



EIGHTH EDITION

Business Ethics

William H. Shaw



BUSINESS ETHICS

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8TH EDITION

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William H. Shaw
San Jose State University

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Business Ethics, Eighth Edition

William H. Shaw

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PREFACE

It is difficult to imagine an area of study that has greater importance to society or greater relevance to students than business ethics. As this text enters its eighth edition, business ethics has become a well-established academic subject. Most colleges and universities offer courses in it, and scholarly interest continues to grow.

Yet some people still scoff at the idea of business ethics, jesting that the very concept is an oxymoron. To be sure, recent years have seen the newspapers filled with lurid stories of corporate misconduct and felonious behavior by individual businesspeople, and many suspect that what the media report represents only the proverbial tip of the iceberg. However, these scandals should prompt a reflective person not to make fun of business ethics but rather to think more deeply about the nature and purpose of business in our society and about the ethical choices individuals must inevitably make in their business and professional lives.

Business ethics has an interdisciplinary character. Questions of economic policy and business practice intertwine with issues in politics, sociology, and organizational theory. Although business ethics remains anchored in philosophy, even here abstract questions in normative ethics and political philosophy mingle with analysis of practical problems and concrete moral dilemmas. Furthermore, business ethics is not just an academic study but also an invitation to reflect on our own values and on our own responses to the hard moral choices that the world of business can pose.

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GOALS, ORGANIZATION, AND TOPICS

Business Ethics has four goals: to expose students to the important moral issues that arise in various business contexts; to provide students with an understanding of the moral, social, and economic environments within which those problems occur; to introduce students to the ethical and other concepts that are relevant for resolving those problems; and to assist students in developing the necessary reasoning and analytical skills for doing so. Although the book's primary emphasis is on business, its scope extends to related moral issues in other organizational and professional contexts.

The book has four parts. Part One, "Moral Philosophy and Business," discusses the nature of morality and presents the main theories of normative ethics and the leading approaches to questions of economic justice. Part Two, "American Business and Its Basis," examines the institutional foundations of business, focusing on capitalism as an economic system and the nature and role of corporations in our society. Part Three, "Business and Society," concerns moral problems involving business, consumers, and the natural environment. Part Four, "The Organization and the People in It," identifies a variety of ethical issues and moral challenges that arise out of the interplay of employers and employees within an organization, including the problem of discrimination.

Case studies enhance the main text. These cases vary in kind and in length, and are designed to enable instructors and students to pursue further some of the issues discussed in the text and to analyze them in more specific contexts. The case studies should provide a lively springboard for classroom discussions and the application of ethical concepts.

Business Ethics covers a wide range of topics relevant to today's world. Three of these are worth drawing particular attention to.

Business and Globalization

The moral challenges facing business in today's globalized world economy are well represented in the book and seamlessly integrated into the chapters. For example, Chapter 1 discusses ethical relativism, Chapter 4 outsourcing and globalization, and Chapter 8 overseas bribery and the Foreign Corrupt Practices Act; and there are international examples or comparisons throughout the book. Moreover, almost all the basic issues discussed in the book (such as corporate responsibility, the nature of moral reasoning, and the value of the natural world—to name just three) are as crucial to making moral decisions in an international business context as they are to making them at home. In addition, cases 1.1, 2.3, 5.1, 5.2, 5.3, 6.3, 7.2, 7.5, 9.5, and 10.4 deal explicitly with moral issues arising in today's global economic system.

The Environment

Because of its ongoing relevance and heightened importance in today's world, an entire chapter, Chapter 7, is devoted to this topic. In particular, it highlights recent environmental disasters, the environmental dilemmas and challenges we face, and their social and business costs, as well as the changing attitude of business toward the environment and ecology.

Health and Health Care

Far from being a narrow academic pursuit, the study of business ethics is relevant to a wide range of important social issues—for example, to health and health care, which is currently the subject of much discussion and debate in the United States. Aspects of this topic are addressed in the text and developed in the following cases: 2.3: Blood for Sale, 4.2: Licensing and Laissez Faire, 5.2: Drug Dilemmas, 6.1: Breast Implants, 8.1: AIDS in the Workplace, and 9.4: Protecting the Unborn at Work.

