

ETHICS AND PROFESSIONALISM IN THE ACTUARIAL PROFESSION



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Introduction

An actuary is a business professional who deals with the financial impact of risk and uncertainty. The actuary is gaining prominence both as a business manager and as a professional expert. Company executives depend on actuaries for economic valuations, marketplace pricing, and supportive testimony. Regulators and the courts seek actuaries for statutory valuations, pricing equity, and objective testimony.

The last 10-20 years have seen a rise in the profile of ethics in the professions.

There have been a number of contributing factors. Many of these have been negative, like the global financial crisis and economic downturn. These factors have led to greater scrutiny of professionals by the public, and an accompanying erosion of trust.

In response, professional bodies have, in many cases, opted to defend the ethics of their professions. As well as professional bodies, employing organisations have also been taking a more active interest in ethics. Also, individual professionals are becoming more committed to the thought of ethics.

Apart from the negative factors, there are strong positive reasons for professional bodies, employers and individuals to want to engage with ethics. Professional bodies can develop a stronger identity and a richer membership experience. Organisations enjoy reputational benefits, and the ability to attract, retain and motivate high-quality employees. Individuals

can gain the confidence to make informed, reasoned judgments and gain a richer understanding of their roles as professionals.

The three pillars upon which actuarial professionalism rests are:

- i. qualifications to provide professional services;
- ii. adherence to the profession's standards of practice; and
- iii. compliance with the ethical standards set forth in the Code(s) of Professional Conduct.

Actuarial Institutes and Associations in India and all over the world emphasize professional and ethical conduct of their members, by promulgating a code of professional conduct, instituting disciplinary procedures for ethical infractions, and requiring a course on professionalism for new members. Yet the ethical ideals espoused by the societies may at times conflict with the practices that corporations expect of their personnel.

The actuary has a dual role: an objective professional providing guidance on issues and a business manager promoting the goals of a company.

Ethics

“Ethics” means ‘the science of morals, that branch of philosophy which is concerned with human character and conduct: a system of morals, rules of behaviour: a treatise on morals’: Remembering Swami Vivekanand’s philosophical definition of ethics; “ Ethics is unity; its basis is love”. In the present context it would mean both philosophy of the concerned organisation and rules of conduct of business.

Ethics is concerned with the norms of human social behavior. It is that study of human behaviour which propounds the supreme good of human life and which formulates the judgements of right and wrong and good and evil. Both the Vedic writings and Platonism viewed ethics as somehow inherent in the very structure of the universe. They were a code of conduct that could be learned as a sort of knowledge by the wise. In both cases ethical philosophy recommended codes and duties as being the basis for right living and right action.

In defining a profession's practical ideal, it is important to operate within the parameters of three basic axiological principles: First, one should consider human beings within the democratic context of their lives. Second, the concrete social and cultural values within which one practices the profession must be considered. Finally, three, one must define the essence and the goal of the profession. (Kasher Asa , 2003)

Ethics is two things. First, ethics refers to well based standards of right and wrong that prescribe what humans ought to do, usually in terms of rights, obligations, benefits to society, fairness, or specific virtues. Secondly, ethics refers to the study and development of one's ethical standards. Ethics also means, then, the continuous effort of studying our own

moral beliefs and our moral conduct, and striving to ensure that we, and the institutions we help to shape, live up to standards that are reasonable and solidly-based.

Professionalism

As regards professionalism one has to appreciate the term profession first. According to Chambers Dictionary the term Profession means 'The act of professing; an open declaration; an avowal; religious belief; a pretence; an employment not mechanical and requiring some degree of learning; a calling; habitual employment, the collective body of persons engaged in any profession'. On the other hand in the Webster's New world Dictionary, the term 'Profession' has been described as an occupation requiring advanced education and involving intellectual skills, as medicine, law, theology, engineering, teaching etc. Another definition of 'Profession' is that it is the body of persons in any such occupation. The random House Dictionary defines it as a vocation requiring knowledge of some department of learning or science.

