

GORDON KLEIN

ETHICS

in ACCOUNTING

A Decision-Making Approach



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University of California, Los Angeles

WILEY

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Praise for *Ethics in Accounting*

“As an expert in decision analysis, I applaud how the author interweaves ethics, psychology, and decision theory. This superb book sensitizes readers to the subtle traps that can prevent them from making ethical decisions.”

*Elisabeth Browne, Ph.D.
Stanford University*

“Clear organization. Clear sentence structure ... No unnecessarily fancy vocabulary.”

*Robert Prentice, Ed and Molly Smith Centennial Professor of Business Law
McCombs School of Business, University of Texas, Austin*

“I sure wish I'd written this book! It inspires readers to identify and ponder dilemmas of the Real World, and it does so with clarity and flair.”

*Eric Sussman, CPA, MBA
Chairperson, Causeway Capital Management*

“Finally ... an ethics book with comprehensive coverage of both the AICPA and IFAC codes of conduct. This book helps prepare candidates for the CPA exam, but more importantly, it instills an enduring appreciation for the ethical practices that are essential in the accounting profession.”

*Roger Philipp, CPA, CGMA
CEO, Roger CPA Review*

“The writing is clear, concise, and easy to understand.”

*Carol Dickerson, Ph.D., CPA
Professor, Chaffey College*

About the Author

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Gordon Klein has dedicated his professional career to accounting education and the equitable resolution of financial disputes. As a CPA, attorney, and faculty member at UCLA for over three decades, Mr. Klein has taught undergraduate, graduate, and law students courses in managerial accounting, tax planning, advanced financial accounting, fiduciary responsibilities, and professional ethics. Moreover, Mr. Klein has served as an ethics consultant to the California Bar Association, a judicial referee, and an arbitrator of accounting disputes. Mr. Klein is an international accounting expert who has testified in several highly publicized matters, including a set of mortgage-backed securities disputes that the *Financial Times* heralded as “this century’s biggest case against Wall Street.”



Mr. Klein’s commentaries have appeared in the *Wall Street Journal*, and he has been a television commentator on CNBC. He also has a passion for contemporary music and has appeared on MTV on several occasions.

Preface

The heart is not so easily changed, but the head can be persuaded.
—Grand Pabbie, from the Disney movie Frozen

Despite his passion for mathematics, Albert Einstein firmly believed that “everything that counts cannot necessarily be counted.” However, accounting education traditionally has ignored the wisdom of this admonition by focusing more on the computation of book values than the promotion of societal values.

In recent years, though, after being awakened by a serendipitous onslaught of scandals, the financial community now recognizes the importance of ethical conduct in maintaining public trust, fostering efficient capital markets, and preserving accounting as a distinguished profession. Nonetheless, the integration of ethics education into the accounting curriculum has not progressed without impediments and obstacles. To help surmount these challenges, this long-awaited book provides a comprehensive, authoritative, and thought-provoking examination of the myriad ethical issues encountered by accountants working in industry, public practice, nonprofit service, and government.

Even a cursory glance reveals the distinctive contributions of this book to the study of accounting ethics. Consider the following innovative features:

- Readers are impelled to apply theory to real-world situations. Every chapter begins with an *Am I Ethical?* problem that poses a common professional dilemma that is explored and resolved in ensuing pages. The development of sound decision-making skills is further nurtured by the inclusion of practical questions and thoughtful solutions within the text itself.
- Illustrations and problems encompass a diverse array of professional endeavors, including managerial accounting, tax compliance, investment planning, internal auditing, consulting, nonprofit management, trust and estate administration, and attest engagements. Because accounting careers often travel along divergent paths, ethical issues arising in public-company audits contribute to, but do not unduly dominate, the eclectic scope of the book.
- Ethical issues are viewed through a prism that melds cutting-edge research from numerous disciplines, including social psychology, law, behavioral economics, cross-cultural studies, and neuroscience. This multifaceted approach creates self-awareness that helps readers identify, and in turn moderate, their own ethical indiscretions. This focus on improving behavior is embraced in novel chapters dedicated to understanding *why we cheat*, resolving *conflicts of interest*, motivating *prosocial whistleblower conduct*, and disrupting instinctive tendencies to act with unconscious bias.

- One section of the book is dedicated to a detailed and up-to-date examination of both the AICPA's *Code of Professional Conduct*, as newly codified for 2015 and thereafter, and the International Federation of Accountants' *Code of Conduct for Professional Accountants*. This global, Code-focused approach makes this book entirely suitable for worldwide use and gives working professionals a valuable reference tool. Four distinct chapters thoroughly explore the concepts of *discreditable acts*, the *duty of confidentiality*, the *Independence Rule*, and the *duty of loyalty* regarding *conflicts of interest*. The *moral character* requirement and other key provisions of the Uniform Accountancy Act, as revised for 2014 and thereafter, also are discussed. Differences among governing jurisdictions and codes of conduct, including those promulgated by the Institute of Management Accountants, Chartered Institute of Management Accountants, Institute of Internal Auditors, and the Association of Government Accountants, are highlighted when pertinent. Excerpts from corporate codes of conduct are explored as well.
- A contemporary focus immerses readers in ethical quandaries that abound in the worlds of sports, music, movies, fashion, romance, and social media. Recent scandals involving celebrity privacy, basketball point-shaving, auditor insider trading, and online dating, for instance, provoke and stimulate discussion. To further pique reader interest, ethics-oriented commentaries from modern writers and artists complement the more traditional recitations that have illuminated ethical discourse for centuries.
- Because most accountants encounter tax-related issues throughout their careers, tax topics of global relevance are woven into most chapters, including those on fraud, cheating, confidentiality, contingent fees, and auditor independence. In addition, an entire chapter is dedicated to accountants' duties as tax return preparers, planners, and client advocates.
- The final section of the book focuses on the various roles performed by members of the accounting profession. Specialized roles that impose professional responsibilities on accountants, such as serving as trustees, executors, money managers, employers, employees, consultants, and whistleblowers, are each discussed. Duties arising in more commonplace roles as internal auditors, external auditors, and tax practitioners are, of course, examined as well.

Nobel Prize-winner Albert Camus once observed that “a man without ethics is a wild beast loosed upon this world.” Please jump on board as we embark on a journey to tame these most beastly of behaviors.

ORGANIZATION AND GUIDANCE FOR INSTRUCTORS

This book covers all topics commonly prescribed by state Boards of Accountancy regarding ethics literacy and is organized to achieve maximum pedagogical flexibility.

Most accounting programs will choose to utilize this book in a one-term course in Accounting Ethics. However, this book has sufficient content to be used in a two-term course. Reviewers have suggested that this book is suitable for second-year undergraduates through graduate students. Alternatively, selected chapters can be integrated into related courses that already are in the accounting curriculum. For example, some accounting programs may wish to incorporate the chapters on Independence and the Sarbanes–Oxley Act into their Audit curriculum, the chapter on Duties of Tax Professionals into their Tax curriculum, or the Duties of Fiduciaries and Duties in the Accounting Workplace into their business law curriculum. Each chapter stands on its own and can be assigned separately without any loss of continuity.