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CHANGES IN THIS EDITION

Your Textbook

Instructors who have used the previous edition will find the organization and general content of the book familiar. They will, however, also be struck by its fresh design and by the graphs, tables, photographs, and other information that now supplement the pedagogical features introduced in previous editions.

Feedback from students and instructors suggests that readers benefit greatly not only from marginal summaries and highlights but also from visual breaks, visual guidance, and visual presentation of data and information. So, the new design was crafted to help readers navigate the text more easily, retain content more effectively, and review and prepare for tests more successfully. In addition, the **Study Corner** now also includes “For Further Reflection,” a set of open-ended questions intended to help students articulate their own response to some of the issues discussed in the text. An updated **Suggestions for Further Reading** is intended to provide appropriate material for independent research by students on topics covered in *Business Ethics*.

The text itself has been thoroughly revised. I have updated and reorganized material throughout the book in order to enhance the clarity of its discussions and the accuracy of its treatment of both philosophical and empirical issues. At all times the goal has been to provide a textbook that students will find clear, understandable, and engaging.

Forty-nine case studies—more than ever before—now supplement the main text. Of the cases that are new to this edition, two relate to the financial and mortgage industries: Case 1.2, “Just Drop Off the Key, Lee,” broaches the ongoing foreclosure crisis while Case 4.5, “Casino Gambling on Wall Street,” discusses one of the financial instruments involved in the recent financial meltdown. Case 4.1, “Hucksters

in the Classroom,” deals with commercial intrusion into schools. The ethics of sales is the focus of Case 6.4, “Closing the Deal,” while Case 6.5, “The Rise and Fall of Four Loko,” highlights the question of regulating consumer products on paternalistic grounds. Case 8.5, “Union Discrimination,” examines some of the ethical issues posed by unions. The environment and the push and pull between business and environmentalists are well illustrated in Case 7.5, “Palm Oil and Its Problems.” Case 9.5, “Swedish Daddies,” shows how the sometimes conflicting demands of parenthood and work life challenge today’s employees and employers. Cases 10.2, “Conflicting Perspectives on Conflicts of Interest,” and 10.3, “Inside Traders or Astute Observers?,” provide recent examples of some of the ethical struggles employees can confront. Finally, the issue of comparable worth is the focus of Case 11.3, “Raising the Ante.”

Your Media Tools

The *Business Ethics CourseMate* is new to this edition. It can be accessed by searching for this book on CengageBrain.com. There you will find an array of online tools designed to reinforce theories and concepts and help students to understand and better retain the book’s content, and to review and study for tests:

- Self-Tests
- Tutorial Quizzes (with answers)
- Essays
- Flashcards
- Current Events
- Glossary
- PowerPoint Slides
- Web Links

In addition to these **CourseMate** offerings, video tutorials will complement each chapter. Watching and reflecting on these can help students improve their grades.

Finally, **Global Business Ethics Watch** exposes viewers to a wealth of online resources, from photographs to videos and articles. Updated several times a day, the **Global Business Ethics Watch** is an ideal one-stop site for classroom discussion and research projects for all things related to business ethics. You and your students will have access to the latest information from trusted academic journals, news outlets, and magazines. You also will receive access to statistics, primary sources, case studies, podcasts, and much more.

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WAYS OF USING THE BOOK

A course in business ethics can be taught in a variety of ways. Instructors have different approaches to the subject, different intellectual and pedagogical goals, and different classroom styles. They emphasize different themes and start at different places. Some of them may prefer to treat the foundational questions of ethical theory thoroughly before moving on to particular moral problems; others reverse this priority. Still other instructors frame their courses around the question of economic justice, the analysis of capitalism, or the debate over corporate social responsibility. Some instructors stress individual moral decision making, others social and economic policy.

Business Ethics permits teachers great flexibility in how they organize their courses. A wide range of theoretical and applied issues are discussed; and the individual chapters, the major sections within them, and the case studies are to a surprising extent self-contained. Instructors can thus teach the book in whatever order they choose, and they can easily skip or touch lightly on some topics in order to concentrate on others without loss of coherence.



ACKNOWLEDGMENTS

I wish to acknowledge my great debt to the many people whose ideas and writing have influenced me over the years. Philosophy is widely recognized to involve a process of ongoing dialogue. This is nowhere more evident than in the writing of textbooks, whose authors can rarely claim that the ideas being synthesized, organized, and presented are theirs alone. Without my colleagues, without my students, and without a larger philosophical community concerned with business and ethics, this book would not have been possible.

