

Analysis of BP's actions throughout the *Deepwater Horizon* oil spill using care ethics

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On my honor as a University student, I have neither given nor received unauthorized aid on this assignment as defined by the Honor Guidelines for Thesis-Related Assignments.

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Introduction

In 2010, the *Deepwater Horizon* offshore drilling rig, positioned on the BP-operated Macondo Prospect in the Gulf of Mexico, exploded, killing 11 workers onboard the rig and injuring 17 others. In the four months before BP declared the well dead, the spill released around 3.19 million barrels of oil (Beyer et al., 2016). As of 2018, the official cost to BP has accumulated to over \$65 billion in clean-up, litigation, and other associated costs (Bousoo, 2018).

In the years that followed, BP's role in and response to the spill have seemingly been forgiven and forgotten in the public consciousness: the Gulf of Mexico has been cleaned to a remarkable degree, and BP has paid out considerably and made commitments to improve its practices (BP, 2016). Scholars who have written about the disaster have focused largely on technical causes of the disaster, and when they've written ethical analyses, the focus has been on BP's crisis communications in the period more closely surrounding the blowout.

Thus, the discussion surrounding BP's response to the *Deepwater Horizon* disaster has not often formally addressed important ethical considerations related to the causes of the disaster, and the ethical analyses that exist have not taken into account the ethical implications related to BP's responses to long-term effects of the oil spill (or lack thereof), especially as related to long-term environmental effects. A failure to critically examine these aspects will lead us to understand BP's path to redemption as one in which its responsibility started and ended only with those actions which it was legally required to fulfill, rather than encompassing a broader scope of moral responsibilities to affected parties.

My research argues that throughout timeline of the crisis, BP acted and has continued to act immorally because it failed to uphold a duty of care to the affected parties to which it was

responsible, namely, the workers on the oil rig, Gulf communities, and the environment. I will be examining this using the framework of care ethics and show that in BP's actions, it did not meet standards of attentiveness, responsibility, competence, and responsiveness to fulfill its duty of care.

Background

The *Deepwater Horizon* drilling rig exploded on April 20, 2010, killing 11 workers, injuring 17 others, and beginning the largest marine oil spill in U.S. history (McNutt et al., 2012). *Deepwater Horizon* was owned by Transunion, the world's largest contractor of offshore drilling rigs, and leased by BP, and the Halliburton Company had been in charge of cementing the well production casing for temporary abandonment: *Deepwater Horizon* would leave and a smaller production platform would come to take its place; BP was behind schedule and over budget (National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, 2011). In order for *Deepwater Horizon* to leave the well, they had to test the integrity of the cement by reducing well pressure to see if any hydrocarbons leaked through (a negative pressure test). These were unsuccessful, but BP moved forward regardless. As heavy drilling mud in the pipe was replaced with seawater to prepare to set the surface cement plug, the pressure in the drill pipe rose, eventually to the point of a blowout, causing the disaster (National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, 2011).

Literature Review

Much of the literature surrounding the *Deepwater Horizon* oil spill was written within a few years of the disaster. Thus, there is a great focus on technical causes of the blowout as well

as some of the more immediately observable environmental effects. Additionally, some scholars have written more rigorously on ethical aspects of the case, but these have often focused on the ethics of BP's communication in immediate response to the blowout. I will review the works of Audra Diers-Lawson and Augustine Pang as well as Shari R. Veil et al. to provide a representative sample of such literature related to BP's ethics during the crisis.

The work of Diers-Lawson and Pang combined care ethics, atonement theory, and an apologetic ethics framework to arrive at a model of an "ethical apology." The aim was to evaluate the manner and content of BP's apology, looking specifically at BP-owned media sources, such as press releases and other official messaging. For manner, they examined context and timing of the apology; for content, they coded for acknowledgement, empathy, and action. Overall, they concluded that BP's official messaging constituted an ethical apology, finding that it emphasized effects on stakeholders, community building, transparency, and corrective action and demonstrated some sensitivity to the evolving context of the situation (Diers-Lawson & Pang, 2016).

Naturally, as the study is an analysis of BP's official messaging only, it focuses more on the attitude BP takes on in its relationship with affected parties and not as much on BP's actions and their effectiveness in responding to the spill. It also does not include any longer-term follow-up as it only selected data from April 20, 2010, the day of the explosion, to September 21, 2010, around when the well was declared "officially killed" by BP.

The study by Veil et al. also looks at BP's communications during the crisis. By delineating common corporate values like profit and safety as virtues, the authors situate their analysis within the framework of virtue ethics, expanding virtues to be properties not only of individuals, but also of organizations. These organizational virtues are accompanied by an idea

of “organizational spirituality,” which relates to the ways in which the organization recognizes its association with its surroundings and its members, calling back to care ethics in some sense (Veil et al., 2013).