The term Professional means 'pertaining to a profession; engaged in a profession or in the profession in question; competing for money prizes or against those who sometimes do so; undertakes as a means of subsistence; showing the skill; artistry, demeanour or standard of conduct appropriate in a member of a profession or of a particular profession; one who makes his living by an art; or makes it his career.

Finally, the most important term Professionalism, according to Chambers Dictionary, means 'the status of professional; the competence, or the correct demeanour; of those who are highly trained and disciplined; the outlook, aim, or restriction of the mere professional...'

Professionalism is exhibited by one of the "professional character, spirit or methods" or the "standing, practice, or methods of a professional as distinguished from an amateur."- American College Dictionary

So in simple terms - What is Professionalism? To start with let us agree on something -- just because one is a professional, he or she automatically does not exhibit professionalism.

A very general, raw idea of professionalism is a bundle of the following concepts: a focussed approach, pride in what one is doing, confident, competent, motivation towards a particular goal, accountability, respect for people irrespective of rank, status and gender, responsibility while on the path to a particular goal, commitment to word and deed, control of emotions.

Professionalism is not commercialism. To be a professional, is to use education, experience and training to do work, analyse, problem solve and make sound decisions. A professional must know and deliver sound advice to the client based on accumulated knowledge. Commercialism is the use of marketing and advertising to sell products and services regardless of the needs and requirements of a customer.

A professional has specialized knowledge that must be applied to serve four entities: the employer, the client of the employer, the profession, and, most importantly, society. A professional also has legitimate moral obligations. In addition to the application of technical knowledge and the proper consideration of economic factors, the professional must properly balance the value obligations to each of the four entities.

Professional Ethics

Professional ethics concerns the moral issues that arise because of the specialist knowledge that professionals attain, and how the use of this knowledge should be governed when providing a service to the public.

This specialist knowledge also comes with authority and power. The client places trust in the professional on the basis that the service provided will be of benefit to them. It would be quite possible for the professional to use his authority to exploit the client.

Questions arise as to the ethical limits of the professional's responsibility and how power and authority should be used in service to the client and society. Most professions have internally enforced codes of practice that members of the profession must follow, to prevent exploitation of the client and preserve the integrity of the profession. This is not only to the benefit of the client but to the benefit of those belonging to the profession. Disciplinary codes allow the profession to draw a standard of conduct and ensure that individual practitioners meet this standard, by disciplining them from the professional body if they do not practice accordingly. This allows those professionals who act with conscience to practice in the knowledge that they will not be undermined commercially by those who have less ethical qualms. It also maintains the public's trust in the profession, meaning that the public will continue to seek their services.

The Essence of Professional Ethics

Do Nothing that will compromise the integrity of the Profession.

Code of Ethics

The standards of a profession, are formally expressed in statements called codes of ethics.

Ethical codes have diverse purposes. Some provide justification for a "professional" appellation, for either personal satisfaction or governmental award of monopoly status. Resonant but vague ethical maxims are appropriate. Others seek to guide members in murky ethical waters.

The building blocks of any professional body is the specialist skills available with its members through a process of education, examination and the process of continuous professional development; the high level of integrity and ethical standards displayed by its members in exercising judgment and the ability to serve the Public interest.

The Professional body needs to be self-regulatory in respect of the competence level, ethical standards and conduct of its members.

The Code of ethics and professional standards bind the members to the cause. The ability of the Profession to serve the Public interest depends on the judgment of the individual members. The point to be noted is that the Standards laid down in the code of ethics of an institute are not always prescriptive; hence sound judgment is to be used when carrying out actuarial functions within the spirit of the Standards.

Developing a Code of Professional Conduct is but a first step to resolving the ethical issues raised by the actuary's dual role as objective professional and business manager. Equally important - and more difficult - is the application of the Code to practical situations, by additional guidelines, interpretations, and case studies, This is the task remaining for the actuarial profession.

Schedule to The Actuaries Act 2006

The Actuaries Act enacted in 2006 is an Act to provide for regulating and developing the profession of Actuaries in India.

