

The Business of Ethics

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(From *Profits and Professions: Essays in Business and Professional Ethics*. edited by Wade L. Robison, Michael S. Pritchard, and Joseph S. Ellin (Clifton, NJ. Humana Press, 1983), pp. 133- 40.)

It is the business of ethics to tell us what are our duties, or by what test we may know them. -John Stuart Mill, *Utilitarianism*

The public image of business does not always inspire public confidence, since it is often assumed that talk of ethics in business is only talk, not something that makes a difference in practice. Business executives are pragmatic individuals, accustomed to dealing with their environment as they find it and not inclined to question how things ought to be. That frame of mind reinforces the public image of business as impervious to moral imperatives.

That image is often only confirmed in the press, for instance, by such articles as those of Albert Carr,* which embrace the purest kind of moral conventionalism: That which is generally done in business sets the standard of ethical conduct, so that an executive acts ethically as long as he or she conforms to the general practice. Carr goes so far as to maintain that misrepresentation in business is as ethical as bluffing in poker, and that only needless concern and anxiety will result from applying the ordinary moral standards of society to the conduct of business.(1) On this score, I believe Carr is completely mistaken.

This paper will argue that ordinary moral standards do apply to business decisions and practices and will explain *how* they apply. This should result in a clearer picture of the relationship between business and ethics-what it is now and what it ought to be. Carr , in setting forth the conventionalist position, argues:

- (1) Business, like poker, is a form of competition.
- (2) In this competition, the rules are different from what they are in ordinary social dealings.
- (3) Anyone who abides by ordinary moral standards instead of the rules of business is placed at a decided disadvantage. Therefore,
- (4) It is not unethical or immoral to abide by the current rules of business. (These rules are determined in part by what is generally done in business and in part by legal statutes governing business activities.)

In support of this position, three reasons might be offered:

- (1) If a business practice is not illegal, it is thereby ethically acceptable.
- (2) If a businessman does not take advantage of a legal opportunity, others will surely do so.
- (3) If a practice is so widespread as to constitute the norm, everyone expects conformity.

The claim that it is ethically correct to do something because it is not illegal is, of course, one of the conventionalist's weakest arguments, since it should be obvious that legality does not establish morality - it may not be illegal for a teacher to favor some students over others for nonacademic reasons, yet it is clearly unethical. When one speaks of ethics in business, it is to establish what business practices ought to be. The law, as written, does not settle that issue. The other two reasons, how- ever, may appear to have some merit and require more detailed analysis.

BUSINESS AS A GAME

Suppose that such things as industrial espionage, deception of customers, and shading the truth in published financial statements are common enough to be of broad concern, in effect comprising some de facto state of business affairs. What bearing "would such a state have upon what is moral or ethical in conducting business? Would the existence of such "rules of the game" relieve owners, managers, and employees of otherwise appropriate ethical obligations? Or, would such behavior merely be a matter of business strategy and not a matter of ethics?

The obvious fallacy in the "business-as-a-game" idea is that, unlike poker, business is not a game. People's lives, their well-being, their plans, and their futures often depend upon business and the way it is conducted. Indeed, people usually exchange part of their lives (i.e., the portion spent earning money) for certain goods and services they have the right not to be misled or deceived about the true nature of those goods or services. Similarly, elected officials have a duty to legislate and act for the good of their country (or state). It can hardly be right for business executives to frustrate them in the performance of that duty by providing them with evasive answers or by concealing relevant facts.

THE PRICE OF DUTY

So, the poker analogy, while informative of the way things are, seems to have no bearing at all on the way they ought to be in business. Why, then, do so many people adopt the conventionalist position that "business is business and, when in business do as the others do"? Some take that position for essentially the same reason Yossarian offers to justify his conduct in the novel *Catch 22*. 'Yossarian has refused to fly any more combat missions and when asked, "But suppose everybody in our side felt that way?" he replies, "Then I'd be a damn fool to feel any other way. Wouldn't I?"² If everyone were refusing to fly, Yossarian says, he would be a fool to fly. In business, the position would be: If everyone is bluffing, an individual would be a fool not to do the same. On this point, Yossarian and the conventionalist are correct, but not because there are special rules (or special ethics) for airplane gunners and people in business. The reason, instead, is that our ordinary moral reasoning does, indeed, make allowance for just such cases. In other words, the idea that there is something ethically distinctive about a situation in which a person in business may find himself or herself is sound. But it is sound because ordinary moral reasoning allows for such circumstances, not because there are special ethical rules for people in business comparable to the rules of poker. The sort of considerations I have in mind all involve the *cost* of doing what would normally be one's duty. There are at least three ways in which a normal or ordinary duty may cease to be so because the cost is too high. The first of these is widely recognized: Sometimes the *moral cost* of obeying a standard moral rule is too great, so one must make an exception to that rule. If the only way to save someone's life is by telling a lie, then one should normally lie. If treating an accident victim involves breaking a promise to meet someone on time, then one should normally be late. In a variety of circumstances obeying a moral rule might require breaking some other, more urgent, moral duty. In these circumstances, the more urgent duty dictates an exception to the lesser rule. The second way in which an ordinary duty may cease to be a duty is when the *cost to the individual* of fulfilling that duty is too high. For example, when driving an automobile, one normally has the duty not to run into other cars, and one also has the general duty not to harm or injure other persons. But suppose one is driving down a steep mountain road and the brakes fail. One might have a choice among three options: cross into the oncoming lane of traffic, go off the cliff on one's right, or drive into the car in front. In such a case, a driver would not act wrongly by choosing the third option, even though there is a way in which the duty of not injuring others and not driving into other people's cars can be met, namely, by going off the cliff. In these circumstances, the cost to the individual of meeting the duty is simply too high, and virtually no one would blame the driver or condemn the action as morally wrong if he or she drove into the back of the car ahead rather than going off the cliff. The third way in which a normal duty may turn out not to be a duty is the kind of situation described by Yossarian. If everyone else is not doing what ought to be done, then one

