CHAPTER 2

Doing What Is Right: The Role of an Applied Ethicist

Abstract This chapter not only describes some of the major schools of ethics but uses them to uncover additional critical assumptions that start-ups and existing organizations often make to justify their existence. For instance, from the standpoint of Kantian Ethics, Facebook, Uber, and Airbnb were unethical because they did ***not*** subscribe to the following moral maxim:

> Whenever the probability, however small, is such that a person will be harmed in any way by a product or service, whether it's through its misuse or initial design, then the provider is obligated ethically to involve those stakeholders that are necessary to monitor and to remediate potential harmful effects.

In talking about ethics, it is absolutely necessary to use concrete examples. The subject is too abstract and difficult to discuss otherwise. Consideration of the ethical issues involved in any business reveals other important assumptions that are too difficult, if not virtually impossible, to uncover by other means.

I strongly caution the reader not to take the following example too literally and narrowly. On its surface, it seems to relate to one industry only. But, if one considers that many of the underlying issues such as

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determining whether one's products and services are responsible for causing harm and the presumption of responsibility are perfectly general, then the example relates to virtually all industries.

The example concerns an unidentified person who wrote to The Ethicist Column in the Sunday, January 18, 2015, *New York Times Magazine*, for advice. The person noted that he lives and works in Hollywood where he has several friends who are screenwriters and politically progressive. His friends constantly lambast conservatives for not accepting the science behind Global Warming. And yet, when it comes to accepting the effects of screen and TV violence on young children, they reject 35 years of social science research that shows unequivocally that screen and TV violence are harmful beyond any reasonable doubt.[1]

Having lived in Los Angeles (LA) for 26 years when I taught at University of Southern California (USC), I heard repeatedly the rationalizations of the movie and TV industry. The members of both industries never tired of pointing out that research does not establish strict causal relationships between the exposure of children to simulated violence and their heightened aggressiveness. The research only shows that there are correlations between the number of hours young children are exposed to movie and TV violence and their heightened aggressive behavior. That is, the greater the number of hours spent viewing violence, the greater is the aggressive behavior.

True enough. The research does not establish strict causality. Nonetheless, the correlations are not only statistically significant, but both consistent and persistent. That is, they are such that they could not have arisen purely by chance alone.

Furthermore, since they watch TV more, young children from economically distressed households are even more susceptible to depictions of violence. While many factors are of course involved, there is no doubt that movie and TV violence are prime contributors to, but not the sole causes of, the heightened aggressive behavior of young children.

Except in highly idealized and strictly controlled settings, we are never really able to say that a limited number of variables are the sole cause of something else. If all we had was the concept of causality, then we could not say that there was ever any relationship between two or more variables or different phenomena.

If the effects of violence were not so tragic, it would be utterly laughable to find Liberal Hollywood screenwriters and executives suddenly becoming so concerned about arcane matters of social science methodology when all they really care about is their freedom to do what they want.

And, of course, the considerable monies involved. All of a sudden they are experts in social science research! Equally disturbing is that many of these same writers and executives are highly critical of the National Rifle Association (NRA) when it comes to what they view as our completely out-of-control gun culture. And yet, they defend to the death their right to depict gun violence no matter what (pun intended!).

Of course, in accordance with the First Amendment, I defend the "rights" of artists to do what they feel is warranted dramatically. But because something is a right, is it always prudent to exercise it?

As a result, I found Chuck Klosterman's, the Ethicist's, responses to the young man who turned to him for ethical advice particularly feeble. Because Klosterman is right that one cannot predict precisely how all parties, that is, stakeholders, will react to a work of "art", this does not mean that one should not even attempt to consider them at all. *The New York Times* certainly did so in its decision *not* to publish the French magazine *Charlie Hebdo*'s depictions of Mohammed. After all, there is no reason whatsoever why one could not use SAST to try and predict the reactions of different stakeholders to screen and TV violence.

What especially rankled me was Klosterman's justification for the depiction of violence. Apparently, if an artist's motives are "pure", then he or she should not be particularly disturbed how others will respond to one's rendition of violence or anything else for that matter. The trouble with this, of course, is that it essentially gives Hollywood a free ride to do anything it wants without any consideration of the public good.

Ethical Propositions

To examine further the feebleness of Hollywood's reasoning regarding the depiction of TV and movie violence, especially that which is directed toward children, I have recast some of their prime assertions in the form of ethical propositions. Doing so is one of the best ways of which I know to examine the soundness of one's reasoning from the standpoint of ethics. Namely, are the propositions "ethically reasonable", or "supportable", such that they "pass" the muster of what "'decent' humans" feel is ethically "right", or, are the propositions so odious that they fail miserably?