It Defines Actuary as:

“(1) In this Act, unless the context otherwise requires,-

(a) "Actuary" means a person skilled in determining the present effects of future contingent events or in finance modelling and risk analysis in different areas of insurance, or calculating the value of life interests and insurance risks, or designing and pricing of policies, working out the benefits, recommending rates relating to insurance business, annuities, insurance and pension rates on the basis of empirically based tables and includes a statistician engaged in such technology, taxation, employees# benefits and such other risk management and investments and who is a fellow member of the Institute; and the expression "actuarial science" shall be construed accordingly;”

Under Section 31 of the Act, “Professional or other misconduct” has been defined and is deemed to include any act or omission provided in the Schedule to the Act. The Schedule to The Actuaries Act 2006 is divided into IV Parts and details the various circumstances which are deemed as “Professional or other misconduct”. It is reproduced below:

PART I

Professional misconduct in relation to members of the Institute in practice

An Actuary in practice shall be deemed to be guilty of professional misconduct, if he-

(1) allows any person to practice in his name as an actuary unless such person is also an actuary in practice and is in partnership with or employed by himself; or

(2) pays by way of remuneration to an employee, pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his

professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner; or

(3) enters into partnership with any person other than an Actuary in practice or a person resident outside India who but for his residence abroad would be entitled to be admitted as a member under clause (c) of sub-section (1) of section 6 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnership, provided the Actuary shares in the fees or profits of the business of the partnership both within and outside of India; or

(4) secures either through the services of a person who is not an employee of such Actuary or who is not qualified to be his partner or by means which are not open to an Actuary, any professional business; or

(5) accepts an assignment as Actuary previously held by another Actuary without first communicating with him in writing; or

(6) charges or offers to charge, accepts or offers to accept in respect of any professional employment fees which are based on a percentage of profit or which are contingent upon the findings or results of such employment, except as permitted under any regulation made under this Act; or

(7) engages in any business or occupation other than the profession of Actuaries unless permitted by the Council so to engage:

Provided that nothing contained herein shall disentitle an Actuary from being a director of a company; or

(8) accepts a position as an actuary previously held by some other Actuary in practice in such conditions as to constitute undercutting; or

(9) allows a person not being a member of the Institute in practice, or a member not being his partner to sign on his behalf or on behalf of his firm, any valuation report or financial statement; or

(10) discloses information acquired in the course of his professional engagement to any person other than his client so engaging him, without the consent of such client, or otherwise than as required by any law for the time being in force; or

(11) certifies or submits in his name, or in the name of his firm, a valuation report or a financial statement unless the examination of such statement and the related records has been made by him or by a partner or an employee in his firm or by another Actuary in practice; or

(12) expresses his opinion or valuation reports or financial statements of any business or any enterprise in which he, his firm, or a partner in his firm has a substantial interest, unless he has disclosed the interest also in his report; or

(13) fails to disclose a material fact known to him in a valuation report or a financial statement, but disclosures of which is necessary to make the valuation report or the financial statement not misleading where he is concerned with such valuation report or the financial statement in a professional capacity; or

(14) fails to report a material misstatement known to him to appear in a valuation report or financial statement with which he is concerned in a professional capacity; or

(15) is grossly negligent in the conduct of his professional duties; or

(16) fails to obtain sufficient information to warrant the formation of an opinion in regard to any matter contained in any valuation report or financial statement prepared by him or on his behalf; or

(17) fails to invite attention to any material departure from the generally accepted procedure or professional work applicable to the circumstances, in any valuation report or financial statement prepared by him or on his behalf.

PART II

Professional misconduct in relation to the members of the Institute in service

A member of the Institute (other than a member in practice) shall be deemed to be guilty of professional misconduct, if he being an employee of any company, firm or person,-

- (1) pays or allows or agrees to pay directly or indirectly to any person any share in the emoluments of the employment undertaken by him; or
- (2) accepts or agrees to accept any part of fees, profits or gains by way of commission or gratification; or
- (3) discloses confidential information acquired in the course of his employment except as and when required by law or except as permitted by his employer.