would be a fool to act differently. This third consideration does not obviate all duties, for example, just because every- one else is committing murder does not make it right for you to do so, but it does apply to those cases in which the *morally desirable state of affairs can be produced only by everyone, or virtually everyone, doing his or her part*. With respect to such a duty, for example, jury duty, one person alone cannot accomplish anything; one can only be placed at a disadvantage vis-à-vis everyone else by doing what everyone ought to do but is not doing. This sort of situation can be described as a "state of nature situation,"(3) and by that I mean a situation in which certain moral rules are generally disobeyed either by everyone or by the members of a well-defined group.

In dealing with such situations, the fact that other people can be expected to act in certain ways is morally relevant in that it creates a special sort of moral dilemma. If one does what everyone ought to do but is not doing, then one will, in all likelihood, be at a disadvantage. The morally question- able behavior of others creates the circumstances in which one finds oneself and in those circumstances- stances it may be necessary to fight fire with fire and resist deception with deception. But replying in kind only prolongs the state of nature situation, so one's primary goal should be to attempt to change the situation. No one ought to take unfair ~ advantage of others, but no one is obligated to let . others take unfair advantage of him or her. ∴ It is absolutely essential to note, in connection with such situations, that people are not doing what they ought to be doing. The conventionalist recognizes that simple application of ordinary moral rules to such situations is inadequate. But it is a mistake to conclude (1) that ordinary rules do not apply *at all* to such cases, and (2) that business has its own distinctive set of rules that determines one's duties in such circumstances. Both points are incorrect because (1) the ordinary rules help define the situation as one in which people are not doing what they ought to be doing (we apply the ordinary moral rules to such cases and find that they are not being generally observed), and (2) the considerations that are relevant in determining one's duties in such circumstances do not constitute a special set of factors that are relevant only in business. The mitigating considerations apply generally and are an important part of ordinary moral reasoning.

When virtually everyone is not doing what ought to be done, it affects what we can morally expect of anyone individual. That person does not have a duty to "buck the tide" if doing so will cause the individual substantial harm or not do any good. But, in conjunction with everyone else, the person *ought to be* acting differently. So the tension one may feel between what one does and what one ought to do is quite real and entirely appropriate.

In the conventionalist argument, these two considerations-the cost to the individual and what everyone else is doing-recur again and again: It is right to lie about one's age and one's magazine preferences when doing otherwise will prevent you from getting a job; right to engage in industrial espionage because everyone else is doing it; right to sell a popular mouthwash with a possibly deleterious form of alcohol in it because cigarettes are sold to the public; and right to sell master auto- mobile keys through the mails (to potential criminals) because guns are sold.(4)

Of these four examples, the last two seem to me to be clearly wrong since neither the high cost to the individual of doing otherwise nor the existence of a general practice has been established. Industrial espionage, however, is a good illustration of a "state of nature situation," and if (1) one does it to others who are doing the same, and (2) it is necessary to. , 'fight fire with fire' , for the sake of survival, then it would not be morally wrong. For the job applicant, the conditions themselves are morally dubious, so here, too, it may be a case of fighting fire with fire for the sake of personal survival. But notice, in each of these examples, how distasteful the action in question is; most of us would prefer not to engage in such activities. The point is that conditions may be such that the cost of not engaging in them may be so great that an individual caught in such circumstances is blameless. At the same

time, however, we do feel that *the circumstances* should be different.

The second consideration, distinct from the cost to the individual, is that one person doing what everyone ought to do (but is not doing) will accomplish nothing. This can be the case even where the individual cost is insignificant. To take a homely example, suppose there were a well-defined path across the local courthouse lawn as the result of shortcuts taken across it. It would not cost anyone very much to walk around instead of across the lawn, but if one knows his fellow citizens and knows that the path is there to stay, then walking around will accomplish nothing. So one may as well take the path unless, of course, one decides to set an example of how others ought to be acting. Since it costs so little, it might well be a good idea to set such an example. This would be one small way at least of trying to change the situation.

