The global financial crisis and the business professional—a case for stronger new professional associations?

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This article looks at the moral culpability of the business professional for the global financial crisis (GFC) and in relation to corporate scandal generally. It investigates the types of moral failings of the professional—turpitude, cowardice, incompetence and the need for moral character and moral agency. This article cautions against a purely legislative approach to stop corporate scandal and practices that led to the GFC and argues instead for a strengthening and broadening of professional associations to support and hold the business professional accountable and to promote moral agency.
In the 1930s, the German Nazi government contracted IBM to assist in the compilation of the German census results. IBM was the owner of the Hollerith machine—the most advanced commercial computation machine available at the time. The German census also included data on race, which was used to devastating effect (Dillard 2003). The grisly details provided by Dillard (2003) demonstrate that the census was of great help to the Nazis in locating and capturing German Jews and Roma.

The question arises as to the culpability of IBM and its technicians. How much did IBM know about the Nazis? How much should they have known? How much should the information and business professionals working for IBM have known about the evil intentions and practices of the Nazis? These are the questions I put to my business students in their ethics class. I ask them to consider how much they need to know beyond their direct sphere of expertise and to consider the courage that they need in order to be a moral agent— a professional.

Over the past decade or so, we have had various major business scandals and crises— the Asian financial crises, Enron, Worldcom, Arthur Andersen, OneTel, HIH, AWB, and now the current GFC and the role of banks and credit rating agencies. To what extent are business professionals culpable in these crises? To what extent are business professionals part of the solution to avoid such meltdowns, corruption and unprofessional practice? This paper goes some way to answering these questions.

Culpability and the professional

Culpability takes several forms; for example, moral turpitude, cowardice and incompetence are the most obvious and straightforward, but there is also a lack of moral agency. Moral turpitude is a clear case of culpability (Wolters 1976). It is one where the professional knowingly engages in corrupt activity in order to benefit personally. The benefit could be, among other things, monetary, career advancement or increased status.

Things become more complicated when we are faced with competing moral ends. In real life, we are often caught between moral ends and have to choose. Most of us will quite readily tell white lies to protect what we see as the greater good. A case in point is that of the AWB and the sale of wheat to Iraq (Overington 2006). Here it might be argued that bribery was an undesirable but unavoidable part of doing business in Iraq. Other nations were seemingly prepared to bribe the Iraqi officials, and Australian wheat farmers would lose out if the principles (and legality) of not bribing were scrupulously followed. The slippery slope is apparent here, and in turn moral turpitude can easily be rationalised away. It takes a strong moral character to know what the right course of action is and not to be seduced under such circumstances. In the GFC, one may well be able to pick out examples of professionals who were corrupt or who, having found out what was going on, decided that the best course of action for all concerned was to ride out the storm.

Moral cowardice occurs when the professional does not participate directly in any moral wrongdoing, but looks the other way and does nothing about it and/or only undertakes some minimal and ineffectual action (Bauman 1989; Macintyre 2006). It would not be surprising to find that most people and most professionals would find it exceedingly difficult to blow the whistle or take some sort of effective action to prevent wrong doing. Few of us would willingly risk careers and social opprobrium to blow the whistle (Alford 2007). There are also the difficulties of uncertainty. The whistleblower doesn’t have all the facts and does not have the bigger picture. I suggest that many professionals, like most people, look the other way in the face of looming crises.

The third area where the professional can be culpable is what I term moral pretence—that is pretending to be something one isn’t— representing one’s skills and experience to be greater than they are or not applying one’s professional skills with due diligence. The bankers and the employees of the credit rating agencies have been criticised for their lack of competence and judgement. It must, however, be remembered that many of the very same bankers were lauded for their competence and judgement for doing the very same things immediately prior to the crisis (Lanchester 2009). There would be little argument that the professional who was corrupt, a coward or recklessly or negligently applied their skills was morally culpable. However, is the converse true? Is the professional who does not engage directly in immoral action, is willing to expose straightforward corruption and always works within the reasonable bounds of their skill and experience, acting morally?

