

Is Our Workplace Ethical? Key Issues and Implications¹

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Good morning and thank you very much for the opportunity to be here. I spent a lot of my career working with others in an effort to find better ways, in fact, practical ways, of bringing more success to the enterprise. Business ethics is no exception, though frequently it seems like it might be. Vanessa Macro, in her kind introduction, told you pretty much what I am or was, including my 31 years at UTC. What I'll tell you also is what I'm not. I'm not an academic, and I don't pretend to be an expert in ethics. When I got the ethics and compliance job at UTC in 2005, I called my mother and I said, "Mom, I got a new job." She then asked, "Oh yeah, what are you doing?" I said, "I'm in charge of the ethics programs for the company worldwide." She paused, momentarily, and then said, "Ethics? You're in charge of ethics? I thought you were *just* a lawyer." I said, "You're right, Mom. That's what I am, *just* a lawyer."

Now, moving past the lawyer joke from my mother, it revealed some great wisdom – that it is the lawyer's toolkit that is so often applied to the ethics issues within the workplace. It's a very small and limited toolkit. The lawyer relies on rules. Boy, you've got to have a glossy code. You've got to have something that looks swell, with some bells and whistles, and then some training, hopefully with a fancy video, and then you have the big stick to threaten punishment. That's the lawyer's basic toolbox – rules, training, and threats of punishment.

It's not the toolbox of business, however. And I don't think it's really the toolbox of academia or other enterprises as well. In fact, we all know that we work through systems; we work through controls; and we work through culture building. And that's what I want to share with you this morning. Just a note about my life at United Technologies, to show some of the challenges in building an ethics and compliance program. UTC last year had about \$55 billion in revenue, about half coming from aerospace companies and the other half from building systems companies. UTC had about 210,000 employees last year, sprinkled all over the world. In recent years, more than half of all employees have been outside the US; more than half of revenues were earned outside the US; and more than half of the ethics problems were outside the US. It's a big company with a footprint that extends almost everywhere. And so, the challenge is trying to move 210,000 people in positive directions.

This job was not a lawyer's job. This job, first, was a job of change management. How do you get somebody to change when they think that what they're doing is okay? Anybody here who's not ethical? Raise your hand. Anybody who needs help in becoming ethical? Nobody? I was hoping that I'd find one at some point in my lifetime. Aside from change management, this was a job of shared space. I had an organization, but it was an organization that didn't overwhelm the business with its size. The only way an ethics program can succeed is through the

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engagement of general management and the functional departments. How do you get them to move and not have them feel like you are encroaching on their domain?

What I'm going to do this morning is describe the results of the National Business Ethics Survey, talk about the implications of the Ethics Resource Center's findings, and then I will describe how UTC and other Defense Industry Initiative companies worked to harness the power of the ERC's findings.

The Ethics Resource Center, a nonprofit organization located in Washington D.C., was established in 1922, and it looks both at public and private activities. The key is its research, such as the National Business Ethics Survey, which can be applied to companies and other organizations and also can be used to educate policy makers regarding the drivers of good conduct.

The National Business Ethics Survey was first launched in 1994. It is a workplace survey, which makes contacts via telephone for about 2/3 of participants and online for about 1/3 of participants. It deals with people that are at least 18 years old and are employed at least half of the time. The data on these charts came from the 2011 survey. The margin of error was plus or minus 1.4%.

I suppose before I get to the key findings of the NBES, I should posit at least for your consideration, the things that you might find important. Ultimately the ERC focuses on four outcomes. First, how much misconduct occurred in the organization? Second, how much pressure was there to commit misconduct? Third, was there a willingness to report misconduct? And fourth, was there fear of retaliation for reporting? I'll suggest to you that those are four, heavy-duty, bottom liners, the kinds of things about which everybody within the business should be concerned.