For example, put in the form of a general ethical proposition, one version of Hollywood's contention concerning the depiction of violence reads as follows: "Whenever the correlation (association) between what we do (manufacture, publish, produce, sell, transmit, etc.) and some

presumed social ill is small, then our actions and behavior are warranted ethically." (Notice how with little modification the same kind of contention applies to Facebook, Uber, and Airbnb.) In other words, "We are off the hook ethically." This, of course, only raises the following thorny question: "How high would the correlations have to be before one would change, modify, stop, etc. one's behavior because it is not ethical?" Or, "why do you view the correlations as so small such that you don't need to think about how your product is contributing to social ills?" In short, "Is there an 'Ethical Thresh-Hold' beyond which we should not go, or below which we don't need to think about unpleasant consequences?"

To be perfectly clear, I find the notion of an "Ethical Thresh-Hold" odious for it obviously can be used to justify any and all kinds of detestable actions and behavior. Indeed, from the perspective of Kantian Ethics, about which I say more shortly, I can hear someone arguing, "Though the correlation is only 0.01 between what you do and some social ill, do everything in your power to reduce the correlation even more so that you will inflect ever less amounts of harm on the most vulnerable members of society."

It is not the case that Kantian Ethics is always unequivocally right and Utilitarian ethics (e.g., the notion of an "Ethical Threshold", assessing the amounts of harm versus good, etc.) is thereby always wrong, but that ***all*** hot-button issues (abortion, gays, guns, religious freedom, etc.) ***invariably*** raise important ethical considerations. Indeed, as a universal proposition, I can say that something is not a "hot-button issue" unless it raises important ethical considerations, and vice versa.

As we have seen, startups are certainly immersed in hot-button issues. For instance, does Facebook adversely affect the well being of children and teenagers? Does Airbnb actually contribute to or harm homeowners and cities? Is Uber safe to use as a means of public transportation?

Furthermore, because of the inherent nature of ethics, there will always be strong ethical debates concerning the disposition of hot-button issues. Rarely, if ever, will there be a strong consensus as to how to handle a particular issue. In other words, there would not be one and only one way to handle the issue from the standpoint of ethics.

In the case of Hollywood, two different ethical stances are deeply at odds. If we followed the strict and rather severe interpretation of Kantian Ethics outlined above, then it is highly likely that we would ever do anything that has the slightest remote possibility of harming anybody or anything. In other words, we would never risk anything. On the other

hand, if we followed Utilitarian ethics, then it is also highly likely that we would harm any number of people. Once again, this conflict of ethical principles is precisely one of the things that make hot-button issues hot—very hot indeed!

Unlike science and technology, where it is commonly presumed—wrongly I would note!—that there is one and only one right answer to important problems, ethics does not generally admit of single right answers. Often, the "best resolution" is to show there is more than one "best or right answer" to a problem and, therefore, better to leave one in a state of "prolonged ethical doubt and indecision" rather than have one go off half-cocked and adopt the very first action or solution that comes to mind, which we then later regret.

Constantly Bombarded by Hot-Button Issues

To say that we are bombarded constantly, if not inundated, with hot-button issues is one of the gross understatements of our times. Take, for instance, (1) the recently proposed laws in Arkansas and Indiana that would supposedly protect the "rights" of orthodox Christians to refuse service to those who they feel violate the fundamental tenets of their faiths (mainly Lesbians, Bisexuals, Gays, and Transgenders or LBGTs); (2) parents who for religious and other reasons refuse to vaccinate their children for various childhood diseases; (3) Tea Party members and supporters who believe that President Obama is leading us straight down the path to Socialism; (4) the severe polarization that is grinding our political system to a halt. All of these and more affect all businesses.

Different Schools of Ethics

Let us take the example of Hollywood producers and writers to see very briefly how different schools of ethics would treat the issue of subjecting young children to simulated violence. This is one of the best ways to understand what different schools of ethics are about. This will also allow us to see how the different schools apply to startups as well.

Virtue Ethics is one of the earliest known schools of ethics. It emphasizes that ethics is ultimately grounded in moral character. Thus, virtues such as generosity, helpfulness, honesty, heroism, truthfulness, and so on, are primary in determining whether a person, society, or an act is ethical or not. In the case of Hollywood, an ethical producer or writer would be

someone who did ***not*** do what they did primarily for personal monetary gain or fame, but rather, in order to improve the overall well being of young children, if not all persons who viewed or witnessed violence. As a matter of principle, this stance would hold violence to an absolute minimum no matter what the research showed. Ultimately, it would strive to produce dramatic situations that did not depend on gratuitous depictions of violence in order to attract and hold audiences. The difficulty, of course, is not only finding a generally applicable set of "virtues", but how to determine whether a person or society has them in "sufficient amounts".

In the case of startups, the ethics of the enterprise rests squarely on the moral virtues of all the stakeholders connected with it. It is judged especially by its impacts on the most vulnerable members of society. The lack of concern with the impacts of violence, or bullying, on young children says tons about the moral character, or lack thereof, of the major stakeholders connected with a business.