Instructors especially interested in preparing students for the CPA exam may wish to focus on the four chapters in the Professional Rules of Conduct section, as well as the chapters on Duties of Tax Professionals and Duties of Public-Company Auditors.

This book contains approximately 500 student examples and exercises, ranging from short, focused questions to more comprehensive problems. As a result, sufficient problems are available for instructors to rotate assignments among academic terms throughout the year. Topic headings within chapter-end sections enable instructors to select problems related to subject areas that they wish to emphasize. These topic headings appear in the same order as the related chapter text material. Many of these chapter-end problems pose open-ended issues, making them suitable as writing exercises.

An Instructor's Manual written by the author provides authoritative, comprehensive solutions to all questions for which there are definitive answers. Questions that yield various alternative solutions are intended for classroom discussion and are marked accordingly.

The Instructor's Manual also provides helpful guidance for conducting class discussions. In the great Socratic tradition, follow-up questions are provided to assist instructors in challenging commonly held student viewpoints and stimulating others to offer opposing viewpoints.

The Instructor's Manual also includes role-playing projects and video links that result in students observing for themselves that they are prone to unconscious biases, such as confirmation bias, overconfidence, and moral seduction. These projects also allow students to gain a better understanding of whether they tend to make deontological or utilitarian decisions and whether sensitivity to alternative viewpoints might improve their ethical decision making. These projects can be used in collaborative team settings or be performed individually by each student.

PowerPoint™ slides aid the instructor in stimulating and framing class discussions, and Web Quizzes enable students to test their comprehension.

For further information on these and other supplemental materials, please contact your Wiley sales representative or visit www.wiley.com/college/klein.

Comments and feedback from users of this text are highly valued. Please e-mail me at AcctgEthics@gmail.com to share your thoughts.

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Introduction to Ethics

CHAPTER 1

AM I ETHICAL?

During college, your buddies called you *Boy Toy* because so many women dated you once and then cast you aside. You now work as an accounting manager in a manufacturer's Accounts Receivable and Payable Division, but you still lead an active dating life. Just last month, you dated three different women that you met through work. One works for a company supplier, one works for a major wholesale distributor, and the third is a subordinate who works under your direct supervision.

The head of Human Resources recently summoned you in for a meeting, and you are concerned that she intends to discuss your prolific dating habits. Is it ethical for her to discuss your private dating life?

- a. Yes, but only regarding romantic involvement with your subordinate
- b. Yes, because all three dating arrangements pose potential conflicts of interest
- c. No, because it is unethical for an employer to interfere in employee activities outside the workplace
- d. No, because you are protected by Constitutional freedoms of speech, free association, and privacy

The SOLUTION is revealed at the end of the chapter.

LEARNING OBJECTIVES

After reading this chapter, you should be able to:

1. Identify the nature of ethical reasoning.
2. Understand how accounting and ethics intersect.
3. Identify ethical issues in everyday life.
4. Identify the sources of professional rules that govern accountants' conduct.
5. Understand the various domains in which accountants encounter ethical issues.
6. Critique common ethical rationalizations.
7. Distinguish between normative and behavioral ethics.
8. Appreciate the benefits of acting ethically.

WHAT IS ETHICS?

A bus is speeding out of control in your direction. As you frantically look around, you see that a foreign tourist named Jack and your dog *Ice Cube* are in the direct path of the bus. You have time to save just one of them. Should you let the bus whack Jack, or should you let Ice Cube get crushed?

According to a recent study, over 40% of people questioned would save their dog instead of the tourist. What choice would you have made?¹

Ethics guide us in identifying right from wrong, good from bad, and just from unjust. Some describe ethical behavior as the decisions you make in the dark when no one is watching. Google's Code of Conduct has a more succinct mandate: *Don't be evil!*

Ethical norms evolve over time and reflect a broad community consensus. Some contend that ethical values are inextricably linked with religious teachings and cannot exist in a world devoid of spiritual influences. Nobel Prize winner Albert Einstein, in contrast, believed that “there is nothing divine about morality; it is a purely human affair.”² “A man's ethical behavior should be based effectually on sympathy, education, and social ties and needs; no religious basis is necessary.”³ From yet another vantage point, neuroscientists believe that certain ethical behaviors are *hardwired* into our brains, making these behaviors largely unsusceptible to religious or educational influences. Regardless of whether morality has divine origins, cultural underpinnings, or a biological basis, societies tend to flourish when people adhere to a common set of ethical standards and traditions.

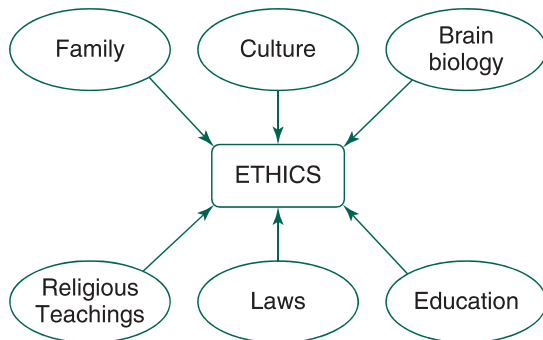


FIGURE 1-1 Influences on Ethics.

ETHICS AND ACCOUNTING

At first glance, the pairing of ethical philosophies with accounting is a seemingly odd coupling. After all, our great philosophers spent their time contemplating moral values, not book values. Likewise, accounting experts generally are more facile at discussing corporate bonds than societal bonds. Surprisingly, though, the confluence of ethics and numerical analysis has existed for centuries.

Although Aristotle is best known for his philosophical insights, he also expressed opinions that remain tenets of modern accounting. In his discourse about the benefits of free trade, for example, Aristotle pioneered the view that goods should be valued objectively based on actual transactions, not based on subjective assessments of intrinsic worth.⁴ Aristotle's views, first expressed in 350 BC, continue to guide accounting determinations of fair market values.⁵

Descartes was also a major contributor to both philosophy and modern financial analysis. In the abstract realm of philosophy, Descartes is best known for the introspective proposition, *I think; therefore I am*. However, Descartes also was a pragmatist who, in the 17th century, invented the famed *x-y* axis graph that still is used today in algebra and cost accounting analysis.

¹ Study by Georgia Regents University and Cape Fear Community College, reported in *Anthrozoö* and cited in Huff Post “Weird News,” August 22, 2013. According to this same study, only 2% of the respondents would save the life of their dog over the life of an immediate blood relative. Perhaps that is reassuring; perhaps not.

² Albert Einstein, *The World As I See It*, trans Alan Harris (New York: Philosophical Library, 1949).

³ Albert Einstein, as quoted in *New York Times*, 11/9/30.

⁴ Aristotle, *Politics*.

⁵ Aristotle also wrote extensively about the societal benefits of voluntary commercial transactions and exchanges in *Nicomachean Ethics*: Book V.