I particularly want to acknowledge my debt to Vincent Barry. Readers familiar with our textbook and reader *Moral Issues in Business*¹ will realize the extent to which I have drawn on material from that work. *Business Ethics* is, in effect, a revised and updated version of the textbook portion of that collaborative work, and I am very grateful to Vince for permitting me to use our joint work here.

¹William H. Shaw and Vincent Barry, *Moral Issues in Business*, 12th ed. (Belmont, Calif.: Wadsworth/Cengage Learning, 2013).



CHAPTER 1

THE NATURE OF MORALITY

INTRODUCTION

SOMETIMES THE RICH AND MIGHTY FALL. Take Kenneth Lay, for example. Convicted by a jury in 2006 of conspiracy and multiple counts of fraud, he had been chairman and CEO of Enron until that once mighty company took a nose dive and crashed. Founded in the 1980s, Enron soon became a dominant player in the field of energy trading, growing rapidly to become America's seventh biggest company. Wall Street loves growth, and Enron was its darling, admired as dynamic, innovative, and—of course—profitable. Enron stock exploded in value, increasing 40 percent in a single year. The next year it shot up 58 percent and the year after that an unbelievable 89 percent. The fact that nobody could quite understand exactly how the company made its money didn't seem to matter.

After *Fortune* magazine voted it “the most innovative company of the year” in 2000, Enron proudly took to calling itself not just “the world's leading energy company” but also “the world's leading company.” But when Enron was later forced to declare bankruptcy—at the time the largest Chapter 11 filing in U.S. history—the world learned that its legendary financial prowess was illusory and the company's success built on the sands of hype. And the hype continued to the end. Even with the company's financial demise fast approaching, Kenneth Lay was still recommending the company's stock to its employees—at the

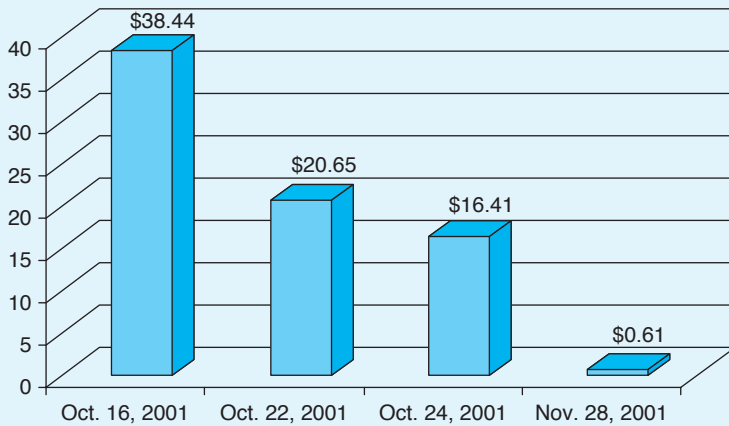
same time that he and other executives were cashing in their shares and bailing out.

Enron's crash cost the retirement accounts of its employees more than a billion dollars as the company's stock fell from the stratosphere to only a few pennies a share. Outside investors lost even more. The reason Enron's collapse caught investors by surprise—the company's market value was \$28 billion just two months before its bankruptcy—was that Enron had always made its financial records and accounts as opaque as possible. It did this by creating a Byzantine financial structure of off-balance-sheet special-purpose entities—reportedly as many as 9,000—that were supposed to be separate and independent from the main company. Enron's board of directors condoned these and other dubious accounting practices and voted twice to permit executives to pursue personal interests that ran contrary to those of the company. When Enron was obliged

to redo its financial statements for one three-year period, its profits dropped \$600 million and its debts increased \$630 million.

Still, Enron's financial auditors should have spotted these and other problems. After all, the shell game Enron was playing is an old one, and months before the company ran aground, Enron Vice President Sherron Watkins had warned Lay that

.....
**THE REASON ENRON'S
collapse caught investors
by surprise . . . was
that Enron had always
made its financial
records and accounts as
opaque as possible.**
.....



