. Global ethics also are emerging around the world through the evolution of ISO standards and international treaties that are defining the norms of civilisation. In order to ensure adherence to ethics, we must work together with a sense of acceptance, understanding, and respect for each other. It is individually and collectively human beings who need to take an initiative on a better ethical environment.

The questions that arise are that 'are we following the policies, rules and regulations imposed by regulating authorities?', Are we following human values, morals and upholds ethics all the time? Another question is should we follow ethical practice because we will gain something? Should we relate ethical practice to benefits? Ethical judgements

are universal. Ethics requires us to go beyond our point of view to a standpoint like that of the impartial spectator who takes a universal point of view. If we continue relating ethical practice with benefits, then incentivising such behaviour might encourage people to follow ethics. Therefore, besides any financial consideration, there is one's psychological appetite which is equally involved that determines one's action to justify any wrongdoing. ■

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