Even Albert Einstein's fascination with numbers was tempered by his enduring respect for the importance of ethics. Notably, Einstein once wrote, "Not everything that counts can be counted, and not everything that can be counted counts."⁶

ETHICS IN OUR DAILY LIVES

Many financial professionals dread the study of ethics, fearing that rules developed by ancient civilizations have little relevance to contemporary business decisions. Some think that the study of *ethos*, or moral character, is the narrow province of balding old men dressed in togas and medieval theologians singing Gregorian chants. The simple reality, however, is that we all must decide between right and wrong on a daily basis. Ethical issues abound everywhere, whether we are wearing a toga or dressed for yoga, and whether we are a monk or just listening to punk or funk.

Most of us are so accustomed to dealing with ethical issues that we instinctively make moral decisions without even realizing it. For example, when you awaken in the morning, your first ethical decision might be whether you should jump in the shower right away, knowing that your use of the available hot water might delay your roommate from getting to work on time.

You then arrive at class a bit late because you overslept. When the instructor stares at you disapprovingly, you mutter that "traffic was horrible," even though it was not.

At lunch, you notice a college administrator stating that she is a student to get a discount on a food purchase. You wonder whether you should inform the cashier, but you choose to avoid conflict with the administrator.

Between classes, you ask your professor for "special tips" on how to do better on an upcoming midterm, knowing that your course grade is curved relative to your classmates' performance.

At your part-time afternoon job, after using a company pen to jot some notes, you place the pen in your pocket to take it home. You also use the company computer to transact an online purchase of sunglasses while waiting for your boss to return with your work assignment.

On your way home, you stop in a shoe store to figure out which size shoe fits you best. You thank the salesperson for his diligent help, but then order these shoes online to save money.

While driving home from the shoe store, you notice that a car accident in the far right lane is forcing several cars to slide over into your faster-moving lane. You allow only two cars to merge into your lane, even though other drivers are signaling their desire to merge.

After arriving at your apartment, you feel somewhat tired. As a result, you back out on your friends, claiming that you "have too much homework" to go out that evening, although you had previously agreed to join them. Because your friends lack convenient access to transportation, your change of heart disrupts their plans.

That evening, you are struggling to understand a difficult financial concept, so you call an acquaintance from your accounting class. You know that he will patiently share his time because you suspect he has a romantic crush on you. You need his academic assistance, but you dread the prospect of him asking you out on a date.

Immediately after your chat, you go to an online dating website to post your photo, which was shot at a wedding three years ago. You also reply to an email from your work supervisor and agree to meet him Saturday evening at a club with live music. You plan to bring your *fake ID* in case you want to order an alcoholic drink. You really enjoy that club

⁶ Ethical rules are imposed externally by an organization or by broader society, whereas moral rules are self-imposed. Although subtle differences exist between the concepts of ethics and morality, for simplicity of exposition, these terms will be used interchangeably.

because the cover band plays recent hit songs and has an awesome lead singer. You enjoy this band so much that you recorded a few of its songs onto your mobile device.

Finally, you are disappointed that the college counselor did not answer an email that you had sent earlier that morning. Before going to bed, you impatiently re-send that email.

Which of these issues involve ethical decisions? You don't need the genius of Socrates or Saint Thomas Aquinas to answer this question . . . they all do!

Example 1-1

Upon arriving by car to deliver medicine to a sick friend, you are frustrated that all the nearby metered parking spaces are filled. You notice that the parking lot of a nearby supermarket is only about half-filled and do not see any *Customer Parking Only* signs posted. Your friend urgently needs to ingest this medicine. Is it ethical for you to park in the supermarket's lot?

Solution

From one philosophical viewpoint, your unauthorized use of the supermarket's parking space was an unethical theft of another's property rights.

Other ethical philosophies, in contrast, consider actions to be ethical if the resulting societal gains exceed the costs. From this cost-benefit perspective, your use of the parking space was ethical because it allowed you to expeditiously help your friend without materially harming the supermarket or its customers.

The various ethical philosophies used in evaluating decisions will be explored more fully in subsequent chapters.

ETHICS IN OUR PROFESSIONAL ENDEAVORS

Honorable accountants reasonably may differ about the correct ethical path to follow in certain situations. As a result, various organizations have developed rules that guide accountants in fulfilling their professional responsibilities. The two most comprehensive and commonly utilized codes of conduct are the *AICPA Code of Professional Conduct* and the *IFAC Code of Ethics for Professional Accountants*.

The AICPA Code of Professional Conduct

The American Institute of Certified Public Accountants, or *AICPA*, has developed rules of conduct that govern accountants practicing in the United States. These rules, known as the **AICPA Code of Professional Conduct**, have been in force for several decades and were revised in 2014. These rules apply to all CPAs, whether they work in private practice, industry, government, academia, or other capacities.⁷

The AICPA is a national professional organization comprised of approximately 400,000 CPAs.⁸ From a narrow perspective, the AICPA's rules only govern the conduct

⁷ <http://www.aicpa.org>.

⁸ Certified Public Accountants perform a variety of tasks. CPAs alone are permitted to perform audits and other tasks that involve attesting to the fair presentation of financial statements. Also, only CPAs, along with attorneys and certain other professionals, may represent taxpayers in dealings with the IRS. To become licensed as a CPA, an accountant must pass a standardized test called the Uniform CPA Exam. In addition, CPA candidates must satisfy specific rules established by the state in which they practice. All states require a CPA candidate to, at minimum, possess a college degree and have successfully completed substantial coursework in accounting analysis and ethics. Most states also require CPA candidates to serve an apprenticeship under the supervision of another CPA.

MANDATED BY:	IN UNITED STATES	OUTSIDE UNITED STATES
Private Organizations	American Institute of CPAs <i>(AICPA)</i>	International Federation of Accountants <i>(IFAC)</i>
Government Body	Tax Practice: <i>U.S. Treasury and IRS</i> Financial Reporting by Publicly Traded Corporations: <i>SEC (which approves rules of the Public Company Accounting Oversight Board)</i>	<i>Varies among jurisdictions</i>

FIGURE 1-2 Principal Sources of Ethics Rules for Accountants.

of members who voluntarily join this organization. However, every state has an official Board of Accountancy that, by law, regulates all CPAs licensed and practicing in it. In most instances, state legislatures and state governmental boards have adopted the AICPA's ethical framework as mandatory legal requirements. For example, California's accountancy laws require all CPAs to "comply with all applicable professional standards," including the AICPA's ethics rules.⁹ Consequently, as a practical matter, most AICPA rules have the force of law behind them and subject violators to having their professional licenses suspended or revoked. Furthermore, in disciplining non-CPAs, judges, juries, and regulators often refer to the AICPA's rules as persuasive expressions of how financial professionals should behave. Accordingly, the AICPA's rules, as a practical matter, broadly establish the governing standard of conduct for all accountants and financial professionals practicing in the United States.¹⁰ For this reason, throughout this book, we will assume that the AICPA's rules are the relevant benchmark of behavior for all accountants and financial professionals, whether or not they formally are CPAs or members of the AICPA.¹¹

The IFAC Code of Ethics for Professional Accountants

For accountants practicing or issuing financial statement opinions for users outside the United States, the International Federation of Accountants, or *IFAC*, has established a set of ethical standards. The IFAC created the International Ethics Standards Board for Accountants to "develop and issue, under its own authority, high quality ethical standards and other pronouncements for professional accountants for use around the world." For brevity, these rules shall be referred to as the **IFAC Code**.¹²

The IFAC is an "organization of organizations," whose members are professional societies rather than individuals. The IFAC principally is comprised of about 160 accounting societies, ranging from the Albania Institute of Authorized Chartered Auditors to

⁹ California Board of Accountancy, Article 9, Section 58.