So, what did the 2011 NBES reveal? And – by the way, I will further preface my remarks by stating that the ERC's survey asks about observed violations of law and observed violations of the company code of conduct. I don't know what your code of conduct looks like, but I'll bet it looks a lot like UTC's code, because most codes are variations on the same themes, and one of the words used frequently is "fair." What does "fair" mean? Interesting question. It isn't just crimes against humanity that employees consider as unethical. Indeed, there's a very wide range of conduct which employees would consider to be misconduct, such that the observation of misconduct might be higher than you would guess. You can fight with the definition if you choose. There are many who do. When a person dislikes whatever it is that he's hearing, a classic response is to attack the definitions. But I'll suggest that the ERC's definition is workable.

So, ethics violations don't have to be crimes against humanity. There are some soft-side things included in the ERC's definition, but those soft-side things, in fact, are meaningful and important to us as humans. So, with the definition now explained, what are the more significant findings? In the first place, let me tell you that employee observation of misconduct was at an all-time low of 45% and that it was an improvement over the previous two surveys. In 2011, there was a 4-point improvement from '09 and a 10-point improvement from '07, with a positive progression from 55% to 49% to 45%. And when you're looking at the big hitters, as shown on the chart, you've got misuse of company time and abusive behavior. So, crimes against humanity weren't on the top of the list.

You can ask yourself, which violations do I care about the most? Is it the most severe or is it the most pervasive? How can you respond to the data with meaningful actions? Those are all really interesting questions and we'll move to those questions later. The other good news from the NBES is that the level of reporting was at an all-time high. 65% of those who observed misconduct reported it, which is a very healthy sign of the right kind of internal environment.

Now that we have the good news out of the way, retaliation was at an all-time high. Yeah. What you could conclude is that things were actually pretty good in 2011, but that there had been a downturn in some behaviors and actions, such that something was amiss. The crosscurrent in the 2011 results was reflected in increases both in perceived retaliation and pressure. Retaliation against reporters, as revealed by reporters, is at an all-time high of 22%. You'll note that I added, "as revealed by reporters", because each of has a personal vantage point regarding the meaning of events. Those who retaliate certainly can be subtle or find pretexts to mask their actions. On the other hand, many persons subjectively perceive retaliation that would not be considered retaliation by others on an objective scale. In the world of the real, there usually are two sides to every story, and everyone starts from his or her perspective. Let's suppose that I'm a manager, and I know that one of my people has alleged that I've crossed the line. So I think, "Wow. I have to be really careful. This person doesn't respond well to my leadership and has misconstrued some of my actions; so, I'm going to back off." On the other side, my subordinate says, "I was frozen out. I wasn't involved in the decision-making process the way that I had before. I am being retaliated against because I reported." These are not always easy fact patterns to unravel. Whom do you believe? Both can have a reasonable basis for their understanding.

According to research of the Compliance and Ethics Leadership Council, the perception of retaliation and fear of retaliation are signals of misconduct, such that this uptick of 7% in perceived retaliation might be a precursor to an uptick in observed misconduct in the next NBES.

So, let me summarize the NBES data. We've got 138 million Americans that are in the workforce; 45% observed misconduct; 65% of those who witnessed wrongdoing reported; and of those who reported, 22% said that they experienced some kind of retaliation. Take these numbers first as "numbers", and then look beyond the numbers to trends, focusing particularly on the negative trend with respect to retaliation, which is a clear sign of trouble.

Now let me take you deeper into the ERC's research and how they utilize observed behaviors as concrete manifestations of an organization's culture.

Let's start with the "culture" of an organization, which is an incredibly powerful force. What this chart shows is that cultures can improve and decline. Now, the ERC starts with what I would describe as a customary definition of culture, as the combination of the written and the unwritten rules. But they take one step further, and they translate the idea of written and unwritten rules into specific behaviors. Accordingly, some of the questions in the National Business Ethics Survey go directly to those behaviors. So, what you see on this chart is a drop in the 2011 NBES with respect to culture, and culture is important because the ERC's research also reveals that certain behaviors represent indicators of the existence of misconduct in the organization, pressure within the organization, and unwillingness to report. The ERC also found that management behavior was the key driver of an ethical culture within a business. If you capture the hearts and minds of executives, managers, and supervisors, you can start to move the ethical culture of the organization.