Enron's stock price in U.S. dollars in late 2001, before its spectacular collapse

the company could soon “implode in a wave of accounting scandals.” Yet both Arthur Andersen, Enron’s longtime outside auditing firm, and Vinson & Elkins, the company’s law firm, had routinely put together and signed off on various dubious financial deals, and in doing so made large profits for themselves. Arthur Andersen, in particular, was supposed to make sure that the company’s public records reflected financial reality, but Andersen was more worried about its auditing and consulting fees than about its fiduciary responsibilities. Even worse, when the scandal began to break, a partner at Andersen organized the shredding of incriminating Enron documents before investigators could lay their hands on them. As a result, the eighty-nine-year-old accounting firm was convicted of obstructing justice. The Supreme Court later overturned that verdict on a technicality, but by then Arthur Andersen had already been driven out of business. (The year before Enron went under, by the way, the Securities and Exchange Commission fined Andersen \$7 million for approving misleading accounts at Waste Management, and it also had to pay \$110 million to settle a lawsuit for auditing work it did for Sunbeam before it, too, filed for bankruptcy. And when massive accounting fraud was later uncovered at WorldCom, it came out that the company’s auditor was—you guessed it—Arthur Andersen.)

Enron’s fall also revealed the conflicts of interest that threaten the credibility of Wall Street’s analysts—analysts who are compensated according to their ability to bring in and support investment banking deals. Enron was known in the industry as the “deal machine” because it generated so much

investment banking business—limited partnerships, loans, and derivatives. That may explain why, only days before Enron filed bankruptcy, just two of the sixteen Wall Street analysts who covered the company recommended that clients sell the stock. The large banks that Enron did business with played a corrupt role, too, by helping manufacture its fraudulent financial statements. (Subsequent lawsuits have forced them to cough up some of their profits: Citibank, for example, had to pay Enron’s victimized shareholders \$2 billion.) But the rot didn’t stop there. Enron and Andersen enjoyed extensive political connections, which had helped over the years to ensure the passage of a series of deregulatory measures favorable to the energy company. Of the 248 members of Congress sitting on the eleven House and Senate committees charged with investigating Enron’s collapse, 212 had received money from Enron or its accounting firm.¹

Stories of business corruption and of greed and wrongdoing in high places have always fascinated the popular press, and media interest in business ethics has never been higher. But one should not be misled by the headlines and news reports. Not all moral issues in business involve giant corporations and their well-heeled executives, and few cases of business ethics are widely publicized. The vast majority of them involve the mundane, uncelebrated moral challenges that working men and women meet daily.

Although the financial shenanigans at Enron were complicated, once their basic outline is sketched, the wrongdoing is pretty easy to see: deception, dishonesty, fraud, disregarding one’s professional responsibilities, and unfairly injuring others for one’s own gain. But many of the moral issues that arise in business are complex and difficult to answer. For example:

How far must manufacturers go to ensure product safety? Must they reveal everything about a product, including any possible defects or shortcomings? At what point does acceptable exaggeration become lying about a product or a service? When does aggressive marketing become consumer manipulation? Is advertising useful and important or deceptive, misleading, and socially detrimental? When are prices unfair or exploitative?

Are corporations obliged to help combat social problems? What are the environmental responsibilities of business, and is it living up to them? Are pollution permits a good idea? Is factory farming morally justifiable?

May employers screen potential employees on the basis of lifestyle, physical appearance, or personality tests? What rights do employees have on the job? Under what conditions may they be disciplined or fired? What, if anything, must business do to improve work conditions? When are wages fair? Do unions promote the interests of workers or infringe their rights? When, if ever, is an employee morally required to blow the whistle?

May employees ever use their positions inside an organization to advance their own interests? Is insider trading or the use of privileged information immoral? How much loyalty do workers owe their companies? What say should a business have over the off-the-job activities of its employees? Do drug tests violate their right to privacy?

What constitutes job discrimination, and how far must business go to ensure equality of opportunity? Is affirmative action a matter of justice, or a poor idea? How should organizations respond to the problem of sexual harassment?