¹⁰ The AICPA Code also applies to members practicing outside the United States if a financial statement reader would reasonably believe that U.S. professional practices were followed.

¹¹ These rules are supplemented by various others, including mandates established by the Public Company Accounting Oversight Board and related securities laws. Also, in the United States, other voluntary accounting organizations have also established ethical rules for their members. The Institute of Management Accountants, the Institute of Internal Auditors, the National Association of Enrolled Agents, and the Association of Government Accountants, to name a few, have all developed rules of professional conduct. The ethics rules of these organizations substantially resemble those established by the AICPA, but they generally are less detailed.

¹² The formal name of this code is the IESBA Code of Ethics for Professional Accountants.

the Zimbabwe Institute of Chartered Accountants. The AICPA also is a member. IFAC's member organizations collectively represent 2.5 million accountants who work in industry, government, public practice, and academia.

IFAC group members are not permitted to establish standards that are less stringent than those that are expressed in the IFAC Code. Therefore, because the AICPA is a member of the IFAC, the AICPA Code necessarily is at least as strict as the IFAC Code.

As a pragmatic matter, the rules established by both such codes are substantially similar. As a result, the core principles embodied by both the IFAC and AICPA codes will collectively be referred to hereafter as the **Code of Conduct**.¹³

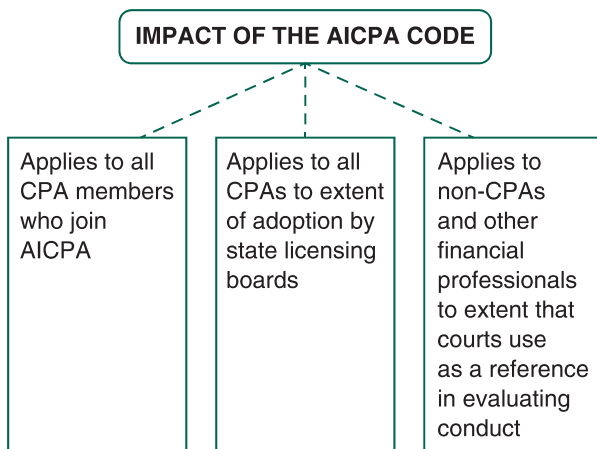
Example 1-2

The IFAC Code and the AICPA Code both impose restrictions on an accountant receiving free tickets to a sports event from a client. The IFAC Code generally applies these restrictions only to members of an audit team and to a limited number of others who influence an audit engagement.

If the AICPA wishes to apply its ethics rules to a broader set of individuals than the IFAC Code encompasses, may it do so?

Solution

Yes. As a member of IFAC, the AICPA may establish rules that equal or exceed IFAC standards. It may not, however, impose less-restrictive standards.



Other Sources of Accountant Regulation

In the United States, several federal government agencies also regulate accountant conduct. The U.S. Treasury and Internal Revenue Service (IRS) govern the conduct of tax professionals, and the SEC and the Public Company Accounting Oversight Board regulate financial reporting by publicly traded companies. In addition, many states have adopted rules regulating the practice of accounting. These rules are patterned after the *Uniform Accountancy Act*.

For the most part, government regulators have deferred to the AICPA in the area of ethics standard-setting because all such organizations share the same core goals.¹⁴

FIGURE 1-3 Impact of the AICPA Code.

¹³ When significant differences exist between the AICPA and IFAC Codes, they will be identified.

¹⁴ The ethical rules of the accounting profession should be distinguished from the substantive reporting standards. Financial reporting standards are referred to collectively as *generally accepted accounting principles*, or *GAAP*, whereas the standards for planning and conducting an audit are referred to as *generally accepted auditing standards*, or *GAAS*. In the United States, the authoritative reporting standards that comprise GAAP are issued by the Financial Accounting Standards Board, or *FASB*, and are contained in the *Accounting Standards Codification*. Outside the United States, the authoritative reporting standards are referred to as International Financial Reporting Standards, or *IFRS*, and are issued by the International Accounting Standards Board, or *IASB*.

Auditing standards broadly are dictated by three different sets of rules. The AICPA's Auditing Standards Board establishes the standards for audits of nonpublic companies in the United States, the Public Company Accounting Oversight Board establishes the counterpart standards for audits of public companies in the United States, and IFAC's International Auditing and Assurance Standards Board provides the framework for audits of companies outside the United States.

ETHICAL JUDGMENTS IN ACCOUNTING

Ethics in Financial Accounting

People unfamiliar with financial reporting easily might wonder how an accountant would ever encounter an ethical dilemma. After all, debit and credit entries can be accomplished by automated processes, free of human involvement.

However, accounting is more than just the bookkeeping process of recording and compiling data into financial statements. Many areas of accounting require significant professional judgment.

Consider the dilemma that arises if your employer, a restaurant, is expected to lose \$1 million in a lawsuit because an angry customer was injured from consuming the chef's experimental new pizza seasoning, which was a flavorful blend of savory herbs and rat poison. According to generally accepted accounting principles, you must accrue an immediate liability if this loss is probable. But what exactly does *probable* mean?

If your employer applies International Financial Reporting Standards, *probable* means that it is more likely than not that a company will sacrifice cash or other resources in the future. *More likely than not* signifies that the odds of a loss are above 50%.¹⁵ This mathematical statement is clear, but its application is not. How can an accountant make this probability judgment when even an experienced litigator would hesitate to forecast the outcome of a trial before it has begun? Nonetheless, accountants have an ethical obligation to use their best efforts in making this subjective determination.

Conversely, under U.S. accounting rules, rule-makers similarly mandate that *probable* losses must be recorded, but they have not provided concrete numerical guidance for determining when a loss is sufficiently likely to meet this vague test. As a result, accountants have broad discretion in interpreting the word *probable* and an ethical obligation to valiantly try to fairly present a company's financial position.

Adding to your ethical dilemma in pondering the meaning of *probable*, you are likely to encounter various workplace pressures. For instance, your employer may pressure you to delay reporting a loss before it even has had the opportunity to defend itself in court. However, lenders and investors may push you to accrue the loss immediately so they can make timely judgments in protecting their financial interests in a restaurant that might be bankrupted by a large litigation loss.

As this illustration demonstrates, when faced with uncertain standards and conflicting peer pressures, even a highly conscientious accountant may struggle to reach an ethically correct decision.

