Legal & Ethical Issues notes

23 & 24 August 2017

The Nature of Ethics

The word “ethics” is connected intrinsically with questions of correct conduct within society. Etymologically, “ethics” comes from the Greek “ethos” meaning “character” which indicates a concern for virtuous people, reliable character and proper conduct. “Morality” is derives from “mores” or custom — the rules of conduct of a group or society. An initial definition of ethics, then, is the analysis, evaluation, and promotion of correct conduct and/or good character, according to the best available standards.

Ethics asks what we should do in some circumstance, or what we should do as participants in some form of activity or profession. Ethics is not limited to the acts of a single person. Ethics is also interested in the correct practices of governments, corporations, professionals and many other groups. To these issues, ethics seeks a reasoned, principled, position. An appeal to existing practice or the command of a powerful leader is not sufficient. To answer such questions in a consistent, reasoned manner may take us far a-field. Some ethical questions will require reflection on our basic values and the purpose of human society.

Ethics is best conceived of as something we “do,” a form of on-going inquiry into practical problems. Ethics is the difficult practical task of applying norms and standards to ever new and changing circumstances.

Ethical questions arise most typically in cases where there is genuine puzzlement about what should be done in various types of situations. There is usually some practical importance or urgency to such questions. Is it ethical for journalists to reveal their sources to the courts, despite their promises of confidentiality? Is it ethical of journalists to invade the privacy of politicians to investigate allegations of unethical conduct?

People inquire ethically because they are puzzled about how existing principles apply in a concrete situations. Tensions inevitably arise over what constitutes correct conduct or fair practice wherever humans live and work together. Disagreements arise not only over specific practices, but also over the interpretation of principles.

Ethics is sometimes identified with an inflexible set of rules and self-righteous moralizing. It is said that rules are rules — an action is either right or wrong. It either breaks a rule or it doesn’t.

This view over-simplifies ethical thinking.

Ethical thinking requires the guidance of rules but it should not be shackled to them. Rules are applied to situations according to the circumstances, just as legal principles must take into account the facts of
the case. No principle can anticipate all possible situations and, in any case, principles will conflict. Moreover, we need to evaluate the very principles that we rely on, according to whether they continue to be useful guides amid changing social conditions. Complex ethical thinking, bringing principles and facts together for reflection, is inescapable.

Therefore, ethics is the dynamic, evolving activity of applying, balancing, and modifying principles in light of new facts, new technology, new social attitudes and changing economic and political conditions.

Theoretical and Applied Ethics

- **Personal ethics**: e.g. questions about one’s basic values and plan of life: The basic principles and values that govern interactions among individuals.

- **Professional ethics**: principles and practices of major professions: Professional ethics encompass the personal, organizational and corporate standards of behaviour expected of professionals. Professionals, and those working in acknowledged professions, exercise specialist knowledge and skill.

- **Environmental ethics**: is the part of environmental philosophy which considers extending the traditional boundaries of ethics from solely including humans to including the non-human world.

- **Global ethics**: ethics of international affairs, human rights: Global ethics (with an “s”) is an area of critical ethical enquiry into the nature and justification of values and norms that are global in kind and into the various issues that arise such as world poverty and international aid, environmental problems, peace and security, intervention, and human rights.

- **Communication ethics, including media, public relations and journalism**: Ethical communicators advocate truthfulness, accuracy, and honesty; as these cultivate and sustain the integrity of ethical communication.

Ethical inquiry can occur on many levels of thought, according to one’s focus. There are two main types of ethical inquiry: Theoretical ethics and applied ethics.

Theoretical ethics is concerned with understanding the nature of ethics, ethical language and ethical reasoning. The focus of applied ethics is more practical – it wants to reach a practical judgment about what should be done in situation x, or what is the most coherent ethical view to take towards a serious issue, such as abortion or euthanasia.

However, the “theoretical-applied” distinction is not absolute. It is a matter of emphasis and interest. Any serious ethical thinking will include practical and theoretical considerations.
Theoretical ethics: The theoretical study of the main concepts and methods of ethics. Major questions include the nature of ethical language, the objectivity of ethical beliefs, and the nature of ethical reasoning. Ethical philosophy, for example, is the systematic study of ethical experience and the justification of moral notions, beginning with those that historically and by current estimation are the most important.

Applied ethics: The application and evaluation of the principles that guide practice in particular domains. Applied ethics concerns the issues and problems specific to the field in question. Major questions include how existing principles apply to new issues, the ranking of rival principles, the standards of “best practice” in a profession, and ethical decision-making in the field.

Professional ethics is a major division of applied ethics. It is the application and evaluation of norms in various professions. Since the mid-1900s, many institutes, centers and journals have been established to study and enhance nursing ethics, business ethics, biomedical ethics, journalism ethics, and the ethics of government and corporate governance.

Types of Theories

In theoretical and applied ethics, philosophers and other writers have advanced numerous theories to answer one or more major ethical questions. The number of theories, and their many variations, are too numerous to list here. However, there are several ways in which we categorize and group together the many theories. For example, we focus on a major aspect of ethical action—such as goods, rights or virtue; or we can categorize theories according to how they justify ethical judgments.

Focusing on a major aspect:

One way to approach ethics is to focus on one of four recurring aspects of ethical actions: rights, goods, virtues and our communal relations with others. Ethical inquiry into correct conduct involves (1) questions about whether an action honors or violates anyone’s rights or duties, (2) questions about the “goods” that should be pursued, often thought of as the harmful or beneficial consequences of action, (3) the impact of action on the “virtue” of the actors — their character and integrity.

These three aspects provide a way to categorize ethical theories. Theories are categorized depending on whether they think the good, the right, communal relations or virtue is the most important feature of ethics.

