



## December 2023 Webinar Unanswered Questions: By Dr. Ali Abbas

Thank you for many thoughtful questions. Below I provide some responses based mainly on the data that was collected, except for one or two from personal experience interacting with organizations.

### **1) How should decision analysts guide clients through ethical dilemmas, where there are no "pure" options and they must weigh who will be harmed and to what degree?**

The tools of Decision Analysis are by themselves amoral, but there is a lot that can be done to address ethical dilemmas with an emphasis on Ethical Decision Quality (EDQ). In particular, going through an assessment of the elements of EDQ when faced with an ethical dilemma. Here are some examples (Chapters 8 – 18 talk in more depth about specific action items in relation to the elements of EDQ):

- 1) Ethical Awareness is the first element of EDQ that helps make sure that everybody is on board with what comprise an unethical act.
- 2) Ethical tolerances and trade-offs are a second element. Getting clarity on the ethical tolerance that an organization is willing to operate with, and the ethical trade-offs (when there is a benefit to the organization vs. other stakeholders). Knowing these elements and what you will (or will not) do also helps mitigate the escalation of ethical issues when a situation arises.
- 3) Decision Analysis can draw on a wealth of expertise and practice generating better alternatives. With EDQ, the focus will also be on generating ethical decision alternatives that may themselves resolve or bring clarity on the dilemma or even provide less harm to others.
- 4) Incorporating uncertainty into the analysis can help anticipate/avoid unintended consequences and brainstorm follow-up actions. Incorporating uncertainty also allows room for assessing the credibility of information using normative methods. We hear quite often that many people have spent years in prison only to have their conviction overturned years later.
- 5) Cognitive biases can help understand/mitigate peoples' reactions in certain ethical issues with ethical implications e.g. group think, obedience to authority biases, ad many others.
- 6) Understanding the environment, the incentive structures, and their ethical implications can also help avoid ethical issues.

- 7) Understanding the reasoning that is used in making a decision is important in addressing concerns. For example, is an organization going to rationalize with a Kantian vice utilitarian perspective? Will it incorporate all the information and preferences into a meaningful decision-making system? And will it understand common rationalizations that enable unethical decision verdicts?

## **2) How does courage factor into your findings?**

Courage affects an individual's willingness to stand up to acts of deception, harming and stealing when they see them. The opposite is fear, where individuals are much more willing to tolerate these acts. This is part of an element of EDQ called well-being (Chapter 14).

A quote by Bertran Russel mentions "Neither a man nor a crowd nor a nation can be trusted to act humanely or to think sanely under the influence of a great fear."

Building on individuals' actions in fear, many tactics have been introduced. According to Wikipedia, Fearmongering, or scaremongering, is a form of manipulation that causes fear by using exaggerated rumors of impending danger.. Fearmongering is routinely used in psychological warfare to influence a target population.

Some organizations even try to create an atmosphere of intimidation for the purpose of suppressing moral courage. As I mention in the book, Mike Coates, a former HSBC employee who worked on financial crime compliance and left the bank in 2018, said the industry's profit-focused incentive structures can still override the fight against financial crime. "You can't get a man to believe in something when a salary depends on him not believing it," said Coates

## **3) How is EDQ part of the lawyer's remit? Would a client really want that? Isn't a lawyer's job to advance the interest of his/her client within the bounds of the law?**

This is an important question. It is indeed the job of a lawyer to help an organization navigate the legal system and take advantage of some of its benefits. The question is whether an organization would like to navigate the legal system, take advantage of its privileges and be ethical along the way.

When an organization posts "integrity" in its core values, it never says "integrity within the legal domain", rather it just says integrity. So this is a reality test.

Now if the purpose of being ethical by itself is not a reason, another reason for an organizations to adopt this is that many times the legal team can get it wrong. Many of the organizations presented in Part 1 of the book received advice from a legal team.

Enron's Skilling said in a televised interview, "Arthur Andersen and our lawyers had taken a very hard look at this structure, and they deemed it appropriate." The follow-up: Skilling was initially sentenced to twenty-four years in prison.

Examples abide. The Air & Waste Management Association reported in its EM Magazine in June 2018 about Volkswagen: "It is impossible for us to know exactly what legal advice VW received (Thank you, attorney-client privilege . . .), but it is interesting to speculate whether VW's internal response would have been different if outside legal counsel had simply said "there is no analog for this, it's uncharted territory" or "here's the worst thing we found, given our different facts, we could easily be facing penalties ten times greater (i.e., US\$1 billion-plus)." The follow-up: billion-dollar fines and jail time.