Ethics in Tax Reporting

According to the IRS, tax evasion cost the federal government over \$3 trillion in uncollected taxes over the past decade. Cheating on taxes is so widespread that pundit Will Rogers once commented, "The income tax has made liars out of more Americans than golf has."

As a tax accountant, you inevitably will encounter clients who concoct questionable schemes, claim dubious deductions, or simply lie. If you resist their requests for aggressive tax reporting, these clients sometimes threaten to shift their business to someone more "open-minded." Thus, accountants often encounter the ethical dilemma of maintaining lucrative client relationships while continuing to uphold the integrity of our tax system.

¹⁵ International Accounting Standard 37.

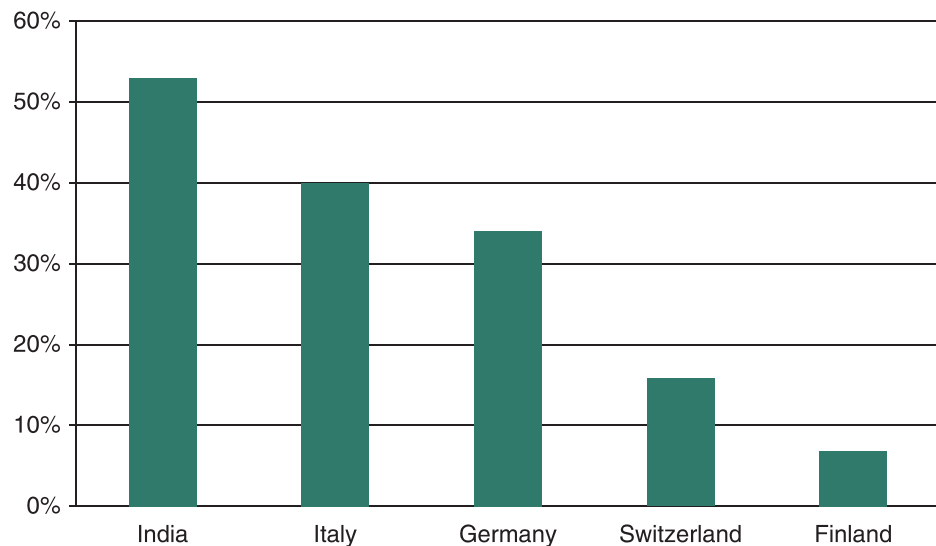


FIGURE 1-4 The Percentage of Executives Who Believe That Companies in These Countries Often Exaggerate Their Reported Financial Performance.¹⁶

Specific ethical rules governing tax practice appear in the AICPA's Statement of Standards in Tax Practice and U.S. Treasury Circular 230.¹⁷

Ethics in Internal Controls

Internal auditors play a crucial role in ensuring that organizational results are reported fairly and regulatory mandates are meticulously satisfied. At times, an internal auditor's duty to report suspected fraud, bribery, and other illegal activities may pose a severe test of integrity. Nonetheless, internal auditors must perform their duties with the highest degree of professionalism, even if their conclusions potentially devastate the careers of colleagues they interact with on a daily basis.¹⁸

Ethics in Management Accounting

Accountants who work for business entities are the frontline soldiers in the ethical battle to present accurate financial statements. As the first paragraph of a standard auditor's report succinctly states, "These financial statements are the responsibility of the Company's management."

Although all accountants encounter ethical conflicts, accountants working in industry often are subject to far greater pressure than others are. Accountants working in a CPA firm never want to lose a client, but the loss of one client rarely poses a major threat to their standard of living. In contrast, a management accountant's entire livelihood often depends on maintaining the approval of a direct supervisor or employer. For this reason, management accountants have to be acutely aware of their ethical obligations and rights, including the

¹⁶ Ernst and Young Global Fraud Survey, 2013; results from a global survey of over 3,000 corporate directors, managers, and their team members.

¹⁷ Individuals working in the tax compliance and advisory field may wish to demonstrate their proficiency by becoming an Enrolled Agent. Enrolled Agents must pass a rigorous exam administered by the IRS. Unlike the CPA exam, the EA exam only focuses on tax accounting issues. One benefit of becoming an EA is that the IRS permits Enrolled Agents, along with CPAs, actuaries, and attorneys, to represent clients in disputes with the IRS.

¹⁸ Accountants working in internal auditing often become Certified Internal Auditors and join the Institute of Internal Auditors, which has its own ethics code.

FIGURE 1-5

Unsportsmanlike Conduct¹⁹

Imagine discovering the following course description: “Class has no lectures, tests, or attendance. If you need a guaranteed high grade to pad your academic standing, take this class!”

For nearly two decades, Jan Boxill, a University of North Carolina faculty member and academic adviser, happily directed over 3,000 athletes into bogus classes fitting this fictionalized description. She did it for one simple reason—to make sure that all athletes satisfied NCAA gradepoint requirements to remain eligible to play.

As for Boxill, ironies abound. Before her 2015 firing from the university’s philosophy department, she directed its Center for Ethics and taught a course called *Ethics in Sports*. Yet, she unhesitatingly exploited students for their athletic talent while cheating them out of meaningful educational opportunities. She also intervened with other professors to get failing athletes passing grades, ultimately bringing great shame to the athletic programs that she held dear.

In the parlance of football, some might say that Boxill engaged in illegal *Pass* interference.

protections granted by government regulations, whistleblower statutes, and company policies.²⁰

Ethics in Governmental and Nonprofit Accounting

In 1819, Supreme Court Chief Justice John Marshall issued his famed dictum that “the power to tax involves the power to destroy.” Whether you pursue a career in taxpayer compliance or other areas of government service, you must always remain mindful of the government’s vast power and your ethical duty to act with restraint.

The dangers of unchecked government power recently came to the forefront when the IRS wrongfully denied tax-exempt status to certain nonprofit organizations based on their political agendas. As a result of this interference, the IRS selectively impeded certain citizens from organizing to exercise their freedom of political expression. The IRS’s efforts were especially pernicious because many of the affected groups favored a simplified tax system that challenged the power and size of the IRS.

Although many government accountants specialize in tax matters, numerous other career opportunities exist for accountants at the federal, state, and local levels of government. At the federal level, accountants serve in a wide array of capacities in organizations such as the FBI, the General Accountability Office, the Defense Contract Audit Agency, and the IRS’s Criminal Investigation Division. Accounting careers in state government often involve the administration of state income and sales tax revenues, and careers in local government commonly involve property tax administration, budgeting, and general financial management.²¹

Ethics in Other Accounting Roles

Accountants perform many functions, including acting as personal financial planners, investment managers, trustees, estate executors, management consultants, and corporate

¹⁹ *New York Times*, “U.N.C. Investigation Reveals Athletes Took Fake Classes.” By Sarah Lyall October 22, 2014.

²⁰ Accountants working in industry often pursue a designation as a Chartered Management Accountant. To become a CMA, a person must work in managerial accounting and pass a rigorous exam administered by the Institute of Management Accountants. Like the AICPA, the IMA has established a code of professional ethics. The designation of Chartered Global Management Accountant, or CGMA, is relatively new and rapidly is gaining prominence. It too has its own ethics code, which is patterned after the IFAC Code.