They argue, similarly to Diers-Lawson and Pang, that based on crisis communication literature, BP followed best practices. However, hypocritical statements and actions, such as pleading the fifth in congressional hearings, organizational history (cost-cutting, 2005 Texas City refinery explosion), and placing the virtue of profit over safety, led to the apologies being seen as disingenuous by the public (Veil et al., 2013).

The work, as with that of Diers-Lawson and Pang, lacks a more detailed look at the actions BP took throughout the crisis and their effectiveness or a longer-term follow-up to how BP has handled proceedings related to the crisis in the years that have followed. I intend to advance understanding primarily in these two areas by placing more emphasis on the ethics of actions BP took (or did not take) and determining if—and if so, how—BP has continued to address problems related to the spill further out from its occurrence.

Conceptual Framework

I will be examining the ethics of BP’s actions throughout the *Deepwater Horizon* explosion and oil spill through BP’s relationship and responsibility to affected parties using the framework of care ethics.

Care ethics, initially developed in the work of Carol Gilligan in 1982, emphasizes the importance of relationships and learned norms and values over general moral principles like utilitarianism, in which actions are judged to be ethical based on if they bring about the greatest amount of happiness for the greatest number of people. Further, it states that we owe a duty of

care to those we are connected to and in relationship with, and that this duty differs depending on the context of the relationship (van de Poel & Royakkers, 2011).

Care ethics is concerned with the idea of care both as an action and as an attitude. As an action, care encompasses everything we do “to maintain, continue, and repair our world, so that we can live in it as best as we can” (van de Poel & Royakkers, 2011). As an attitude, care relates to virtues like compassion, attentiveness, empathy, and responsibility, and in this way shares some commonalities with the framework of virtue ethics.

To further solidify the process of care, I will be using Berenice Fisher and Joan Tronto’s four phases of care to guide my analysis. The first phase is *attentiveness*, in which the person giving care becomes aware of and pays attention to a need for caring. The next phase involves the carer assuming *responsibility* for and carrying out the care that is needed. When the actual caregiving is undertaken, it requires that those undertaking care have the necessary *competence* and knowledge for how to properly give care. Finally, when those who need care receive it, they will respond to it, and those giving care will need to respond in kind. Thus, *responsiveness* is the final element in the process of care, and involves consideration of relationship each party has in care and power dynamics between them (Fisher & Tronto, 1990).

I will first establish that BP had a duty of care to the parties affected by the rig explosion and resulting oil spill, such as drilling rig workers, Gulf communities, and the environment. Then, by focusing my attention on BP’s relationship of care to parties affected by the spill, I will be able to determine how effective the care it provided was through an analysis of BP’s attentiveness, responsibility, competence, and responsiveness in the actions it took during the crisis and has taken in the years following.

In doing so, I will show that, despite, what actions BP has taken, it ultimately failed to uphold a moral duty of care in its response to the crisis.

Analysis

To show that BP did not uphold a duty of care to those parties most affected by the rig explosion and oil spill, it's necessary to first briefly establish the why BP could reasonably be seen to have such a duty of care to each. This involves demonstrating that BP had, first, a relationship with each party, and that, because BP had this relationship, BP owed them a duty of care, taking especially into account the power dynamic between BP and each affected party. I will then examine for each the ways in which BP did or did not fulfill each phase of care: attentiveness, responsibility, competence, and responsiveness, to show the ways in which BP failed to act morally during and after the *Deepwater Horizon* oil spill.

Drilling Rig Workers

While BP's lack of care shown to the workers on the rig is not limited to events directly surrounding the explosion, I will focus my analysis around that point due to the explosion's exceptionally clear impact on the workers. The majority of the 126 workers on-board the rig were not direct employees of BP; only 7 were, with the rest being primarily from Transocean as well as from other companies like Halliburton. The rig itself was also owned by Transocean and being leased by BP (National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, 2011). However, it seems fair to say that, because the ultimate goal of the rig was to extract oil for BP, the workers were on the rig in the middle of the Gulf of Mexico due to BP, and BP had a relationship with these workers which established a duty of care to them.

BP showed some degree of attentiveness prior to the blowout in the sense that they had been made aware of possible safety issues with the rig (Urbina, 2010). However, BP certainly failed to take responsibility for those risks to the rig and the workers on it, and because no actual care was given to preventing the disaster, there's little to discuss regarding competence and responsiveness of care.

