



FULFILLING OUR PROMISES
TO THE MEN AND WOMEN WHO SERVED

NONPROFIT ADVISOR

For DAV Departments and Chapters

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BUSINESS ETHICS

Part 1 of 4

"Legal" is Not Always "Moral"

It is probably not too shocking to note that DAV is a business. It offers services, and people pay for those services. Unlike a profit-making business, the people who pay for the services are not those who receive them. Rather, the payors are people that believe the services are valuable enough that they (the payors) are willing to expend capital so that those who need the services may have them. That is what makes DAV a charitable business.

Because DAV has the characteristics of a business, it is not unusual to expect that DAV will observe principles of business ethics. But how do we know what those principles are (in general) and how can we assess their appropriate application in a given case?

AREN'T THE ETHICAL AND THE LEGAL THE SAME?

Many managers in business (charitable and "regular" business) are apt to give the easy answer that the "ethical" and the "legal" are simply two ways of looking at the same thing. In managerial short-hand, "if it's legal, it's ethical" (and presumably vice versa). There is no question that the legal and the ethical are overlapping. It is equally clear that they are not identical. Consider the following example.

THE UNRELIABLE DINNER GUEST

Suppose you have invited Cosmo to dinner and expended considerable resources, financial and otherwise, to prepare a sumptuous feast. Cosmo does not arrive at the appointed time, nor shortly thereafter. You sit and you steam (much like your once-crisp *duck l'orange*) but Cosmo is officially a no-show. Do you prepare legal papers to sue Cosmo? Probably not, but you, and many, would feel that barring an unknown accident or personal calamity, Cosmo's defection bordered on the unethical. "Being moral" and "staying legal" are two different things.

LEGAL PUNISHMENTS AND ETHICAL AWARDS

We look at "legal" and "ethical" quite differently. That fact is strong evidence that the two ARE different. In the legal arena the "bad guys" and not (so much) the "good guys" get the attention.¹ With ethics, the situation is reversed. We tend to concentrate on the ethical heroes and not to notice those who are morally deficient (unless the deficiency becomes notorious). Put another way, we put medals on Mother Teresa for feeding the poor of India, but say nothing about the fellow who turns up his nose at "Feed the Children."

¹There are exceptions. The *Seinfeld*-savvy reader will recall Frank Costanza's almost-receipt of a traffic-law-compliance award, only to be thwarted by a last minute driving violation.



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The best explanation for our different perceptions of the legal and the ethical is that the two *are*, in fact, different.

LAW AND ETHICS

A final “proof” that “ethical” and “legal” compliance cannot be easily equated is shown by the case of capital punishment. That penalty is certainly legal in many states in this country, yet there are millions of persons who consider it to be barbaric (and so unethical) conduct. Some of the readers of this newsletter will immediately offer the objection that the foregoing is most easily explained by the realization that ethics is a matter of opinion, i.e., that individual persons, or even individual groups of persons, are the ultimate arbiters of what is right and wrong. That position is known as *moral relativism*. It is not only a bad position, it is logically untenable. In fact, it is about as intellectually defensible as compulsive hand-washing.

CRITIQUE OF RELATIVISM

In ethics, relativism is the position that different persons can define what is right or wrong for

themselves, and that it is not possible to say that one person is or is not “more correct” than another. There have been many sound critiques of relativism advanced by moralists and others through the centuries. One of the simplest, and most powerful, assaults on relativism is the observation that strict adherence to the position makes fundamental facts of human experience seem ludicrous. The famous British writer C.S. Lewis noted that moral relativism cannot be squared with the undeniable human experience of the *moral quarrel*. If you argue with me about a moral issue, it is because you believe that you are really right and I am really wrong. That means that you actually believe that some acts are good and some are evil. The moral relativist is bound to the position that moral arguments are nothing more than parallel (and ultimately non-competing) statements of subjective belief. But that position is clearly at odds with the most basic human experience and must therefore be rejected.

In our next issue, we will address the question of how a nonprofit organization (which is a legal person but not a natural person) can possibly be morally noble or morally blameworthy.

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