LEARNING OBJECTIVES

These questions typify business issues with moral significance. The answers we give to them are determined, in large part, by our moral standards—that is, by the moral principles and values we accept. What moral standards are, where they come from, and how they can be assessed are some of the concerns of this opening chapter. In particular, you will encounter the following topics:

1. The nature, scope, and purpose of business ethics
2. The distinguishing features of morality and how it differs from etiquette, law, and professional codes of conduct
3. The relationship between morality and religion
4. The doctrine of ethical relativism and its difficulties
5. What it means to have moral principles; the nature of conscience; and the relationship between morality and self-interest
6. The place of values and ideals in a person's life
7. The social and psychological factors that sometimes jeopardize an individual's integrity
8. The characteristics of sound moral reasoning

ETHICS

Ethics (or moral philosophy) is a broad field of inquiry that addresses a fundamental query that all of us, at least from time to time, inevitably think about—namely, How should I live my life? That question, of course, leads to others, such as: What sort of person should I strive to be? What values are important? What standards or principles should I live by? Exploring these issues immerses one in the study of right and wrong. Among other things, moral philosophers and others who think seriously about ethics want to understand the nature of morality, the meaning of its basic concepts, the characteristics of good moral reasoning, how moral judgments can be justified, and, of course, the principles or properties that distinguish right actions from wrong actions. Thus, ethics deals with individual character and with the moral rules that govern and limit our conduct. It investigates questions of right and wrong, fairness and unfairness, good and bad, duty and obligation, and justice and injustice, as well as moral responsibility and the values that should guide our actions.

You sometimes hear it said that there's a difference between a person's ethics and his or her morals. This can be confusing because what some people mean by saying that something is a matter of ethics (as opposed to morals) is often what other people mean

SUMMARY

Ethics deals with individual character and the moral rules that govern and limit our conduct. It investigates questions of right and wrong, duty and obligation, and moral responsibility.

by saying that it is a matter of morals (and not ethics). In fact, however, most people (and most philosophers) see no real distinction between a person's "morals" and a person's "ethics." And almost everyone uses "ethical" and "moral" interchangeably to describe people we consider good and actions we consider right, and "unethical" and "immoral" to designate bad people and wrong actions. This book follows that common usage.

BUSINESS AND ORGANIZATIONAL ETHICS

The primary focus of this book is ethics as it applies to business. **Business ethics** is the study of what constitutes right and wrong, or good and bad, human conduct in a business context. For example, would it be right for a store manager to break a promise to a customer and sell some hard-to-find merchandise to someone else, whose need for it is greater? What, if anything, should a moral employee do when his or her superiors refuse to look into apparent wrongdoing in a branch office? If you innocently came across secret information about a competitor, would it be permissible for you to use it for your own advantage?

Recent business scandals have renewed the interest of business leaders, academics, and society at large in ethics. For example, the Association to Advance Collegiate Schools of Business, which comprises all the top business schools, has introduced new rules on including ethics in their curricula, and the Business Roundtable recently unveiled an initiative to train the nation's CEOs in the finer points of ethics. But an appreciation of the importance of ethics for a healthy society and a concern, in particular, for what constitutes ethical conduct in business go back to ancient times. The Roman philosopher Cicero (106–43 BCE), for instance, discussed the example, much debated at the time, of an honest merchant from Alexandria who brings a large stock of wheat to Rhodes where there is a food shortage. On his way there, he learns that other traders are setting sail for Rhodes with substantial cargos of grain. Should he tell the people of Rhodes that more wheat is on the way, or say nothing and sell at the best price he can? Some ancient ethicists argued that although the merchant must declare defects in his wares as required by law, as a vendor he is free—provided he tells no untruths—to sell his goods as profitably as he can. Others, including Cicero, argued to the contrary that all the facts must be revealed and that buyers must be as fully informed as sellers.²

"Business" and "businessperson" are broad terms. A "business" could be a food truck or a multinational corporation that operates in several countries. "Businessperson" could refer to a street vendor or a company president responsible for thousands of workers and millions of shareholder dollars. Accordingly, the word **business** will be used here simply to mean any organization whose objective is to provide goods or services for profit. **Businesspeople** are those who participate in planning, organizing, or directing the work of business.

But this book takes a broader view as well because it is concerned with moral issues that arise anywhere that employers and employees come together. Thus, it addresses organizational ethics as well as business ethics. An *organization* is a group of people working together to achieve a common purpose. The purpose may be to offer a product or a service primarily for profit, as in business. But the purpose also could be health care, as in medical organizations; public safety and order, as in law-enforcement organizations; education, as in academic organizations; and so on. The cases and illustrations presented in this book deal with moral issues and dilemmas in both business and nonbusiness organizational settings.

