Introduction

A relationship exists between law and ethics. In some instances, law and ethics overlap and what is perceived as unethical is also illegal. In other situations, they do not overlap. In some cases, what is perceived as unethical is still legal, and in others, what is illegal is perceived as ethical. A behavior may be perceived as ethical to one person or group but might not be perceived as ethical by another. Further complicating this dichotomy of behavior, laws may have been legislated, effectively stating the government’s position, and presumably the majority opinion, on the behavior. As a result, in today’s diverse business environment, one must consider that law and ethics are not necessarily the same thing.

Definitions

Law can be defined as a consistent set of universal rules that are widely published, generally accepted, and usually enforced. These rules describe the ways in which people are required to act in their relationships with others in a society. They are requirements to act in a given way, not just expectations or suggestions to act in that way. Since the government establishes law, the government can use police powers to enforce laws. The following chart defines the terms in the definition of law above.

- **Consistent** – If two requirements contradict each other, both cannot be termed a law, because people cannot obey both.
- **Universal** – The requirements must be applicable to every one with similar characteristics facing the same set of circumstances.
- **Published** – The requirements have to be published, in written form, so that they are accessible to everyone within the society.
- **Accepted** – The requirements have to be generally obeyed.
- **Enforced** – Members of society must be compelled to obey the law if they do not choose to do so voluntarily.

The word ethics is derived from the Greek word *ethos* (character), and from the Latin word *mores* (customs). Together they combine to define how individuals choose to interact with one another. In philosophy, ethics defines what is good for the individual and for society and establishes the nature of duties that people owe themselves and one another. The following items are characteristics of ethics:

- Ethics involves learning what is right and wrong, and then doing the right thing.
- Most ethical decisions have extended consequences.
- Most ethical decisions have multiple alternatives.
- Most ethical decisions have mixed outcomes.
- Most ethical decisions have uncertain consequences.
- Most ethical decisions have personal implications.
It is important to note that there is also a difference between ethics and morality. Morality refers both to the standards of behavior by which individuals are judged, and to the standards of behavior by which people in general are judged in their relationships with others. Ethics, on the other hand, encompasses the system of beliefs that supports a particular view of morality.

The Relation Between Law and Ethics

Ethical values and legal principles are usually closely related, but ethical obligations typically exceed legal duties. In some cases, the law mandates ethical conduct. Examples of the application of law or policy to ethics include employment law, federal regulations, and codes of ethics.

Though law often embodies ethical principles, law and ethics are far from co-extensive. The law does not prohibit many acts that would be widely condemned as unethical. And the contrary is true as well. The law also prohibits acts that some groups would perceive as ethical. For example, lying or betraying the confidence of a friend is not illegal, but most people would consider it unethical. Yet, speeding is illegal, but many people do not have an ethical conflict with exceeding the speed limit. Law is more than simply codifying ethical norms.

The following diagram shows the relationship between law and ethics.

Establishing a set of ethical guidelines for detecting, resolving, and forestalling ethical breaches often prevents a company from getting into subsequent legal conflicts. Having demonstrated a more positive approach to the problem may also ensure that punishment for legal violations will be less severe. Federal sentencing guidelines passed in 1991 permit judges to reduce fines and jail time for executives proportionate to the ethical measures a company has taken.

The Legislation of Ethics

Numerous laws have been enacted to protect employees against what society perceives as unethical behavior in the workplace. These laws are administered by the United States Department of Labor. Generally, these laws reflect the ethical standards of the majority of society. An example is the Americans With Disabilities Act of 1990 (ADA). According to the ADA:

"No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment."

Most citizens would agree that it would be unethical to deny employment or promotion to a disabled applicant, solely on the basis of that disability, especially when that disability would not affect their work performance. Legislators reacted and have enacted the ADA in order to make it illegal to engage
in such discrimination. Yet even with this legislation, the Supreme Court continues to evaluate provisions of the ADA and its definition of disability.

**Ethics Regulations for Federal Employees**

Executive branch employees are subject to statutes and regulations commonly referred to as "ethics" standards. Through these statutes, the government has established legally enforceable rules on ethical behavior. The two basic sources of these standards are the criminal conflict of interest statutes and the administrative standards of ethical conduct.