BP had been made aware on June 22, 2009, around 10 months prior to the explosion, that the metal casing of the well could possibly collapse under high pressure. Mark Hafle, a senior drilling engineer at BP, had remarked in an unreleased internal report that he had "seen it happen" so he knew it was a possibility (Urbina, 2010). However, in testimony to a panel of Coast Guard and Minerals Management Service officials after the spill occurred, Hafle also stated that "nobody believed there was going to be a safety issue," in apparent contradiction to his earlier report (Urbina, 2010). The casing itself even violated BP's own safety policies and design standards, and the engineers needed special permission to go ahead with the design in order to supersede those standards. In addition to the casing, there was evidence of issues with the blowout preventer, which should have cut through the drill pipe in order to stop the flow of oil into the ocean in the event of a blowout. On at least three instances prior to the explosion, the blowout preventer was leaking fluid, which would have prevented it from working properly. Due to this, federally required tests of the blowout preventer were delayed until issues with the blowout preventer could be resolved. When the blowout preventer was tested again, BP tested it at a pressure 35% less than used prior to the delay (Urbina, 2010).

BP was told of issues with the metal casing and blowout preventer and even made steps to accommodate for the risks of high pressures on the casing when testing the blowout preventer later by lowering the testing pressure. This shows BP's attentiveness to a need for action on the

rig to rectify these risks to the people on board. However, it's not enough to be aware of a need. BP needed to take responsibility for those risks and carry out the necessary care for the people on board, which may have involved delaying their already delayed drilling operation even further.

Additionally, since the rig did explode, it's clear that whatever actions BP may have taken were not effective; BP did not give competent care. As well, their failure to adequately take responsibility and give competent care shows a lack of consideration for the asymmetrical nature of the relationship between BP and the workers on board the rig, who had comparatively little ability to determine the outcome of the crisis which put them directly in danger and took some of their lives.

Gulf Communities

BP had a responsibility to the people living along the Gulf for similar reasons that they had a responsibility to the workers on the rig: the rig existed to extract oil for BP; therefore, BP is morally implicated in the resulting oil spill's effects on Gulf communities caused by BP's mismanagement of the rig. So, BP has a duty of care to Gulf communities. The impacts of the oil spill could broadly be grouped into two categories: economics and health. While the health effects, both mental and physical, of disasters generally and of the Gulf oil spill specifically have been researched and are worth discussing (Lowe et al., 2019; Strelitz et al., 2019), I will focus on the economic effects and BP's response to them here.

The economic effects of such a complex and wide-reaching event are difficult to calculate completely accurately. The spill had detrimental effects on industries like commercial fishing, tourism, and real estate as well as on managed areas like National Parks and National Wildlife Refuges amounting to tens of billions of dollars in losses within just the first year after

the spill (Smith et al., 2011), and BP bore much of the brunt of those costs through fines and settlements. By 2018, BP had paid out \$65 billion in clean-up costs and legal fees (Bouso, 2018). However, even this may not cover the full scope of economic damages. Looking specifically at the *Deepwater Horizon* Economic Settlement, now fully resolved, it's possible to get a sense of how BP treated the economic aftermath of the disaster.

In the settlement, 390,773 claims were submitted across states along the Gulf coast; of these, 178,096 (~46%) were deemed eligible and paid out to claimants. BP was, logically, not responsible for determining eligibility (the courts were), but BP did issue 11,505 appeals (Deepwater Horizon Claims Center: Economic and Property Damage Claims, 2020). An examination of this settlement using care ethics seems appropriate.

It's not easy to separate BP being legally forced into recognizing the needs of people affected by the oil spill and BP genuinely feeling empathy and a desire to aid them, but, for the sake of argument, this would appear to show attentiveness on BP's part. However, as exemplified by the considerable amount of appeals to claims from residents by BP, valid though some of them may have been, shows a resistance on BP's part to taking responsibility for the harm they did to people in Gulf communities. BP had additionally argued retroactively in court, after the settlement had been passed down, that claims should have had to prove that losses were caused by the spill (Jemima Kelly, 2014), again showing an attempt to avoid responsibility. In regard to competence and responsiveness, the large number of unpaid claims (with no attempt on BP's part to pay them out on their own since they're not legally obligated to do so) and feelings of resentment from many residents at the time do not speak well for BP's competence of care (Jemima Kelly, 2014). For example, Al Sunseri, an owner of the oldest oyster company in the United States, felt that BP had "ruined [his] business," and Dean Blanchard, founder of the

largest shrimp company in the United States stated that he was handling 15% of the shrimp he had been before the spill (Jemima Kelly, 2014). Their experiences likely mirror the effects on smaller fishers. Neither does a seeming lack of consideration for the immense imbalance of power between a multinational corporation and average people struggling to get through a disaster in their home speak well for BP's responsiveness of care; BP had, for example, put out information stating that Gulf seafood was safe to consume, but this was later contradicted by a NOAA study that said the oil caused birth defects in several species of fish (Incardona et al., 2014; Jemima Kelly, 2014). This indicates that BP was more concerned with pushing its message that they had done a good job with the cleanup and were ready to end operations (which did officially end in 2015 (BP, 2016), not long after these complaints were published) rather than addressing the reality of the situation they created. Overall, BP did not uphold a duty of care to people in Gulf communities.