As mentioned in the book the legal system often takes time to catch up : "The LA Times reported about a change in the legal system in California, *"California attorneys must report misconduct by their peers."* Further, the State Supreme Court now obligates attorneys to notify the State Bar if they have *"credible evidence that another lawyer has committed a criminal act or has engaged in conduct involving dishonesty, fraud, deceit" or other wrongdoing that "raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness."*

**4) Most of the mindsets you identified are characterizations of the organization's rationalizations/cover-up once they are caught and subjected to public scandal (lagging indicators); are there leading indicators?**

Great question. Some of the mindsets e.g. "Unethically Fast and Slow" are examples of reactions once a scandal has occurred. But there are also leading indicators: The Legally-unethical mindset, the Pendulum Swings Mindset, the Black Hole Mindset , and Organizational Transgressions are leading indicators that occurred before the collapse. These mindsets as well as weaknesses in the elements of EDQ are the leading indicators. They were great predictors for many cases such as Enron, Madoff, Theranos, Valeant and many others

**5) Can the ethical quality of a decision (EDQ) be evaluated ex ante (like DQ)? Or can it only be determined from the outcome?**

Yes. The ethical quality of a decision can indeed be evaluated ex ante. There is an assessment of the elements of EDQ presented in the book. This can apply to an individual or an organizational assessment. For example, the assessment would focus on motives and explore whether any of the decision-makers have personal motives that may influence the decision. The assessment of awareness would focus on the intent.

As Dr. Benjamin Franklin noted: "I doubt too whether any other Convention we can obtain may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can a perfect production be expected?"

The assessment also explores the effects of the environment, and whether there are dominant features such as a band wagon, or “do whatever it takes to get the job done” or social clubs and exchange of favors or group think biases.

**6) What thoughts do you have on how ethical lapses can influence trade-offs in decisions?**

Yes, there are indeed many examples where ethical trade-offs are affected (unfortunately in an extreme way) following an ethical collapse. If an organization has a decision process, they will be less affected by the swings that occur in the trade-offs. But when they don't, the collapse usually results in what I refer to as “Erratic Decision Making Around a Trending Bandwagon”. Sometimes organizations swing backwards and forwards in ethical trade-offs until it is back to normal.

I will draw on an example from personal experience as I quote from the book: “Following the oil spill incident in the Gulf, as an example, many oil, gas, and energy companies launched initiatives to improve decision-making. I was invited to give a seminar in the headquarters of a large organization, and so I decided to talk about values. I asked what values their organization cares about when making decisions. Immediately, everybody responded, “Safety.” I asked if there were any other values, and after some discussion, they said, “Having a clean environment.” I asked if there were any other values, and no hands were raised. There was a pause. After about ten minutes, a participant sitting at the back of the room raised their hand hesitantly and said, “Profit.” He seemed embarrassed by saying it. “

The issue was not that they cared heavily about safety and the environment, but that they did not mention profit. It was clear the focus had shifted from profit (possibly due to internal memos and top-bottom slogans about the importance of safety and the environment). But if that is all they really cared about, then they could achieve those values (safety and environment) by shutting down all their operations. They would have a stellar safety record and have minimal impact on the environment. And when an esteemed group of executives answers this way, it would be difficult for them to make meaningful decisions that involve profit.

**7) Building upon the concept of a universal standard of ethics, there are different cultural biases in terms of level of tolerance. Is it ethically flawed for multi-national corporation to be indifferent to these cultural differences or adjust accordingly?**

This is an important question. The ethical tolerance of an organization should not depend on its geographic location or operation in different parts of the world. The ultimate question is what the organization is willing to tolerate (its ethical tolerance) in its operations anywhere in the world regardless of the legal system or the cultural norms.

While the legal system in a particular country might allow/tolerate certain things and prevent others, it will be up to the organization to have a unifying ethical tolerance.

For example, in some parts of the world, giving a bribe to a government employee to get paperwork signed and expedited is every-day practice. The ethical concerns include whether getting that permit expedited impacted other stakeholders adversely. If so, and if their ethical tolerance does not allow that, then they should not do it in any geographical location, even ones that deem that normal practice.

Likewise, is an organization willing to have child labor that work more than 14 hours per day, with no safety insurance in case of an accident due to fatigue? I mention in the book "Fatigue is another factor that impairs ethical decision-making as it impairs an individual's ability to function and jeopardizes safety during the job" If its ethical trade-off does not allow it then it should not engage in that activity anywhere. This is not a matter of paying different wages in the U.S. or overseas but a matter of exposing individuals to deception/ harming/ stealing in some parts of the world vice others.

**8) Is there any form of advocacy that is currently being lead to create these types of decision processes?**

I hope that the word spreads and that the concept is adopted by many organizations. I am hopeful because when it came to DQ, many organizations implemented decision processes and in-house training ( e.g. Chevron, BP, Intel, and many others). Efforts like those of Society of Decision Professionals ( SDP) and the Decision Analysis Society (DAS) of INFORMS could be great starters for this initiative.