²¹ The best-known organization of accountants working in the public sector is the Association of Government Accountants. It has its own ethics code.

directors and officers. In many of these capacities, clients entrust significant portions of their wealth to their accountant and become wholly dependent on the accountant's advice and decision making. For example, if an accountant is appointed to oversee a trust fund for young children, the children's future financial security rests on the accountant acting prudently. When accountants hold a special position of trust over vulnerable clients, they are expected to satisfy an elevated duty of care and loyalty. This obligation is called a *fiduciary duty*.

Accountants serving in these capacities should be mindful of the AICPA's Statement on Standards for Consulting Services, Statement on Standards for Valuation Services, and Statement on Standards in Personal Financial Planning Services.

COMMON ETHICAL RATIONALIZATIONS

During childhood, we instinctively learned to rationalize our misconduct. No matter how improbable our excuses were, we steadfastly tried to deflect blame by swearing that the "dog ate it" or saying something equally ridiculous. The fear of parental disapproval and punishment inspired us to conjure up some remarkable, albeit improbable, tales that would have made Pinocchio proud.

As we became adults, however, we soon realized that greater sophistry was needed to persuade others to accept, or at least indulge as plausible, our excuses for misbehavior. Let's consider some of the most common ethical rationalizations.

"Everyone Does It"

Cyclist Lance Armstrong seemingly had it all. He had won a record seven consecutive Tour de France victories, overcoming remarkable odds as well as a bout with cancer. He was also one of the most celebrated and financially successful athletes in the world. Then, as evidence against him mounted, he was forced to reveal that he was a *doper*—someone who had used illegal performance enhancers to cheat his way to the top.

Perhaps more shocking than Armstrong's admission was his defense: Everyone does it. Rather than set a moral tone for others to follow, the unrepentant Armstrong shrugged off criticism, claiming that he was compelled to cheat to create "a level playing field." Armstrong's own financial playing field has been decimated by lawsuits claiming that he defrauded sponsors into hiring him as their advertising spokesperson. In 2015, Armstrong was ordered to pay \$10 million as damages to a sports promotion firm, and the road ahead is filled with treacherous litigation potholes and financial punctures.

Contrary to Armstrong's perspective, no one is forced to cheat, and everyone does *not* do it. Just look at how people behave the next time that a traffic light malfunctions at a busy intersection. Most drivers behave courteously and proceed through the intersection in an orderly, alternating sequence. Chaos could easily occur, but it rarely does because most people share a common desire to act cooperatively and selflessly.

"The Other Guy's Worse"

This justification is simply a variation of the *everyone does it* rationalization. Many people attempt to deflect blame from their own conduct by pointing out that someone else's conduct is worse. In a world of mass murderers and billion-dollar fraudsters, there will always be someone whose conduct is worse than your own. Even if others misbehave egregiously, their conduct does not absolve you from responsibility for your own actions.

“If It’s Not Illegal, It Can’t Be Wrong”

Our legal system establishes minimum standards of behavior, not ideal standards. Petty crimes and well-concealed crimes often slip through the proverbial net of justice, but that does not make these acts ethical.

Imagine that a work colleague or classmate is severely allergic to peanuts. Would you bring peanuts near this person, just because doing so is not illegal? Just because our legal system does not circumscribe certain behavior or is ill-equipped to prosecute it, allow your *moral GPS* to guide you to act considerately.

“No Harm, No Foul”

If misconduct did not cause any harm in hindsight, wrongdoers often contend that it is pointless to examine the propriety of their conduct.

This type of logic confuses the after-the-fact, or *ex post*, outcome with the risk-creating act that occurred. Even if, by fortuity, an unethical act does not result in harm, the immorality of the initial act does not change its character.

Consider the plight of a thief who shoots a gun at a security guard at close range during a bank robbery, but misses due to bad aim. Should the robber be rewarded for his incompetence? Or should his intent to kill be severely punished, whether or not he fortuitously was an inept marksman?

In our legal system, this robber does benefit because attempted, but unsuccessful, homicide generally is punished less severely than successful homicide. However, from an ethical standpoint, the robber’s lack of marksmanship skill does not change the immorality of his actions, and it should not alter how society judges his conduct.

“They Made Me Do It”

When we make a mistake, it is human nature to blame someone else rather than accept the consequences of our actions. Despite the pressures that arise in a workplace setting, it is unethical to shirk responsibility for your actions by blaming others.

As one example, in tax fraud prosecutions, desperate taxpayers often try to portray themselves as innocent victims who were harmed by the carelessness of an incompetent assistant, bookkeeper, or tax return preparer. Shifting blame rarely succeeds in tax prosecutions. More important, it rarely succeeds in life.

ETHICS IN THIS BOOK

Many ethicists study **normative ethics**, which focuses on how people *should* behave. As business professionals, it is equally important to examine **behavioral ethics**, which examines how people *in fact* behave. This book will examine both ethical approaches to enable readers to better themselves by comparing their own conduct to ideal standards.

WHY SHOULD I BE ETHICAL?

Accountants, as pragmatic professionals, are entitled to ask, “Why should I be ethical?”

For one reason, everyone’s quality of life depends on widespread adherence to ethical standards because a society that is devoid of ethicality cannot provide adequately for public safety, welfare, and commerce. In societies where stealing is rampant and personal safety

is at risk, people lose their privacy and live in a constant state of fear. Similarly, in societies where others cannot be trusted to honor contractual promises, commerce becomes impaired, inevitably causing economic prosperity to suffer. As a Justin Timberlake song reminds us, “what goes around . . . comes way back around.”²²

In the context of professional ethics, there are compelling, straightforward reasons to act ethically. When financial practitioners violate professional standards, clients, employers, and others who are harmed can successfully hold them legally accountable for monetary damages. Furthermore, in many jurisdictions, adverse court judgments automatically are reported to regulators, who may revoke licenses that permit professionals to earn their livelihood. These court judgments also might make it prohibitively expensive to obtain malpractice insurance. Moreover, even if a professional license or professional society membership merely is suspended for a few months, the reputational impact resides on the Internet forever.

Finally, perhaps the simplest reason for being ethical is this: It feels good—sometimes really, really good. Neuroscientists know this because the same brain pleasure centers that excitedly react when we receive a birthday present, see a beautiful face, or eat a slice of chocolate cake similarly *light up* when we act ethically.²³ But you don’t need fancy laboratory results to tell you this because we commonly observe the joy from acting ethically in daily life. Ask people if they are more ethical than their peers, and most inevitably answer *yes*, apparently because the self-perception of ethicality feels good.²⁴ Also, observe what happens at a sporting event when a referee has the integrity to correct a mistaken judgment call against your favorite team. When your team’s points are put back on the scoreboard, complete strangers often *high five* one another out of shared exuberance in seeing fairness and ethicality prevail.