SUMMARY

Business ethics is the study of what constitutes right and wrong (or good and bad) human conduct in a business context. Closely related moral questions arise in other organizational contexts.

People occasionally poke fun at the idea of business ethics, declaring that the term is a contradiction or that business has no ethics. Such people take themselves to be worldly and realistic. They think they have a down-to-earth idea of how things really work. In fact, despite its pretense of sophistication, their attitude shows little grasp of the nature of ethics and only a superficial understanding of the real world of business. Reading this book should help you comprehend how inaccurate and mistaken their view is.

• • •

MORAL VERSUS NONMORAL STANDARDS

Moral questions differ from other kinds of questions. Whether the old computer in your office can copy a pirated DVD is a factual question. By contrast, whether you should copy the DVD is a moral question. When we answer a moral question or make a moral judgment, we appeal to moral standards. These standards differ from other kinds of standards.

Wearing shorts and a tank top to a formal dinner party is boorish behavior. Writing an essay that is filled with double negatives or lacks subject-verb agreement violates the basic conventions of proper language usage. Photographing someone at night without the flash turned on is poor photographic technique. In each case a standard is violated—fashion, grammatical, technical—but the violation does not pose a serious threat to human well-being.

Moral standards are different because they concern behavior that is of serious consequence to human welfare, that can profoundly injure or benefit people.³ The conventional moral norms against lying, stealing, and killing deal with actions that can hurt people. And the moral principle that human beings should be treated with dignity and respect uplifts the human personality. Whether products are healthful or harmful, work conditions safe or dangerous, personnel procedures biased or fair, privacy respected or invaded—these are also matters that seriously affect human well-being. The standards that govern our conduct in these areas are moral standards.

A second characteristic follows from the first. Moral standards take priority over other standards, including self-interest. Something that morality condemns—for instance, the burglary of your neighbor's home—cannot be justified on the nonmoral grounds that it would be a thrill to do it or that it would pay off handsomely. We take moral standards to be more important than other considerations in guiding our actions.

A third characteristic of moral standards is that their soundness depends on the adequacy of the reasons that support or justify them. For the most part, fashion standards are set by clothing designers, merchandisers, and consumers; grammatical standards by grammarians and students of language; technical standards by practitioners and experts in the field. Legislators make laws, boards of directors make organizational policy, and licensing boards establish standards for professionals. In those cases, some authoritative body is the ultimate validating source of the standards and thus can change the standards if it wishes. Moral standards are not made by such bodies. Their validity depends not on official fiat but rather on the quality of the arguments or the reasoning that supports them. Exactly what constitutes adequate grounds or justification for a moral standard is

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a debated question, which, as we shall see in Chapter 2, underlies disagreement among philosophers over which specific moral principles are best.

Although these three characteristics set moral standards apart from other standards, it is useful to discuss more specifically how morality differs from three things with which it is sometimes confused: etiquette, law, and professional codes of ethics.

MORALITY AND ETIQUETTE

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SUMMARY
 We appeal to moral standards when we answer a moral question or make a moral judgment. Three characteristics of moral standards distinguish them from other kinds of standards.

Etiquette refers to the norms of correct conduct in polite society or, more generally, to any special code of social behavior or courtesy. In our society, for example, it is considered bad etiquette to chew with your mouth open or to pick your nose when talking to someone; it is considered good etiquette to say “please” when requesting and “thank you” when receiving, and to hold a door open for someone entering immediately behind you. Good business etiquette typically calls for writing follow-up letters after meetings, returning phone calls, and dressing appropriately. It is commonplace to judge people’s manners as “good” or “bad” and the conduct that reflects them as “right” or “wrong.” “Good,” “bad,” “right,” and “wrong” here simply mean socially appropriate or socially inappropriate. In these contexts, such words express judgments about manners, not about ethics.

The rules of etiquette are prescriptions for socially acceptable behavior. If you violate them, you’re likely to be considered ill-mannered, impolite, or even uncivilized, but not necessarily immoral. If you want to fit in, get along with others, and be thought well of by them, you should observe the common rules of politeness or etiquette. However, what’s considered correct or polite conduct—for example, when greeting an elderly person, when using your knife and fork, or when determining how close to stand to someone you’re conversing with—can change over time and vary from society to society.