Environment

As with the rig workers and Gulf communities, BP has a duty of care to the environment through its relationship with the rig and the oil spill that resulted from its blowout. There were numerous harms on the ocean and surrounding area, with effects on organisms ranging from phytoplankton to dolphins, turtles, and birds. The oil contributed much to the toxicity of seawaters in the Gulf, but BP contributed further through the addition of a massive 7000 m³ of oil dispersants in an attempt to help clean up the oil (Beyer et al., 2016).

Oil dispersants are an acceptable method of helping to mitigate oil spills when applied to oil on the water surface. They act to break oil down into small droplets which can be easily digested by microbes, with the dispersant then degrading in the presence of radiation from the

sun and the warmth of surface waters (White et al., 2014); the short-lived toxicity of the dispersant is viewed as a reasonable tradeoff for preventing oil from reaching the shore. BP, however, made the unprecedented decision to apply dispersants deep in the water at the leaking wellhead (Beyer et al., 2016), and it was only after further research that it was found that the dispersants persist for years in the colder, dark waters beneath the surface (White et al., 2014).

This is emblematic of much of BP's approach to providing care for the environment it damaged. BP, realizing it would certainly be held legally liable for the oil spill, became attentive of the need to rectify its damage to the ocean. Then, BP took responsibility and moved to begin clean-up. Where BP fails in this case and others is in delivering competent care, and further in being unresponsive to the needs of the environment after giving such incompetent care.

BP, in their rush to do 'something' about their burning oil rig and their well spewing thousands of barrels of oil every day, didn't consider the long-term repercussions of using such a massive amount of dispersant in a way previously untested. BP's CEO at the time, Tony Hayward, had stated that the "Gulf of Mexico is a very big ocean. The amount of oil and dispersant we are putting into it is tiny in relation to the total water volume" (National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, 2011). There was no scientific basis for this at the time and research since has proven this wrong. The dispersants at-depth have even been found to increase the toxicity of deeper oil in the water; the smaller droplets increase bioavailability in addition to the lingering dispersants being toxic themselves (Beyer et al., 2016). So, BP's care to the environment was not competent, and moreover, BP did not show deference to their role in both causing and cleaning up the spill and the potential for harm a lack of consideration for a proper course of action could cause, so their care was not responsive. Therefore, BP did not uphold a duty of care to the environment.

I've shown that BP acted immorally in the context of care ethics as it did not fulfill criteria of attentiveness, responsibility, competence, and responsiveness to uphold its duty of care to drilling rig workers, Gulf communities, and the environment. In regard to BP's dispersant use, however, it's possible to argue that, in the context of an emergent disaster and a lack of information about the effects of deep-sea dispersant use, whether positive or negative, BP could be ethically justified in applying dispersants at depth, even if the consequences turned out to be negative. Given the possible risks to the environment of doing nothing about oil released far below the surface and extrapolating the knowledge that dispersants released at the ocean surface are regarded as safe, BP might have a valid ethical reason for using dispersants as they did.

However, once it became clear that such applications of dispersants did not have one of the predicted effects of reducing the total volume of dispersants needed, BP did not scale back total dispersant usage (either deep-sea or on the surface) as instructed by the EPA; BP continually sought exemptions to continue to use dispersants for patches of oil rather than alternative methods such as skimming or burning (National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, 2011). Therefore, in the face of evolving evidence about the efficacy of their dispersant usage, BP continued practices which would turn out to be greatly harmful to the environment, which still makes them ethically responsible for the ensuing damage.

Conclusion

My work argues that BP, using the framework of care ethics, acted immorally during the *Deepwater Horizon* disaster because it failed to uphold its duty of care to three key groups

arguably most affected by the oil spill: those who worked on the rig, those who lived in Gulf communities affected by the oil spill, and the environment polluted by the massive amounts of oil which leaked into the ocean. Unlike previous research, I have looked more closely at BP's actions throughout the disaster rather than focusing on BP's messaging. Additionally, with the ability of hindsight, I have taken the opportunity to examine some of the longer-term effects of the spill and BP's responses to them when they have responded. In doing so, I hope to have elucidated some of the moral implications of BP's response that have remained unaddressed in literature in the years following the spill.

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