The answer is far from clear-cut. Firstly, if we return to the opening example of the IT professional working on the 1936 German census, we might conclude that the professional did nothing wrong—they were not directly involved, the specifically evil character of the Nazis had not yet revealed itself, and the person acted...
within their competence. However, some might begin
to question the professional’s willingness or otherwise
to examine the morality of the case in question. To hear,
see and speak no evil does not necessarily exonerate.

MacIntyre (2006) illustrates this with another example
drawn from the Nazi period. Suppose a logistics expert
efficiently and effectively organises the movement of
cargo around Europe. One day he asks his superiors
about the nature of the cargo and is told it is of no
concern to him and to get on with his work. The
logistics expert does so. Much later, he discovers the
cargo was weapons of mass destruction and people
destined for gas chambers. Few would suggest that
the logistics expert was not morally culpable. He
should have found out and acted accordingly. Many
a moral story turns on people refusing to see the
evidence before their eyes. The logistics expert simply
stayed out of trouble taking a salary, consultancy fees
and possible career advancement for doing so.

By the same token, there must be tens of thousands
of professionals, consultants and experts who also
knew, or it could be argued, should have known, had
they taken the trouble, of the shaky foundations of the
structured investment vehicles (SIVs), the compromised
advice of the credit agencies, the risky dealings of the
banks and so on. We have the situation where many
professionals were either directly culpable (they knew
what was going on, but did nothing) or indirectly
culpable (they should have known) through failing to
fully open their eyes to what was going on.

Moral culpability also concerns the different advice
the professional can provide. On the one hand, the
professional could provide advice that will maximise
shareholder value, or on the other hand, provide advice
that maximises stakeholder value (e.g., shareholders,
employees, consumers). MacIntyre (2006) found that
energy and power executives could readily provide
different advice depending on whether they were
managing their company for the benefit of shareholders,
concerned citizens or families. Often it would seem
that it is a question of wearing different hats; that is,
working from particular perspectives produces different
decisions. The idea of wearing different hats was made
infamous in the NASA Challenger disaster where an
engineer changed his hat from that of an engineer to
that of a manager and gave the green light for launch—
the wrong choice, as it turned out.

We can identify several ways that the business professional
can morally fail. How do we identify such failings when
they occur? How do we avert or reduce these failings?

Good corporate governance

The most common response to the crises that have
beset business over the past decade or so is to increase
the transparency of the decision making of businesses
through legislation. The US Sarbanes-Oxley Act is
still the most widely cited example, and it supports
the commonsense notion that few people would
have acted as they did were they to be found out.
Executives, board members and managers could be
sacked for being bad or being incompetent.

It has a certain appeal to the legislators—they can be
seen to be doing something. But also, the lawyers win,
the bureaucrats can monitor, and my own discipline
(Information Systems) can develop the systems to
document the decision making. It seems like we
have winners all round.

But there are two central limitations to this good-
governance approach. The first is that the legislative
approach is not as effective as we would like (Painter-
Morland 2008). The GFC happened after increased
corporate governance controls. Certainly, more regulation
and more specific financial regulation would prevent
some of what happened, but at the possible cost of
forever increasing regulation and potentially hamstringing
companies. As a young researcher in the Victoria Police, I
was shown the immense folder of police regulations and
was told by my Inspector, ‘See that, there’s one regulation
for every f**k up we’ve had in the job’.

Good business management cannot be simply
legislated or regulated for. Here I use the term good
both in its sense of being moral, but also in terms of
it being excellent. Legislation is strongest in terms of
the prevention and detection of what I called moral
turpitude. However, from there on, legislative power
progressively weakens. Legislation can only bolster
whistleblowers and oversee professional competency
to a limited extent. It seems much more difficult to
ensure that people behave morally by seeking out
information or that they maximise one set of objectives
without consideration of others. Ethical practice in
business is balancing competing interests in real time.

A related difficulty is that people would comply or
undertake various tasks not because they thought it
right, but because it was not against the law. People,
absolved from the responsibility of morality by the law
would seek loopholes—the tax avoidance industry is
a case in point. Finally, legality does not incorporate all
morality. We cannot legislate for things like trust and
friendship, and it would be a sad world if we thought we needed to try (Painter-Morland 2008).