Although rules of etiquette are generally nonmoral in character, violations of those rules can have moral implications. For example, the male boss who refers to female subordinates as “honey” or “doll” shows bad manners. If such epithets diminish the worth of female employees or perpetuate sexism, then they also raise moral issues concerning equal treatment and denial of dignity to human beings. More generally, rude or impolite conduct can be offensive, and it may sometimes fail to show the respect for other persons that morality requires of us. For this reason, it is important to exercise care, in business situations and elsewhere, when dealing with unfamiliar customs or people from a different culture.

Scrupulous observance of rules of etiquette, however, does not make a person moral. In fact, it can sometimes camouflage ethical issues. In some parts of the United States fifty or so years ago, it was considered bad manners for blacks and whites to eat together. However, those who obeyed this convention were not acting in a morally desirable way. In the 1960s, black and white members of the civil rights movement sought to dramatize the injustice that lay behind this rule by sitting together in luncheonettes and restaurants. Although judged at the time to lack good manners, they thought that this was a small price to pay for exposing the unequal treatment and human degradation underlying this rule of etiquette.

MORALITY AND LAW

Before distinguishing between morality and law, let’s examine the term *law*. Basically, there are four kinds of law: statutes, regulations, common law, and constitutional law.

Statutes are laws enacted by legislative bodies. For example, the law that defines and prohibits reckless driving on the highway is a statute. Congress and state legislatures enact statutes. (Laws enacted by local governing bodies such as city councils are usually termed *ordinances*.) Statutes make up a large part of the law and are what many of us mean when we speak of “laws.”

Limited in their time and knowledge, legislatures often set up boards or agencies whose functions include issuing detailed regulations covering certain kinds of conduct—**administrative regulations**. For example, state legislatures establish licensing boards to formulate regulations for the licensing of physicians and nurses. As long as these regulations do not exceed the board’s statutory powers and do not conflict with other kinds of law, they are legally binding.

Common law refers to the body of judge-made law that first developed in the English-speaking world centuries ago when there were few statutes. Courts frequently wrote opinions explaining the bases of their decisions in specific cases, including the legal principles those decisions rested on. Each of these opinions became a precedent for later decisions in similar cases. The massive body of precedents and legal principles that accumulated over the years is collectively referred to as “common law.” Like administrative regulations, common law is valid if it harmonizes with statutory law and with still another kind: constitutional law.

Constitutional law refers to court rulings on the requirements of the Constitution and the constitutionality of legislation. The U.S. Constitution empowers the courts to decide whether laws are compatible with the Constitution. State courts may also rule on the constitutionality of state laws under state constitutions. Although the courts cannot make laws, they have far-reaching powers to rule on the constitutionality of laws and to declare them invalid if they conflict with the Constitution. In the United States, the Supreme Court has the greatest judiciary power and rules on an array of cases, some of which bear directly on the study of business ethics.

People sometimes confuse legality and morality, but they are different things. On one hand, breaking the law is not always or necessarily immoral. On the other hand, the legality of an action does not guarantee that it is morally right. Let’s consider these points further.

- 1. An action can be illegal but morally right.** For example, helping a Jewish family to hide from the Nazis was against German law in 1939, but it would have been a morally admirable thing to have done. Of course, the Nazi regime was vicious and evil. By contrast, in a democratic society with a basically just legal order, the fact that something is illegal provides a moral consideration against doing it. For example, one moral reason for not burning trash in your backyard is that it violates an ordinance that your community has voted in favor of. Some philosophers believe that sometimes the illegality of an action can make it morally wrong, even if the action would otherwise have been morally acceptable. But even if they are right about that, the fact that something is illegal does not trump all other moral considerations. Nonconformity to law is not always immoral, even in a democratic society. There can be circumstances where, all things considered, violating the law is morally permissible, perhaps even morally required.

Probably no one in the modern era has expressed this point more eloquently than Dr. Martin Luther King, Jr. Confined in the Birmingham, Alabama, city jail on charges of parading without a permit, King penned his now famous “Letter from

Legality should not be confused with morality. Breaking the law isn’t always or necessarily immoral, and the legality of an action doesn’t guarantee its morality.