Utilitarian ethics strives for the measurable effects of any proposed action or policy. Thus, it weighs the measurable benefits versus the costs of one's actions. If the general benefits exceed the costs by some specified amount, then the actions are deemed ethical. The problem, of course, is that the depiction of violence may greatly benefit producers and writers but not the most fragile members of society. And, of course, who defines benefits versus costs?

From the standpoint of Utilitarianism, Uber may well benefit independent contract drivers, but given that it seriously impacts the incomes of those who are licensed to drive regular cabs, it certainly does not benefit them. And, it may not benefit all types of passengers. In addition, if one believes the contractors who are currently engaged in suing it, Uber is not really concerned with and does not look out for the well being of its drivers.

In this regard, Jeff Cherry is particularly critical of Uber:

> …the long list of offenses by Uber represents more than just bad behavior–it represents bad business. Sure, the company has disrupted the transportation industry, but it seems this 'disruption' has come without a sense of organizational ethics. It's my belief that innovation, unmoored from organizational purpose or ethics, leaves space for many bad things to happen. This seems to be the case with Uber and, as such, its experience gives us a case study from which to investigate how purpose and profit tied together

> can create truly world- class companies. "Innovation for innovation's sake has been a longtime driver for Silicon Valley. However, simply being innovative is no longer enough—the winners of the future will be those companies that understand how to engage all stakeholders by "out-behaving" the competition.[2]

In our initial discussion of Hollywood, we presented an especially strong, if not severe, interpretation of *Kantian Ethics*. Kantian Ethics asks whether any proposed ethical action or policy can be generalized such that it applies universally to all persons everywhere all of the time. For example, lying fails as a universal policy for if everything that everyone uttered were a complete lie, then who or what could anyone reasonably trust? The difficulty, of course, is finding universals that are anything but platitudes. Indeed, how are they to be determined and implemented?

From the standpoint of Kantian Ethics, Facebook, Uber, and Airbnb were unethical because they did ***not*** adhere to the following moral maxim:

> Whenever the probability, however small, is such that a person will be harmed in any way by a product or service, whether it's through its misuse or initial design, then the provider is obligated ethically to involve those stakeholders that are necessary to monitor and to remediate potential harmful effects.

In *Situational Ethics*, whether something or someone is ethical or not depends upon the particular person, context, and situation. Thus, in the case of Hollywood, whether the use of violence is justified or not depends upon the particular story line and how it is enacted. The difficulty, of course, is that this often leads to Relativism. That is, seemingly there are no general guidelines that would prohibit even the most egregious acts. Everything just depends on the particular situation, the unspoken "rules" of a culture, and so on.

Systems Thinking or Pragmatism views ethics in terms of whether a proposed action or policy helps a person, organization, or society (a wide body of stakeholders) manage critical problems in an ethical manner. In this case, "ethics" means whether a proposed action or policy meets the criteria of any of the major schools of ethics. Thus, in general, proposed actions or policies will not only be examined rigorously from the vantage point of several schools of ethics, but the disagreements between them are key. Thus, in the case of Hollywood, the use of violence is viewed systemi-

cally, that is, how it affects multiple stakeholders and all of society itself. Are society and justice served well by the seemingly endless depictions of violence?

In effect, the SAST process is a method for applying Situational Ethics and Systems Thinking.

This brief review in no way exhausts all of the various schools and viewpoints regarding ethics. But I hope that it is sufficient to give the reader an overview of the subject matter and how the different schools approach it.

Closing Example: Is Religious Discrimination Ever Justified Ethically?

I want to close with a hot-button issue that I referred to earlier and one that increasingly affects all businesses. It shows the general power of Kantian Ethics and reasoning in general.

The April 13, 2015, issue of *TIME* featured a strong interchange between two pro and con arguments (pp. 32–33) over whether Indiana's Religious Freedom Restoration Act is necessary or not. The issues at the heart of the debate are: Are the beliefs of orthodox Christians so much under attack such that they deserve special protection? Should orthodox Christians and the members of other faiths be required to undertake actions which go against their fundamental beliefs? Should the owners of businesses be forced to serve those—for example, gays who wish to be married or who already are—that violate their deeply held religious beliefs?

I found the pro position by Rod Dreher, a Senior Editor of the *American Conservative*, not only seriously flawed, but shameful. Once again, I have recast one of the most critical parts of Dreher's argument into the form of various ethical propositions.

It is not that my personal ethical and moral standards are above criticism and thereby universal, but that once again an ethical proposition of some sort underlies every important social issue. As such, they deserve to be fleshed out so that we can subject them to rigorous examination.