Chapter 11 of Title 18, United States Code is an example of a Criminal Conflict of Interest Statute. The conflict of interest statutes prohibit a Federal employee from engaging in certain types of activities that would place the employee’s own personal interests above the Federal Government’s interests. According to this Statute, a Federal employee:

- Is prohibited from acting in an official capacity on a matter in which the employee (or certain others) has a financial interest;
- May not represent the interests of private parties in matters in which the United States is a party or has an interest;
- Is prohibited after leaving the Government from engaging in certain activities on behalf of other persons or entities;
- May not accept private compensation for performing official duties.

The Code of Federal Regulations Part 2635 is an example of Administrative Standards of Ethical Conduct Regulation. The standards of conduct regulation establish principles of ethical conduct for employees within the executive branch. The regulation not only identifies the principles but also provides easy to understand examples of how the principles apply. The standards of conduct cover such topics as:

- gifts from outside sources
- gifts between employees
- conflicting financial interests
- impartiality in performing official duties
- seeking other employment
- misuse of position
- outside activities

**Codes of Ethics**

Private Companies, organizations, and associations frequently establish their own Codes of Ethics. These may be formally written or understood. Although the government does not enforce these Codes, they are enforced internally. Violation of the Codes alone can, in some instances, be grounds for termination. The following tables show examples of such Codes.

<table>
<thead>
<tr>
<th>The Jet Propulsion Laboratory Ethics Program</th>
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<tbody>
<tr>
<td>• I will conduct all business dealings with fairness, honesty and integrity.</td>
</tr>
<tr>
<td>• I will protect all information and resources available to me from loss, theft, and misuse.</td>
</tr>
<tr>
<td>• I will avoid even the appearance of conflict of interest or any other impropriety.</td>
</tr>
<tr>
<td>• I will treat my fellow employees fairly and with dignity and respect.</td>
</tr>
<tr>
<td>• I will help create and sustain an atmosphere conducive to the spirit of this code.</td>
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</table>
AMA Principles of Medical Ethics

- A physician shall be dedicated to providing competent medical service with compassion and respect for human dignity.
- A physician shall deal honestly with patients and colleagues, and strive to expose those physicians deficient in character or competence, or who engage in fraud or deception.
- A physician shall respect the law and recognize a responsibility to seek changes in those requirements which are contrary to the best interests of the patient.
- A physician shall respect the rights of patients, of colleagues, and of other health professionals, and shall safeguard patient confidences within the constraints of the law.
- A physician shall continue to study, apply, and advance scientific knowledge, make relevant information available to patients, colleagues, and the public, obtain consultation, and use the talents of other health professionals when indicated.
- A physician shall, in provision of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to associate, and the environment in which to provide medical services.
- A physician shall recognize a responsibility to participate in activities contributing to an improved community.

Potential Conflicts

Some activities and beliefs may be legal, but not perceived as ethical. Marriott Corporation maintains very comprehensive ethics standards to which their employees must abide. Their Corporate Dress Code is an example. Several years ago, the orientation program at Marriott Corporate Headquarters included a presentation on what was and was not considered acceptable appearance in the company. Some requirements included:

- Women could not wear skirts any shorter than 4 inches above the knee.
- Women could show no bare leg. Either long pants or hose were required at all times.
- Women’s shoulders could not be exposed.
- Men’s hair could not reach their collar, except for religious reasons.
- Men could not wear earrings.

Although these rules were part of company policy, there is nothing illegal about any one of these items. However, in the Marriott Corporate culture, each was considered unethical.

Another example is the manufacturing practices of Nike, one of the largest manufacturers of athletics sportswear in the world. Nike produces the majority of its goods in South East Asia. Despite the profits of the Nike organization, its foreign workers are paid substandard wages and work long hours in appalling conditions. In 1996, the entry-level wage at one of these factories was $2.20 a day. Labor groups estimate that a livable wage in Indonesia is about $4.25 a day. Compare this with the pay of one of Nike's celebrity promoters, Michael Jordan, who gets $20 million a year to promote Nike sneakers. Jordan's compensation alone is more than the annual income of 20,000 workers who make Nike shoes.