I believe that organizations need to have a focus on implementing an ethical decision culture, not just mentioning integrity in the core values without specifying ethical tolerances and trade-offs, or assessing the elements of EDQ, and then having a compliance team.

**9) How do you recommend navigating an environment where ethical standards evolve over time (e.g., historical ethical standards are no longer acceptable today)**

It is indeed possible that societal norms for what is acceptable evolve over time. As mentioned in the book "The Museum of London and the Natural History Museum reported about a joint project examining skulls and human remains that were deposited between AD 120 and AD 160. The skulls show "evidence of blunt force trauma in the facial area and on the side of their heads around the time of their death." Further, "skulls suggest Romans in London enjoyed human blood sports."

The way we can proceed with this is to agree on a set of norms. While writing EDQ, I focused on Deception, Harming, and Stealing and identified common factors and ethical pitfalls associated with those actions.

An organization might wish to specify other norms, but at least we have started the conversation instead of just listing “integrity” as a core value, and there is little guidance when it comes to ethical decision-making.

Intent is also a critical issue. Whether you are committing an unethical act deliberately. As mentioned in the book about the Theranos Trial: “Before the verdict, multiple media outlets discussed the issue of intent. Did Elizabeth Holmes cover up the defects in Theranos technology to defraud investors while also endangering the lives of patients? Reuters reported, “Holmes’ intent was the ‘critical issue’ in the case.””

**10) Your answer on auditing EDQ identified reasons that such an audit would fail (if it's legal, if it's not contrary to policy). Is there hope?**

I believe an organizational leader will need to answer the question of whether they really want to have an ethical decision culture or not. The quote from VW’s Oliver Schmidt is in order here

“It should first be decided whether we are honest. If we are not honest, everything stays as it is.”

I do believe there is hope for several reasons. First, there are many organizations that have societal outreach activities and who genuinely want to have an ethical decision culture. I am hopeful that the concept will eventually be picked up by these organizations at the start.

And even those few other organizations who do not believe in having ethical decision cultures, I believe they will still adopt this initiative. For one, if an organizational leader feels that this is a pathway to avoiding ethical collapses this might be an incentive for them to adopt it. Alternatively, if they believe that advocating ethical stances might increase their business, then they might also wish to embrace EDQ under peer pressure. The hope though is that it is a genuine effort to build an ethical decision culture.

**Can you comment on how the organizational behaviors impact individual decision making (example: how organizational incentives lead to unethical decision-making—Boeing 737MAX) and how that might be prevented?**

Organizational behaviors influence the operating environment, the incentives, biases, and motives that impact ethical decision-making. Incentive structures are quite often incompatible with utility-maximizing alternatives. Rewards are often made based on the outcome and not the process. And many decisions are made following the path of least resistance or obedience to authority.

I note in my book that Groupthink is also a situation that arises when members of a group focus on (and strive to reach) a consensus on a decision due to pressure or conformity instead of analyzing and challenging the proposed alternatives or expressing an opposing view. The results are often disastrous, and people often wonder how such decisions could have been made. Groupthink played a role in the Challenger space shuttle disaster, where concerns about the

sealing abilities of an O-ring at a particular temperature were ignored. This was cited as the main issue that led to the explosion. There was pressure on NASA to launch after surveys showing that the popularity of the Space Shuttle Program was fading.

Another incident of groupthink and obedience to authority was displayed in John F. Kennedy's Bay of Pigs invasion decision, where he was surrounded by individuals who did not express any opposing views. Arthur Schlesinger, Kennedy advisor and historian noted: Our meetings were taking place in a curious atmosphere of assumed consensus, [and] not one spoke against it.

As noted in a Wall Street Journal article "All the President's Yes-Men: JFK remade his decision-making process after the Bay of Pigs debacle," the decision went through partly because nobody among JFK's advisors was willing to speak up or play devil's advocate. After that decision, JFK created the Executive Committee of the National Security Council, which could openly express its ideas and debate national security decisions. Further, it met with and without the president to minimize the effect of obedience to authority and the yes-man environment. Robert Kennedy later recalled, "There was no rank, and in fact, we did not even have a chairman . . . the conversations were completely uninhibited."

**It seems that there are certain industries/organizations where there is a constant level of scrutiny regarding ethical behavior. Has your data shown a leaning towards a particular industry and what were the common denominators for that data?**

Much of the analysis used in identifying the elements of EDQ came from large business organizations in general. The tendency for more scrutiny comes when an incident occurs and when that industry becomes under the DOJ's radar screen. And so, there are indeed industries that are now subject to more scrutiny in response to scandals. These include automobile industries, pharmaceuticals, the banking industry, social networks, and energy.