The second major difficulty with the legislative approach is the type of world it augurs. I have already suggested that it promotes a world of compliance rather than morality. It also promotes a world of surveillance. It is well recognised that both morality and creativity require privacy (cf. Quinn 2009, p. 223–225). There is too the old problem of who watches the watcher. The Nazi government, after all, was the legal government of Germany.

To rely solely or heavily on surveillance and transparency legislation is probably self-defeating, potentially producing a stifling culture of compulsion and surveillance. It is neither a world we would wish to live in nor a world we could do good business in.

Moral agency and the professional

If legislation is only partly and reluctantly an answer, what else is required? Following the views of Macintyre who reintroduced the idea of virtue ethics, we should be establishing moral agency in our citizens, our employees and our professionals. Bauman (2008) wryly suggests that for some of us, this cure is worse than the disease. There is immense distrust of the morally autonomous agent—someone thinking and acting according to conscience rather than by convention or following rules.

According to Macintyre (2006), moral agency requires the capacity to understand and present oneself as being more than the role or office one occupies. It means seeing and acting on a broader view of the circumstances and what one should do. Views or roles are not changed and acted on according to the role or to suit the social or political circumstances. Macintyre calls this the virtue of integrity. The manager must not only see the issue as being, say, maximising shareholder return, but also, say, among other things, a just return to the consumer. It is a matter of putting morality, justice, fairness and so on directly into the decision making. It involves a set of difficult choices. It doesn't mean one view always wins. Macintyre calls for the virtue of constancy—to hold fast, across time and situation such that the moral position eventually triumphs.
The second part of moral agency requires the development of our rational faculty, so that the moral agent has the ability to consider issues and circumstances. He or she is no idiot savant who simply knows their narrowly defined roles or expertise, but makes it his or her business to know and pursue the moral issues as part of their work. Finally, MacIntyre (2006) argues that moral agency cannot develop in isolation from others. We need to test our views with others and be held accountable for our actions. Moral agency is a social enterprise. It is moral agency that distinguishes between the expert or consultant, the hired gun and the professional who may not give the answer one wants.

It may be suggested that the development of moral agency is all very well, but many companies will prefer to employ experts who do as they are directed, rather than professionals who are also beholden to their profession. Secondly, the idea of developing or strengthening moral agency in the business professions may appear a weak and soppy solution to the GFC and other ailments of the business world. But it is neither weak nor soppy if it is considered as a form of primary prevention bolstered by a new professionalism.

An approach based on moral agency would require the strengthening of professional associations and their support of their members. Such strengthening may need some legislation and regulation. Currently, there is no necessity for business professionals to belong to a professional association. Management accountants, financial and business analysts, IT and IS professionals are not required to be members of their relevant professions in order to practise. The GFC and the share market scandals suggest that it is now time to consider this proposal. The amounts of money involved and their influence on the global economy demand the supervision of business professions.

Strong professional associations can support their members against the pressure towards the narrowing perspectives of the company and its corporate culture, and discipline their members where the professional must in principal justify his or her actions to the association. Membership of a strong professional association would support moral agency by strengthening the professional’s identity, providing professional development and assistance in developing rational agency and finally providing a place for discussing moral issues and accountability. Finally, strong professional associations can discipline those members who morally lapse or misrepresent their own competence.

This would require a substantial rethinking of our current approach to the business professions and their relationship to business corporations and would involve a widening of the existing professions in business. One area we would need to rethink is a knee jerk reaction that such associations are fundamentally self-serving. This is a danger, but a danger that can be dealt with. Stronger professions and stronger professionals are potentially a less bureaucratic response and a more flexible response to the GFC and other bungles, crises and wrongdoings than compliance legislation alone. It may also have the advantage of providing, through federation or national professional associations, a global response to the GFC.

Above all, the strengthening of the professional associations can help to reinvigorate the ethical dimension of business, whereas a compliance legislative approach may further alienate ethics from business. We must seek new ways to develop and
strengthen moral agency in business. There is an increasing awareness that business has an ethical base and is essential for the establishment of trust and networking between businesses and their employees (Fukuyama 1995). Strengthening professional associations and making the business professional accountable to such associations is one step forward.

References


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