1. Teleological or “goods-based” ethics: For these theories, ethics is primarily about bringing about goods, the most goods, or the good life. Ethical theories in this tradition include “consequential” theories that attempt to maximize valuable outcomes and minimize harms. One form of consequentialism is utilitarianism, where valuable outcomes are defined in terms of utility. The classic definition of utility is the greatest happiness of the greatest number.
2. “Duty” or “de-ontological” ethics: For these theories, ethics is primarily about the rights and duties of agents. Rights and duties allow people to interact in responsible ways. Ethics is less about individuals seeking to maximize their goods and more about right relations among people. Therefore, concepts of justice and fairness figure prominently in duty theories. This group of theories is distinguished by their view that basic rights and duties should restrain individual (or group) pursuit of the good. Basic rights and duties to others cannot be overridden by the wishes of the majority, or utilitarian calculations about what would make most people happy. Ethical systems in this tradition include the philosophy of Immanuel Kant and John Rawls.

3. Virtue ethics: For these theories, ethics is concerned with developing virtuous persons and civic-minded citizens. Ethics is not primarily about formulating an unchanging set of principles or duties. Nor is it about enjoying various benefits. It is about developing ethical character and the practical wisdom to choose the right thing to do in complex situations. Here, ethical education and development plays a central role. Ethical thought in this tradition derives from the virtue ethics of Plato and Aristotle, with its stress on achieving the good life, through a character of virtuous dispositions.

**Law is defined as a system of rules that govern society.**

The system of rules which a particular country or community recognizes as regulating the actions of its members and which it may enforce by the imposition of penalties.

Law is classified into:

(i) private law: the law that concerns the protection of individual interests

(ii) Public law which is directed at upholding public interests

**Public law encompasses constitutional law.** The branch of law that deals with the state or government and its relationships with individuals or other governments. A law that applies to the public of a state or nation Examples: Tobacco Products Control Act’, prohibits smoking in public.

**Private law** on the other hand encompasses the law of delict which deals with the protection of individual reputation, dignity, privacy. The branch of law that deals with the legal rights and relationships of private individuals.

Private law includes civil law (such as contract law, law of torts and property law), labour law, commercial law, corporations law and competition law.

Public laws are any laws conducted by the state and federal laws. These laws are conducted by a branch called legislative.

Public law and private laws are two totally different things.
Private laws are a set of rules agreed upon by two parties. Private laws can become public laws if a contract or agreement is breached.

Public laws have to be followed by everyone within the state. There are severe consequences if the laws aren’t followed. An example of public laws includes criminal laws such as murder.

Public laws are passed by parliament.

Private laws would be signing a contract for a cell phone and you just completely stop paying the bill. This would be a breach of contract and you can get sued. By being sued it becomes a public law, if the Cell phone company takes you to court. Public laws and private laws are different by are related.

Law is about what people must do while ethics is about what people should do.

The law: Illegal to murder someone

Ethics: Posting a video clip of someone murdered while the family has not been informed. This is more unethical and not illegal, there is no law against this. An example of how Informante posted a photo on their site of the struggle kid that was murdered.

Ethics and Political advertising

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Therefore, ethics is the dynamic, evolving activity of applying, balancing, and modifying principles in light of new facts, new technology, new social attitudes and changing economic and political conditions.

Range of Ethics

The boundaries of ethics are ever changing. Slavery was once acceptable. Now it is unethical. Today’s ethical discussions include the advocacy of same-sex marriage and the idea that animals have rights – topics that were not part of ethical debate not so long ago.

Ethical inquiry covers a wide range of possible subjects, such as:

- Personal ethics: e.g. questions about one’s basic values and plan of life
- Professional ethics: principles and practices of major professions
- Social and political ethics: e.g., issues of social justice, political rights
- Ethics of sexual and gender relations
- Research ethics in academia and the private sector
- Environmental ethics, including the ethical treatment of animals
- Global ethics: ethics of international affairs, human rights
- Communication ethics, including media, public relations and journalism

Ethics of Negative Advertising

by Tanya Robertson, Demand Media

Negative advertising depicts competitors in a negative light in an effort to make the advertiser look better. This type of advertising is used in the political arena as well as the business world. Whenever politicians misrepresent the facts, it’s considered negative advertising. While most consider this practice
unethical and irresponsible, negative advertising can remain ethical as long as a small business maintains certain moral standards.

Respect Truthfulness

To create a morally responsible advertising campaign, do not deviate from the truth. An unethical negative advertising campaign purposely distorts the truth in an effort to deceive the public. For example, a company may purposely lie about a rival company’s products or services to make its own look better. An ethical approach to this same situation would be to simply point out the obvious flaws in the competitor’s products as you compare them to your own. Although you’re still portraying your rival in a negative light, you’re making fair comparisons so it's considered ethical negative advertising.

Respect Social Responsibilities

Negative advertising campaigns also can walk the line of ethics when it comes to social responsibilities. Take the pharmaceutical industry, for instance, and all the drug advertisements placed on television. Pharmaceutical companies often paint pictures of patients living a better life if they take their product in lieu of what the patient currently is prescribed. While the entire ad makes the drug look ideal, it isn’t until the very end that adverse side effects are spoken really quickly or written in print too small for the average person to read.

The Pros and Cons of Negative Advertising

When negative advertising is done correctly, businesses find great success. For example, Apple managed a successful negative advertising campaign against Microsoft by light-heartedly poking fun at the personal computer giant as being outdated and problematic.

About the Author

Tanya Robertson has been writing professionally since 1999 and editing since 2004.

Please look at the following links:

http://helpforjournalists.com/political-advertising/