And what do we have? In 2011, a negative view, a downturn in the view held by employees with respect to supervisors. Supervisors are the most likely source for receiving reports of misconduct, so their being seen as less trustworthy is what you could describe as a downer. And pressure has returned. So, what you see are some leading indicators that things are getting worse within the business environment, not better. If you're looking at an increase both in pressure and a fear of reporting, things are not moving in a positive direction.

On that unhappy note, and now that we've looked at the NBES data, let's look at the practical side of the ERC's learnings as related to business ethics, compliance, and risk management. I had the good fortune, the incredibly good fortune, in fact, of attending my first ERC Fellows meeting early in my tenure in 2005 as VP for business practices for UTC. When I transferred back to Corporate Headquarters, I was told not just to do more, but to try to do something that was different. I had no clue about what possibly could be done differently because I walked in with the lawyer's toolkit – rules, training, and threats of punishment. That was me.

I went to the ERC Fellows meeting, and I heard the results of the National Business Ethics Survey, and it was fantastic because everything that they did was translated into a set of behaviors, something that was understandable. Essentially all of the key changes that we made in my seven years in business practices were based on the ERC's research. It wasn't UTC alone that took advantage. About 10 companies in the Defense Industry Initiative took advantage as well.

The next set of charts shows the ERC's model for achieving better outcomes by building a stronger culture. This was the thing that really knocked my socks off because what they did was look first at two sets of inputs, and then at one set of outputs, and they identified the specific inputs – in the form of behaviors – that really matter the most. The outputs, I already described. They include the observation of misconduct, pressure to commit misconduct, unwillingness to report, and fear of retaliation for reporting. Those are things that you care about, and what ERC did was evaluate the impact of a structural set of inputs and then a cultural set of inputs. The structural sets of inputs included, for example, "Do you have a code? Do you have training? Do you have an organization that watches after the ethics program? Do you have risk management?"

The ERC found that structural inputs would improve outcomes. They also found that structure alone results in a plateau and that the addition of a strong ethical culture yields even better results. In fact, the culture component was stronger than the structure component. The culture component was so much stronger that even if the structure were to wither, the performance would remain higher.

So, what is this "culture" thing? Let's go back to the written and the unwritten rules. What does that really mean? It's an abstraction, but ERC translated it into the concrete. They found that there were four behaviors from management that made the greatest difference: good communication including an element of ethics, modeling the right behavior, keeping commitments, "my word is my bond". Any time that somebody tells you there's no such thing as business ethics, go back to the concept of keeping commitments. If you cheat your customers, how long do you keep them? Cheat your suppliers, how long do you keep them? Right. Fool me once, fool me twice. Keeping commitments, that's reciprocity. I help you; you help me. It's in us. It's a mega-force in human behavior. The fourth behavior is maintaining accountability across the enterprise. What does accountability mean? I heard an earlier speaker describe it as treating similarly situated people in similar ways. It's justice. It's fairness. It's also a mega-

force, because it also is a manifestation of reciprocity in the form of “evening the scales”, because all should get their just deserts.

These are the things that move us. We want to be part of something that’s big, something that works, something that achieves and accomplishes a larger sets of objectives, and we’re willing to dedicate ourselves to work within an organization to achieve those objectives. But these four behaviors from management are the things that we seek in return.

At UTC, new systems were created to facilitate a better culture. Two key structures were additions to the personnel appraisal process, first, a competency based directly on the four ERC behaviors, and second, annual objectives for ethics communications, ethics training, and risk management. The competency was mandatory for all salaried employees and did not assess “ethics” directly but instead assessed the degree to which each employee displayed the four ERC behaviors. The Competency thus did not grade an employee as “ethical” but merely measured the behaviors that were known to be the drivers of better results. The objectives were an extension of the Competency by encouraging the use of systems and controls to improve performance and reduce risks, and the objectives were cascaded through the company, starting with the CEO.