In short, the next time that you assist a stranger in need, return a lost earring, help a charitable cause, or simply forgo an easy opportunity to cheat, revel in knowing that your ethical conduct will bring a healthy rush of pleasure to you as well. Plus, your actions assuredly will be a lot less fattening than eating chocolate cake.

SOLUTION TO “AM I ETHICAL?”²⁵

[B]

Business owners have an ethical right to inquire into any activity that might directly result in harm to their property. When a superior dates a subordinate, the employer has a justifiable concern that this romantic entanglement could result in the subordinate making accusations of sexual harassment. Also, employee morale might suffer if others perceive that the subordinate is receiving preferential treatment.

When a person dates a supplier representative, a conflict of interest arises. For example, if a company is short of cash, an accounting manager may have to prioritize payments in a manner that optimizes the company’s best interest. As a result,

²² Justin Timberlake, “What Goes Around.”

²³ Greene, “Beyond Point-and-Shoot Morality: Why Cognitive (Neuro)Science Matters for Ethics.”

²⁴ Over 80% of people say that they are more ethical than their peers, despite the mathematical impossibility of their self-perceptions being true. Ann E. Tenbrunsel, Kristina A. Diekmann, Kimberly A. Wade-Benzoni, and Max H. Bazerman, “*The Ethical Mirage: A Temporal Explanation as to Why We Aren’t as Ethical as We Think We Are*” (Cambridge, MA: Harvard Business School, 2009).

²⁵ Throughout this book, the solutions to the “AM I ETHICAL?” dilemmas will be based on express rules in the AICPA and IFAC Codes of Conduct, as well as in enacted laws. When these sources of ethical guidance are silent on a matter, solutions will be based on ethical precepts that are widely accepted in Western culture, such as the rights to privacy, free speech, and free association, the protection of property rights, and freedom of contract.

an employer understandably might become concerned that you would give priority treatment to the supplier representative you are dating, even if that is not in the company's best interest. Similarly, if you are dating a customer's representative and that customer does not pay on time, you might have to decide whether to recommend cutting off shipment to them or recommend filing a lawsuit against them. Again, your employer rightfully would be concerned that you might make decisions that sacrifice the company's best interests to preserve your dating relationship.

Freedom of speech, association, and privacy are all important ethical values. However, they do not override an accountant's duty to be free of conflicts of interest or an employer's right to inquire about matters that might create such conflicts.

EXERCISES

Ethics in Everyday Life

1. Rank each of the following ethical issues from 1 to 10. A ranking of 1 means that your conduct is extremely unethical, and a ranking of 10 means that conduct is extremely ethical.
 - a. When you wake up, you jump in the shower right away, knowing that your use of the available hot water might prevent your roommate from getting to work on time.
 - b. You arrive at class a bit late because you overslept. When the instructor stares at you disapprovingly, you mutter that "traffic was horrible," even though it wasn't.
 - c. At lunch, you notice a college administrator telling the cashier that she is a "student" to get a discount on food purchased from the student-run facility. You do not inform the cashier to avoid conflict with the administrator.
 - d. Between classes, you ask your professor for "special tips" on how to do better on the upcoming midterm, knowing that your course grade is curved relative to the performance of your classmates.
 - e. At your part-time afternoon job, you use a company pen to jot some notes, and then place the pen in your pocket.
 - f. At your part-time afternoon job, you use the company computer to transact an online purchase of sunglasses while you were waiting for your boss to return with documents that you need to complete your work assignment.
 - g. On your way home, you stop in a shoe store to figure out which size shoe fits you best. You thank the salesperson for his help, and then order these shoes online to save money.
 - h. While driving home from the shoe store, you notice that there is a car accident in the far right lane, so several cars are trying to slide over into your faster-moving lane. You decide to not let any cars merge into your lane.
 - i. After arriving at your apartment, you feel somewhat tired. As a result, you back out on your friends, claiming that you "have too much homework" to go out that evening, although you had previously agreed. Because your friends lack convenient access to transportation, your change of heart disrupts their plans.
 - j. That evening, you are struggling to understand a difficult concept, so you call an acquaintance from your accounting class. You know that he will patiently share his time because you can tell that he has a romantic interest in you. You want and need his academic assistance, but you sure hope that he doesn't ask you out on a date.
 - k. Immediately after your call, you go to an online dating website to post your photo, which was shot at a wedding three years ago.
 - l. You agree to meet your work supervisor Saturday evening at a club with live music. You plan to bring your "fake ID" in case you want to order an alcoholic drink.
 - m. You really enjoy that club because the "cover" band plays recent hit songs and has an awesome lead singer. You are fairly sure that the band plays copyrighted songs without paying a royalty to the song composers, but you don't care.

- n. You enjoy this band so much that you recorded a few of its songs with your cell phone.
 - o. You are disappointed that the college counselor did not answer an email that you had sent earlier that morning. Before going to bed, you impatiently re-send that email.
2. With regard to each of the events identified in question 1, can you defend the opposing viewpoint? That is, if you considered one of the behaviors to be highly ethical, can you advocate for the view that the behavior was unethical? Conversely, can you advocate that an act labeled as unethical was ethical?

The Regulatory Environment

- 3. A licensed CPA in Arkansas does not want to be bound by one of the rules expressed in the AICPA Code of Professional Conduct. Can she avoid being subject to the policies and rules of this Code?
- 4. Does the AICPA Code apply to AICPA members who leave a private CPA firm to begin work in industry?
- 5. Is the AICPA's Code of Conduct applicable to accountants who are licensed outside the United States?
- 6. Do SEC financial reporting rules apply to companies that are not publicly traded?
- 7. "If accountants meticulously follow generally accepted accounting principles and generally accepted auditing standards, their souls will always ascend to the heavens." Do you agree that following GAAP and GAAS is always the correct moral choice?
- 8. Most ethics codes require accountants to act in "the public interest." Assume that a large, publicly traded automobile manufacturer prepares financial

statements that require restatement due to a material error made by the company's accounting staff. What subcategories of "the public," such as investors, were owed a duty of care by the company's accounting staff?

General Ethics Issues

- 9. Is it ethical to use a company credit card to make an online Internet purchase if you will reimburse your employer?
- 10. When a successful plumber came to your home to perform a repair, he told you that his fee was \$90 if you pay with a credit card or \$85 if you pay with cash.
 - a. Does this situation raise any ethical issues?
 - b. Would it raise any ethical issues if the cash price had instead been \$65?
- 11. A well-regarded accounting firm has a policy of giving a \$1,000 commitment fee to brilliant freshman accounting majors if they agree to not interview with named competitor firms while they are still enrolled in school. Is this firm's policy ethical?

Common Ethical Rationalizations

- 12. Our criminal laws usually impose lesser penalties for attempting a crime than for successfully completing a crime.
 - a. Should a person convicted of the crime of Attempted Automobile Theft serve a shorter sentence in jail than someone convicted of Automobile Theft?
 - b. If you answered yes to the preceding question, would your answer be the same if someone was convicted of Attempted Rape versus Rape?

AM I ETHICAL?