Nike’s manufacturing practices are not illegal. There is nothing that says a company cannot take its manufacturing operations outside the United States. And as long as the company is meeting the minimum wage standards of the host country, there is nothing illegal about paying low wages.
However, most Americans would look at these practices as unethical, especially considering the profits of Nike and their spending on celebrity promoters.

On the other hand, there are some behaviors which are illegal, but widely perceived as ethical. One example is taking office supplies from the company supply cabinet for personal use. Legally, this is considered theft, but many people see no moral or ethical problem and do it anyway.

Another example is buying a copyrighted software program and installing it on multiple computers. Technically, this violates Federal copyright laws. Yet, the piracy of software is widespread, even in corporations that consider themselves ethical.

Federal copyright law protects software from the moment of its creation. This is stated in the Copyright Act, Title 17 of the US Code. The Act gives the owner of the copyright "the exclusive rights" to "reproduce the copyrighted work" and "to distribute copies ... of the copyrighted work". It also states that "anyone who violates any of the exclusive rights of the copyright owner ... is an infringer of the copyright", and sets forth several penalties for violation of a copyright. Those who purchase a license for a copy of software do not have the right to make additional copies without the permission of the copyright owner, except to:

- copy the software onto a single computer, or
- make another copy for archival purposes

Although many people would write off the impact of software piracy in order to justify their belief that it is ethical, an annual study on global software piracy shows that the impact is great. The study estimates that, of the 615 million new business software applications installed worldwide during 1998, 231 million, or 38%, were pirated. They estimate that this resulted in an $11 billion loss to software companies.

**Conclusion**

Clearly, there is a relationship between law and ethics, and this relationship is important in management. Managers must evaluate not only what is legal, but what they, their employees, and society consider ethical as well. Important here is that companies must also consider what behaviors their customers will and will not accept. The news is full of stories regarding the ethical issues with which companies are being confronted, such as the practices of Nike, as outlined above. No company wants to be forced to defend itself over ethical issues involving wages, the environment, working issues, or human relations.

Managers play a vital role in a company’s legal and ethical performance. It is in part their responsibility to ensure that their employees are abiding by Federal, State, and Local laws, as well as any ethical codes established at the company. But most importantly, the managers must provide a positive example to their employees of proper behavior in light of laws and ethical codes.

Certainly, policies and procedures will never be developed to satisfy everyone, but the establishment of Codes of Ethics will at least provide a framework for ethical behavior, and allow customers to evaluate the type of company with whom they are doing business. With this knowledge, employees and customers must decide whether or not they are willing and able to conform to these Codes, as well as to the laws that have been enacted. Managers cannot simply limit their decisions to following the law. They must also consider the ethics of their employees and customers.

**References**

*AMA Principles of Medical Ethics; American Medical Association; Online, Available at [http://www.ama-assn.org/aps/abtheama.htm#ethics](http://www.ama-assn.org/aps/abtheama.htm#ethics); 1994.*
Anstead, Susan; (personal knowledge); 1999.


Don't Do It: Nike Labour Abuses In S.E. Asia; Online; Available at http://www.gla.ac.uk/Acad/FacSoc/mres/www98/king/nike.htm; April 27, 1998.

Ethics: An Overview; Legal Information Institute; Online; Available at http://www.law.cornell.edu/topics/ethics.html; 1999.

Hosmer, Larue Tone; The Ethics of Management; Richard D. Irwin, Inc.; 1997.

McNamara, Carter; Complete Guide to Ethics Management; Online; Available at http://www.mapnp.org/library/ethics/ethxgde.htm; 1999.

Software Use and the Law; Software & Information Industry Association; Online; Available at http://www.spa.org/piracy/programs/sftuse.htm; 1999.


The Jet Propulsion Laboratory Ethics Program; Online; Available at http://www.jpl.nasa.gov/JPL/ethics/ethtext.htm; Last Update June 11, 1999

The Relation of Law And Ethics; American Medical Association; Online; Available at http://ddonline.gsm.com/demo/consult/etlawama.htm; 1999.