Let me take just one of Dreher's prime contentions, namely, that if, for whatever religious reasons, one baker refuses to make a wedding cake for a gay couple, in today's world there are many more bakers who are willing to have their business; therefore, gay couples have no right to feel

slighted and thus complain. Translated into an ethical proposition, the principle reads:

> Whenever there is at least one other person, say person 2, who is willing to serve someone, person 1, who for whatever reasons person 3 refuses to serve, then person 3 is ethically justified in refusing service to person 1; in other words, person 3 is ethically justified in committing an act of discrimination. To boil it down, "discrimination in the large is acceptable as long as there is at least one other person who doesn't practice it in the small so-to-speak".

As an aside, would it thereby be ethical to build an app that would locate those and only those who are willing to serve gay couples or would this only further discrimination? I believe that it would only further discrimination. Therefore, such an app is unethical.

The preceding principle not only further institutionalizes prejudice, but it also puts the burden squarely on those who have been discriminated against to seek out others who do not discriminate. Worst of all, the principle serves as its own justification, that is, it is self-justifying. It also conveniently sidesteps the whole issue when there is no one in a small or closed community who wishes to serve someone else. Should the person who is denied service therefore be forced to drive miles at considerable cost and time in order to find someone who will serve them?

In Dreher's words, "What is so alarming about the opposition's [presumably, Liberals and gays] moral panic over [the Indiana law] is its inability to accept that there could possibly be a legitimate religious defense of discrimination at all." Really? Name one! How about slavery and the treatment of blacks and women?

Yes, we discriminate all the time in distinguishing between different objects, places, and so on. But discrimination based on race, religion, or sexual orientation is not the same.

Of course, I accept that anyone is free to believe and to say publicly anything they wish, except of course hate speech.[3] But, since businesses are licensed by law to serve the general public, one's actions are judged in a very different matter. In this case, the proposition that "Every belief and action that is based on one's deeply held religious beliefs are warranted ethically" fails miserably.

To take a recent example, as an individual, Kim Davis is perfectly free to believe anything she chooses according to the dictates of her religion, but in her sworn office as a county clerk she has no right to refuse to sign

marriage licenses for gay couples. Nowhere in the Bible does it say that one has a "right" to be a county clerk.

As a universal proposition, discrimination of any kind is not warranted, period! The dubious principles on which discrimination are based do not hold up to the moral cleansing light of daylight.

Concluding Remarks

The implications of this chapter in particular for startups are very strong indeed. For instance, in the case of Uber, ethics asks us to consider seriously those stakeholders that will be potentially helped as well as those who will be harmed by the service. The same applies as well to Facebook. Obviously, some Uber drivers and the company itself stand to profit handsomely. Customers may or may not profit depending upon the particular driver, the condition and state of his or her car, the level of his or her driving skills, his or her general attitudes, work behavior, history, and so on. On the other hand, drivers who work for traditional cab companies stand to suffer financially as indeed they already have.

Consider another important aspect. From the standpoint of ethics, how does the following proposition fare?

> Whenever traditional licenses and rules are an impediment to starting a new business, and innovations in general, then one is warranted ethically in ignoring them. In other words, in the name of progress, disruptive technologies are warranted no what the particular kinds of disruptions they cause.

To say that from an ethical standpoint this proposition is highly debatable is putting it mildly. Yes, there is no doubt whatsoever that we are living squarely in The Age of Disruptive Technologies. But, surely this does not mean that we have to accept every disruption as beneficial, let alone as ethical.

Writing in *TIME*, Joel Stein summarized the matter as follows:

> …Legislators in cities around the world are not thrilled with how fond the CEOs of many sharing economy companies seem to be of flouting their laws. Uber, which was so hot it managed to raise $1.2 billion from investors twice last year, is the best known. In December alone, Uber quit its Spanish operations after a judge ruled that some of its services broke the law,

> giving it unfair advantages over taxi drivers; it appealed decisions in France and the Netherlands prohibiting it from operating its lowest-cost service; it launched in Portland, Ore. in defiance of clear regulations, leading the city's transportation commissioner to get so mad he said he wished out of spite that he could find a legal way to let Lyft operate there; it saw two California district attorneys file suits claiming that the company doesn't screen drivers as it says it does…[4]

It is highly unethical—no matter what school of ethics to which one gives one's primary allegiance—*not* to consider the ethical ramifications of any proposed course of action, certainly those that impact large numbers of people. In short, every business needs to undertake an Ethical Impact Analysis!

Notes

1. See www.apa.org/research.
2. Jeff Cherry, http://www.consciouscompanymagazine.com/blogs/press/22766337-the-missing-link-at-uber-ethics-innovation-conscious-capitalism.
3. However, see Greg Lukiannoff and Jonathon Haidt, "The Coddling of the American Mind," *The Atlantic Monthly*, pp. 42–52 for the negative effects of "policing" speech.
4. Joel Stein, "Tales from the Sharing Economy," *TIME*, February 9, 2015, p. 38.