Go back for a moment to the idea of an ethical culture. The four behaviors that I mentioned before, good communication, modeling the right behavior, keeping commitments, and maintaining accountability, as a package are close to being a definition of leadership. Leadership with good processes.

When you’re looking at communication, I hate happy talk. “Be good”. I’m telling you, you’re wasting your breath. There’s a really cool little book out there called *Made to Stick*. Some of you probably have read it. It’s a little orange covered thing with some fake duct tape on the front. It’s written by a couple of communications experts. It’s a very easy read, a very entertaining read, and they use all of their techniques in its writing. Their formula is the SUCCEsS formula. Simple, Unexpected, Concrete, Credible, Emotional Stories. Forget the last ‘S’ in Success. I even included for you a little summary, so you don’t even have to read the whole book, even if it is skinny. Most important part, concrete. People respond in the basis of the senses. What can I hear, what can I see?

Modeling the right behavior is nothing other than “walking the talk”. My favorite source to illustrate this concept is Edgar Schein, a leader and something of a pioneer in organizational psychology. I like Edgar Schein in part because he’s not an ethics guy. He was a change management guy. He identified six actions that you have to use coherently in order to accomplish a change. For example, what does the leader pay attention to? How does the leader respond in a time of crisis or under pressure? What behavior does the leader model as preferred? How does the leader allocate resources? If there are no resources, it’s not important. These are the communications through actions. Incredibly powerful. Thank you, Edgar. As Edgar said it, leaders have no choice but to communicate, because it happens continuously through actions. But they can choose what to communicate.

When it comes to the “justice” and “fairness” component, I’m fond of the research of Tom Tyler, an Academic Fellow at ERC. He’s been doing research for about 30 years on what he labels as “procedural justice”. This is a shorthand expression for the impact of process on overall satisfaction, which could be contrasted with the satisfaction derived from the outcomes themselves. So, he began with the hypothesis that favorable outcomes from the judicial system would lead to higher levels of satisfaction. But what he found instead was that process was the

principal driver. People wanted a process that was controlled by unbiased decision makers, a process that afforded them the opportunity to be heard, a process where they were treated respectfully, a process where there was an effort toward consistency in outcomes, and a process where there was an opportunity for an appeal. Of these, the two most important are the opportunity to be heard and being treated with respect and civility. Sort of surprising, isn't it? And please note that the fourth driver of satisfaction came from the effort to achieve consistency, and not from achieving consistency. As Tyler said it, and as you can see it on the chart, "people's motivation to cooperate with others is rooted in social relationships and does not primarily flow from the desire to avoid punishment and gain rewards." Powerful.

A couple of final words. I told you that it worked at UTC and other companies in the Defense Industry Initiative. I got huge support from UTC management worldwide and the UTC board. The Ethics category in the UTC Employee Engagement Survey consistently has been the highest scoring category, but the overall score through 2005 was plateaued. After 2005, the ethics category improved by a statistically significant amount in each and every survey year, in 2007, 2009, and 2011. There were improvements in every question, every company, and every region of the world. These kinds of improvements also were reflected in surveys conducted by the ERC on behalf of some companies in the Defense Industry Initiative, including UTC. Each of those DII companies used the results of the first survey, focused on the behaviors underlying "Ethics-Related Actions", and the overall DII score also improved in two following surveys.

Every organization needs a tailored approach. UTC's effort was not a cookie cutter; instead, it was tailored to UTC and shaped by research with a practical orientation. And, as I mentioned at the outset, overseeing the ethics and compliance program was the most interesting job that I ever had, because it dealt with people, and it was an effort, at least, to deal with the real.

I'll be pleased to hear your questions or comments. Thank you.