PART III

Professional misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he-

- (1) includes in any statement, return or form to be submitted to the Council any particulars knowing them to be false; or
- (2) not being a fellow member of the Institute acts himself as a fellow member of the Institute; or
- (3) does not supply the information called for or does not comply with the requirements asked for by the Council or any of its Committees; or
- (4) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council under clause (i) of sub-section (2) of section 19; or
- (5) is guilty of such other act or omission as may be specified by the Council.

PART IV

Other misconduct in relation to member of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if-

- (A) (1) he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding six months;
- (2) in the opinion of the Council, he brings disrepute to the profession or the Institute as result of his action whether or not related to his professional work;
- (B) he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term exceeding six months.

Quality Review Board

The actuary assesses the financial impact of uncertain future events by methodically analysing the past, modelling the future and quantifying the likely range of financial outcomes from different future events. The quality of services provided by actuaries are set

for a review with Chapter VII of The Actuaries Act, 2006 laying down for the establishment of a Quality Review Board (QRB).

The Central Government by notification has constituted the Quality Review Board. consisting of a Chairperson and not more than four Members.

The Quality Review Board has been set up to fix standards and review the quality of services provided by actuaries.

Therefore, the Board shall function to perform the following services, namely:-

- (a) to fix standards for the services provided by the members of the Institute;
- (b) to review the quality of services provided by the members of the Institute including actuarial audit services; and
- (c) to guide the members of the Institute to improve the quality of services and adherence to the various statutory and other regulatory requirements.

Disciplinary Mechanism

In India, a Fellow member of The Institute of Actuaries of India is referred to as an Actuary.

The disciplinary mechanism as prescribed under The Actuaries Act 2006, and set up by the Institute of Actuaries of India (IAI) is in place to ensure complete compliance of the professional ethics and Code of Conduct prescribed by it.

The ethical goals of the Institute of Actuaries of India (IAI) is to prepare "actuaries of tomorrow" who are adequately qualified and competent in the global context, and to serve the cause of public interest through Professional Code of Conduct and Disciplinary Procedures.

The Council of the IAI has powers to constitute a Disciplinary Committee. The Disciplinary Committee shall consist of the President or the Vice-President of the Council as the Presiding Officer and two members of the Council elected by the Council and two members to be nominated by the Central Government from amongst the persons of eminence having experience in the field of law, education, economics, business, finance, accountancy or public administration.

The Disciplinary Committee has the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) the discovery and production of any document; and
- (c) receiving evidence on affidavit.

On receipt of a report from the Disciplinary Committee, if the Council is satisfied that the member of the Institute of Actuaries of India, is guilty of any professional or other misconduct, it shall record its findings accordingly and shall proceed in accordance with

the prescribed procedure of inquiry, and may take any one or more of the following actions, namely:-

- (a) reprimand the member; or
- (b) remove the name of the member from the register permanently or for such period, as it thinks fit.
- (c) impose such fine as it may think fit, which may extend to five lakh rupees.

The actuarial profession – an experienced resource in troubled times

Actuaries are subject to a formal code of professional conduct and are subject to disciplinary action if they violate that code. This commitment to professionalism, combined with the profession's traditional experience with the long-term risks of the insurance business (and effective ways to regulate them), can be helpful in the current economic crisis. But it's not the only thing actuaries bring to the table. Many actuaries also have significant training and experience in the financial markets.

The actuarial profession has many decades of experience in the research, development, implementation, and operation of effective risk models, with realistic representations of extreme scenarios, and deep understanding of the interaction of various kinds of risk.

Government officials, public policymakers, and lawmakers are trying to restore confidence in the financial markets affected by the sub-prime mortgage debacle and the resulting credit crunch. Actuaries have the knowledge, skills, and organizational support to provide significant, relevant, and important input and assistance.

About the Author

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Mr. Rajkumar S Adukia is an eminent business consultant, academician, writer, and speaker. A senior partner of Adukia & Associates he has authored more than 34 books on a wide range of subjects. His books on IFRS namely, "Encyclopedia on IFRS (3000 pages) and The Handbook on IFRS (1000 pages) has served number of professionals who are on the lookout for a practical guidance on IFRS. The book on "Professional Opportunities for Chartered Accountants" is a handy tool and ready referencer to all Chartered Accountants.