As the owner of several nearby apartment buildings, you have become concerned about gun violence in your neighborhood. Out of concern for your tenants, you recently informed them that you will not renew their leases if they own or possess a gun. You clearly stated that your policy will be enforced “without any exceptions.”

Several tenants have complained vigorously. One tenant is an avid hunter who claims that your policy violates his Constitutional rights. Another tenant is a policeman who, as a condition of employment, is required to have access to a gun at all times. A third tenant is a woman who is afraid of her abusive ex-boyfriend.

Is your policy ethical?

- a. No, because the Constitution protects the private right of gun ownership
- b. No, regarding the tenant who justifiably needs protection from her ex-boyfriend
- c. Yes, as long as the policy is modified to permit the policeman to retain his gun
- d. Yes, under all circumstances

The SOLUTION is revealed at the end of the chapter.

LEARNING OBJECTIVES

After reading this chapter, you should be able to:

1. Distinguish legal issues from ethical issues.
2. Understand how ethical viewpoints vary throughout the world.
3. Identify and begin to apply the ethical principles that govern accountants’ professional conduct.
4. Describe the six stages of moral development developed by Lawrence Kohlberg.
5. Apply the ethical decision-making models developed by James Rest to the accounting profession.

DISTINGUISHING ETHICAL BEHAVIOR FROM LEGAL BEHAVIOR

For thousands of years, philosophers have debated whether it is more important to have an ethical society or a law-abiding society. In 500 BC, Confucius expressed the widely-accepted view that “the best government is one that rules through rites and the people’s natural morality, rather than by using . . . coercion.”

Laws represent society’s consensus about how citizens must, at minimum, behave. In contrast, ethical precepts focus on how people *should* behave. Although these two concepts often overlap, there can be stark differences between complying with the law and adhering to what is morally right.

It is not illegal to cheat on a college test, for instance, but it certainly is unethical. Conversely, it is illegal to drive above the posted speed limit, but it is not unethical if you are driving a bleeding neighbor to the hospital.

When people fail to adhere to laws, they are subject to criminal sanctions such as imprisonment. Ethics, on the other hand, is prescriptive for how we ought to behave, not coercive. Thus, the punishment for unethical behavior is a heaviness of heart and a conflicted conscience.

The interplay of law and ethics can be illustrated by the plight of movie stars Halle Berry and Jennifer Garner. These actresses repeatedly have decried the conduct of paparazzi who frighten their children by popping out of bushes to photograph the children near school. To these actresses’ dismay, Constitutional protections for the freedom of the press make it impossible for our legal system to fully protect these children. However, moral outrage and societal pressure have filled this void, successfully persuading these intrusive photographers to respect children’s privacy. As former Supreme Court Justice Potter Stewart once opined, “Ethics is knowing the difference between what you have a right to do and what is right to do.”

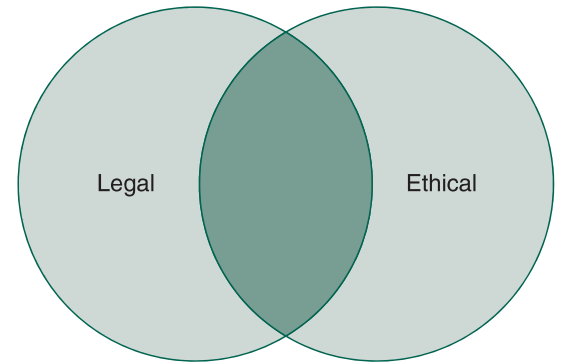


FIGURE 2-1 How Law and Ethics Intersect.

Example 2-1

According to state law, a restaurant owner is required to give employees a 20-minute work break every four hours. However, at a popular restaurant, food servers do not want to take an evening break because they generate substantial tips from satisfied customers during the hectic, but profitable, dinner period. Is it ethical for a restaurant manager to allow food servers to voluntarily forgo their work breaks?

Solution

Yes. The restaurant’s actions are illegal, but ethical. Although this law is well intentioned, food servers and employers ought to be allowed to pursue their mutual self-interests.

THE UNIVERSALITY OF ETHICAL RULES

Do all countries and cultures agree on the same ethical principles? Or, do ethical precepts vary among societies and evolve over time? These two opposing views are known as *ethical absolutism* and *ethical relativism*.

Ethical Absolutism

According to **ethical absolutism**, ethical rules are universal and immutable. As one indicator of global consensus, the United Nations adopted *The Universal Declaration of Human Rights* to recognize a “common understanding” of the “inherent dignity . . . of all members of the human family.” This declaration embraces universal respect for thirty “human rights and fundamental freedoms,” including broad rights to equality, justice, and freedom of expression, as well as more specific rights, such as equal pay for equal work, parental control of their children’s education, and protection against unemployment. This declaration was enacted in 1948 without a single dissenting vote, and it has remained intact ever since.¹

Moreover, as further evidence of ethical absolutism, supporters point out that the Golden Rule of “Do unto others as you would have others do unto you” has been firmly entrenched in all major world religions and societies for many centuries.

Ethical Relativism

Ethical relativism, in contrast, asserts that rules of morality evolve over time and vary among cultures, religions, and political structures. Several illustrations demonstrate the variations in ethical viewpoints among cultural groups.

The Issue of Gay Rights

Stark differences persist around the world about whether gay rights are a moral imperative. In many Western societies, the notion of equal rights for all, regardless of sexual preference, increasingly is embraced. In contrast, prior to the 2014 Winter Olympics, Russia provocatively enacted laws authorizing the arrest of gay tourists.² Uganda recently went even further, imposing jail sentences on clergymen who conduct gay marriage ceremonies and life imprisonment on those who engage in homosexual acts.³

The Issue of Gender Equality

Views on gender equality also vary widely among cultures. Many Americans reflexively disparage countries that permit gender-based discrimination, but few realize that widespread support for gender equality is a relatively recent phenomenon in their own country. For example, American women were not guaranteed the Constitutional right to vote until 1920,⁴ and until the mid-1800s, married women desiring to retain control of their wealth nonetheless were generally compelled to transfer their personal earnings and assets to their husbands.⁵

The Issue of Freedom of Contract

Freedom of contract and the enforceability of agreements generally are regarded as important values in most societies because commerce enables economies to flourish. However, many countries view certain kinds of contracts as violating widely held notions of morality. Consider, for instance, how various societies view contracts for the sale of human organs.

¹ Eight nations, however, did abstain from the vote.

² <http://www.nytimes.com/2013/07/28/opinion/sunday/mr-putins-war-on-gays>.

³ http://www.washingtonpost.com/world/ugandan-anti-gay-bill-includes-life-imprisonment-for-certain-acts/2013/12/20/ce2c6b88-6995-11e3-ae56-22de072140a2_story.html.

⁴ Some countries in Western Europe did not grant women the right to vote until much later, with Switzerland first allowing women the guaranteed right to vote in 1974.

⁵ B. Zorina Khan, *The Democratization of Invention: Patents and Copyrights in American Economic Development, 1790–1920* (New York: Cambridge University Press, 2005), pp. 163, 166–8.