Although one's primary goal ought to be to change the situation, that statement like all claims about what one ought to do, is subject to the moral precept that individuals have a duty to do only what they can do. So, if it is impossible for one individual to change the situation, that person does not have a duty to change it. What is true is that the situation ought to be different, but to make it so may require the combined efforts of many people. All of them collectively have the duty to change it, so this is not a duty that falls solely or directly on the shoulders of anyone person. For the individual executive, then, the question is primarily one of what he or she in conjunction with others can accomplish. Secondly, it is a question of the likely personal cost to the executive of instituting or proposing needed changes.

A ROLE FOR THE INDIVIDUAL EXECUTIVE

At the very least, executives should not *thwart* the impetus for change on the ground that business sets its own ethical standards. Everyone has a legitimate interest in the way business is run, and Better Business Bureaus and legislative inquiries should be viewed as important instruments serving that interest. We know on the basis of ordinary moral rules that in certain business environments a new way of acting is a desirable goal. If no one else will join in the promotion of that goal, then the individual executive can, as the poet said, "only stand and wait." But according to that same poet, John Milton, "They also serve who only stand and wait."

The essential difference between the conventionalist position and ordinary moral reasoning comes out most clearly in the following example, provided by Carr in defense of his position. A businessman, Tom, is asked by an important customer in the middle of a sales talk to contribute to the election campaign of a candidate Tom does not support. He does so, and the talk continues with enthusiasm. Later, Tom mentions his action to his wife, Mary, and she is furious. They discuss the situation and the conversation concludes with her saying, "Tom, something is wrong with business when a man is forced to choose between his family's security and his moral obligation. ...It's easy for me to say you should have stood up to him-but if you had, you might have felt you were betraying me and the kids. I'm sorry you did it, Tom, but I can't blame you. Something is wrong with business."

Carr comments that, "This wife saw the problem in terms of moral obligation as conceived in private life; her husband saw it as a matter of game strategy." Those who would refuse to make the contribution "merit our respect-but as private individuals, not businessmen."(5)

What Tom did was not morally wrong in those circumstances, but not for the reasons cited in Carr's paper. There is something wrong with *the situation* in which Tom found himself. It *ought not be the case* that one has to choose between one's family and being honest about one's political preferences. Carr fails to recognize this and either misses or ignores entirely the fact that Mary makes precisely this point: She does not blame her husband or say that he did the wrong thing in those circumstances; what she says, instead, is that *some-thing* is *wrong with business* when a person has to act as her husband did. It is business and the way it is conducted

that ought to be changed. The conventionalist position simply blocks out such an issue: It nowhere considers how business ought to be. It merely says that "the way it is" is all that need be taken into account in deciding what would be ethical.

An analogous situation exists in connection with the financing of political campaigns. No one blames candidates for taking contributions from lobbyists and other individuals since they need the money to run for office. But many people do think that the system ought to be changed. In other words, the current practices are not as honest or ethical as they ought to be. Now, how can the conventionalist handle such a claim? It seems obvious that he cannot, since he systematically rules out applying ordinary moral standards to business practices. But the correct position is that these standards do apply, and sometimes we find they are not being put into practice. In precisely those cases, the general practice ought to change.

THE NEED FOR CHANGE

There is a most important difference, then, between asking "What are the individual duties of a person doing business?" and "What are the ways in which business ought to be conducted?" Both are an essential part of the ethics of business but the conventionalist simply ignores the second question in attempting to answer the first. The answers to the second question can be found, for the most part, by consulting our ordinary moral standards of how people ought to act vis-à-vis one another. When we find that business is not as moral as we would like it to be, that *does* have some bearing upon the answer to the first question. But, as I have argued in this paper, ordinary moral reasoning is prepared to take those facts into account. It is not at all necessary to postulate a special ethical outlook or a distinctive set of ethical rules for business in order to explain the ethical relevance of such phenomena to the individual businessman.

Ordinary moral reasoning, then, is far richer than mere conventionalism and the factors it takes into account are relevant in many managerial and executive decisions. Ethics can be subtle, as well as realistic, and conventionalism is unrealistic when it obscures the moral imperative for change.

NOTES

1. Albert Carr advocates conventionalism in *Business as a Game* (New York, 1968); "Is Business Bluffing Ethical?" *Harvard Business Review* (January-February, 1968) pp. 143-53; and reiterates it in "Can an Executive Afford a Conscience?" *Harvard Business Review* (July-August, 1970), pp. 58-64. In defending himself against the criticism that he is condoning unethical behavior, Carr insists that an executive who acts according to prevailing business practices "is guilty of nothing more than conformity; he is merely playing the game according to the rules." "Showdown on Business Bluffing," *Harvard Business Review*. (May-June, 1968), p. 169.
2. Joseph Heller, *Catch 22*. (New York, Dell, 1961), chapter 9.
3. Marcus a. Singer uses this term in *Generalization in Ethics* (New York: Knopf, 1961), pp. 153, 156-57.
4. Examples from Carr's "Is Business Bluffing Ethical?" pp. 144, 146, 148.
5. *Ibid.*, pp. 152-53.