In addition to being a Chartered Accountant, Company Secretary, Cost Accountant, MBA, Dip IFR (UK), Mr. Adukia also holds a Degree in Law and Diploma in Labor Laws. He has been involved in the activities of the Institute of Chartered Accountants of India (ICAI) since 1984 as a convenor of Kalbadevi CPE study circle. He was the Chairman of the Western Region of Institute of Chartered Accountants of India in 1997 and has been actively involved in various committees of ICAI. He became a member of the Central Council in 1998 and ever since he has worked tirelessly towards knowledge sharing, professional development and enhancing professional opportunities for members. He is a regular contributor to the various committees of the ICAI. He is currently the Chairman of Committee for Members in Industry and Internal Audit Standard Board of ICAI.

Mr. Adukia is a rank holder from Bombay University. He did his graduation from Sydenham College of Commerce & Economics. He received a Gold Medal for highest marks in Accountancy & Auditing in the Examination. He passed the Chartered Accountancy with 1st Rank in Inter CA & 6th Rank in Final CA, and 3rd Rank in Final Cost Accountancy Course in 1983. He started his practice as a Chartered Accountant on 1st July 1983, in the three decades following which he left no stone unturned, be it academic expertise or professional development. His level of knowledge, source of information, professional expertise spread across a wide range of subjects has made him a strong and sought after professional in every form of professional assignment.

He has been coordinating with various professional institutions, associations' universities, University Grants Commission and other educational institutions. Besides he has actively participated with accountability and standards-setting organizations in India and at the international level. He was a member of J.J. Irani committee which drafted Companies Bill 2008. He is also member of Secretarial Standards Board of ICSI. He represented ASSOCHAM as member of Cost Accounting Standards Board of ICWAI. He was a member of working group of Competition Commission of India, National Housing Bank, NABARD, RBI, CBI etc.

He has served on the Board of Directors in the capacity of independent director at BOI Asset management Co. Ltd, Bharat Sanchar Nigam Limited and SBI Mutual Funds Management Pvt Ltd. He was also a member of the London Fraud Investigation Team.

Mr. Rajkumar Adukia specializes in IFRS, Enterprise Risk Management, Internal Audit, Business Advisory and Planning, Commercial Law Compliance, XBRL, Labor Laws, Real Estate, Foreign Exchange Management, Insurance, Project Work, Carbon Credit, Taxation and Trusts. His clientele include large corporations, owner-managed companies, small manufacturers, service businesses, property management and construction, exporters and importers, and

professionals. He has undertaken specific assignments on fraud investigation and reporting in the corporate sector and has developed background material on the same.

Based on his rich experience, he has written numerous articles on critical aspects of finance-accounting, auditing, taxation, valuation, public finance. His authoritative articles appear regularly in financial papers like Business India, Financial Express, Economic Times and other professional / business magazines. He has authored several accounting and auditing manuals. He has authored books on vast range of topics including IFRS, Internal Audit, Bank Audit, Green Audit, SEZ, CARO, PMLA, Antidumping, Income Tax Search, Survey and Seizure, Real Estate etc. His books are known for their practicality and for their proactive approaches to meeting practice needs.

Mr. Rajkumar is a frequent speaker on trade and finance at seminars and conferences organized by the Institute of Chartered Accountants of India, various Chambers of Commerce, Income Tax Offices and other Professional Associations. He has also lectured at the S.P. Jain Institute of Management, Intensive Coaching Classes for Inter & Final CA students and Direct Taxes Regional Training Institute of CBDT. He also develops and delivers short courses, seminars and workshops on changes and opportunities in trade and finance. He has extensive experience as a speaker, moderator and panelist at workshops and conferences held for both students and professionals both nationally and internationally.. Mr. Adukia has delivered lectures abroad at forums of International Federation of Accountants and has travelled across countries for professional work.

Professional Association: *Mr. Rajkumar S Adukia with his well chartered approach towards professional assignments has explored every possible opportunity in the fields of business and profession. Interested professionals are welcome to share their thoughts in this regard.*