Birmingham Jail” to eight of his fellow clergymen who had published a statement attacking King’s unauthorized protest of racial segregation as unwise and untimely. King wrote:

All segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority. Segregation, to use the terminology of the Jewish philosopher Martin Buber, substitutes an “I-it” relationship for an “I-thou” relationship and ends up relegating persons to the status of things. Hence segregation is not only politically, economically, and sociologically unsound, it is morally wrong and sinful. . . . Thus it is that I can urge men to obey the 1954 decision of the Supreme Court,* for it is morally right; and I can urge them to disobey segregation ordinances, for they are morally wrong.⁴

2. **An action that is legal can be morally wrong.** For example, it may have been perfectly legal for the chairman of a profitable company to lay off 125 workers and use three-quarters of the money saved to boost his pay and that of the company’s other top managers,⁵ but the morality of his doing so is open to debate.

Or, to take another example, suppose that you’re driving to work one day and see an accident victim sitting on the side of the road, clearly in shock and needing medical assistance. Because you know first aid and are in no great hurry to get to your destination, you could easily stop and assist the person. Legally speaking, though, you are not obligated to stop and render aid. Under common law, the prudent thing would be to drive on, because by stopping you could thus incur legal liability if you fail to exercise reasonable care and thereby injure the person. Many states have enacted so-called Good Samaritan laws to provide immunity from damages to those rendering aid (except for gross negligence or serious misconduct). But in most states, the law does not oblige people to give such aid or even to call an ambulance. Moral theorists would agree, however, that if you sped away without helping or even calling for help, your action might be perfectly legal but would be morally suspect. Regardless of the law, such conduct would almost certainly be wrong.

What then may we say about the relationship between law and morality? To a significant extent, law codifies a society’s customs, ideals, norms, and moral values. Changes in law tend to reflect changes in what a society takes to be right and wrong, but sometimes changes in the law can alter people’s ideas about the rightness or wrongness of conduct. However, even if a society’s laws are sensible and morally sound, it is a mistake to see them as sufficient to establish the moral standards that should guide us. The law cannot cover all possible human conduct, and in many situations it is too blunt an instrument to provide adequate moral guidance. The law generally prohibits egregious affronts to a society’s moral standards and in that sense is the “floor” of moral conduct, but breaches of moral conduct can slip through cracks in that floor.

*In *Brown v. Board of Education of Topeka* (1954), the Supreme Court struck down the half-century-old “separate but equal doctrine,” which permitted racially segregated schools as long as comparable quality was maintained.

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SUMMARY
 Morality must be distinguished from etiquette (rules for well-mannered behavior), from law (statutes, regulations, common law, and constitutional law), and from professional codes of ethics (the special rules governing the members of a profession).



You come upon this scene—the car is smoking, and it is clear that an accident just took place. In most states, you are not legally obligated to stop and offer help to the victims.

PROFESSIONAL CODES

Somewhere between etiquette and law lie **professional codes of ethics**. These are the rules that are supposed to govern the conduct of members of a given profession. Adhering to these rules is a required part of membership in that profession. Violation of a professional code may result in the disapproval of one's professional peers and, in serious cases, loss of one's license to practice that profession. Sometimes these codes are unwritten and are part of the common understanding of members of a particular profession—for example, that professors should not date their students. In other instances, these codes or portions of them may be written down by an authoritative body so they may be better taught and more efficiently enforced.

These written rules are sometimes so vague and general as to be of little value, and often they amount to little more than self-promotion by the professional organization. The same is frequently true when industries or corporations publish statements of their ethical standards. In other cases—for example, with attorneys—professional codes can be very specific and detailed. It is difficult to generalize about the content of professional codes of ethics, however, because they frequently involve a mix of purely moral rules (for example, client confidentiality), of professional etiquette (for example, the billing of services to other professionals), and of restrictions intended to benefit the group's economic interests (for example, limitations on price competition).

Given their nature, professional codes of ethics are neither a complete nor a completely reliable guide to one's moral obligations. Not all the rules of a professional code are purely moral in character, and even when they are, the fact that a rule is officially enshrined as part of the code of a profession does not guarantee that it is a sound moral principle. As a professional, you must take seriously the injunctions of your profession, but you still have the responsibility to critically assess those rules for yourself.