Abstract:

Law is intended to, at a fundamental level, reflect and enforce the moral and ethical standards of a civilised society. Moral and ethical issues occur at both a local and a global level, and laws and other legal instruments have been developed at both levels to implement the moral and ethical standards of society.

Also for example you might think about the ethical decisions you make when you walk down the street; decisions ranging from not harassing other pedestrians, to giving money to a homeless person. Law can be seen as a form of 'discourse' that reflects the values and interests of a society.

All legal systems are value-laden - although this is sometimes not readily understood either within the legal system or by members of the public in general. The rights and duties set out by the law have their foundation in ethical approaches to decision-making, and are aimed at setting and upholding, by which is meant the type of behaviour deemed acceptable and desirable in society.

Design/Methodology/Approach – The research project has completely based upon the doctrinal study and the value of morality and ethics in the society in globalised era with respect to law.
Findings- After studying from the various sources such as books and other secondary sources it can be concluded that the society which is now rapidly growing, therefore, to make any law successful and make it implement in society it should be within the embed of ethics and morality.

Research Limitations/implications – As the research is based on doctrinal study the research is accurate until any new law is enacted or an overruling judgment is passed.

Practical Implications – The result of this study would help in understanding better the concept of law in accordance with the value of ethics and morality.

Originality/value – The research is probably first in this area to determine how the values of ethics and morality play a vital role in forming or implementing any law.

Keywords – Law, Ethical, Morality, values.

Paper Type – Research Paper

Registration Number- 2011/07/PI/529

Introduction--:

Law is intended to, at a fundamental level, reflect and enforce the moral and ethical standards of a civilised society. The first thing that should be understood is the slight difference between morals and ethics.

Ethics-

The word “ethics” is derived from the Greek word ethos (character), and from the Latin word mores (customs) and describes how individuals choose to interact with one another. In philosophy, ethics speaks to what is good and desirable for the individual and for the wider society and accompanying obligations that people owe themselves and one another, in other words, what is necessary to promote the general well.
In general terms, ethics are practical moral standards that distinguish right from wrong, and give us a guide to living 'moral' lives. These standards might include duties that we should follow, such as fidelity in marriage, or the consequences of our behaviour on others. The act of embezzling money from a company, for example, is not only a legal wrongdoing against the company but also an action that could result in people losing their jobs. In more specific terms, some of the more difficult ethical questions on which a government might legislate could include issues relating to abortion, euthanasia and animal rights.

**Morality--:**

Morality deals with that which is regarded as right or wrong. Morality stems from an individual's conscience and from the values of a given society, which might be based on religious tradition or on political principles such as democracy or socialism. Moral conduct would be that which is considered 'right' based on people's consciences and society's shared values. Morality is one way for a community to define appropriate activity.

In this sense, morality is both a foundation and an ultimate aim of society, and ethics is a practical way of discovering how to implement and preserve moral standards. The concept of 'public morality' is often used to justify the regulation of sexual matters, including pornography, prostitution and homosexuality, as well as issues of dress and nudity. This, however, is a narrower application of the idea of moral standards, and does not involve ethical issues of the same significance as morality in the more general sense.

**Morality and Values--:**

The cause and effect relationship between law and change is very difficult to identify because the ability of law to produce change is probabilistic, contingent and
sequential because even though some changes can occur, other factors such as the morality and values of society affect the efficacy and time lag of laws in causing change. On certain issues like truth, individual liberty, etc., a shared morality and shared values are essential to unify the society. However, not all values are essential and those should be able to change. To cause change, a law should be supported by the society. Its efficacy in change is limited on moral issues in society. Examples are the ineffectiveness of laws prohibiting adultery, homosexual marriage or sexual abuse. The laws prohibiting many drugs, especially marijuana, have been called the “new prohibition” to underline similarity with laws prohibiting alcohol usage. It seems that laws on important drives are more difficult to apply than those on less compelling drives. Marijuana is seen a source of pleasure for many people therefore control should be imposed only against polluted merchandise. Morris Grinsberg suggests that laws should deal only with acts that can be precisely defined and with external observable acts; and the laws should as far as possible respect privacy.

Thus, laws most likely change external behavior, which are consequently later on followed by changes in attitudes, values and morals. So the range of the “external” is enlarged and sometimes affects personal preferences and tastes. In contrast, William Graham Sumner said that laws can regulate only behavior and not values, morals and attitudes. Examples are laws asserting equality for blacks which were not accepted by whites for many generations. On the other hand, this law that required change in behavior has gradually changed attitudes too. Today, the idea of racial superiority is no longer characteristic of whites.

The law can change morality and values under specific conditions. Even though there aren’t enough empirical studies, it is true that the efficacy of law depends on it adaptation to morality and values if it aims change.
Law and morality

Law and morality serve to channel out behaviour. Some conceive morality not as immutable principles of conduct or as discoverable by reason, but an expression of human attitudes to conduct which may vary from society to society or from individual to individual. Such theorists claim that for a legal system to exist, there must be widely diffused, though not necessarily universal, recognition of a moral obligation to obey the law, even though this may be overridden in particular cases, by a stronger moral obligation not to obey particular morally iniquitous laws.

Law and morality are too vague to understand. It must be added here that the notions of law and justice can't be captured and presented before us within a few sentences. These notions are too vast that even words are not sufficient to define them. Many jurists from the ancient Greek period to the modern and even the post-modern era have attempted numerously to define these concepts, but have failed. One of the reasons may be that the roots of these concepts lie somewhere within the human psyche, which is extremely random and versatile. Well it is required to describe the tenets of the two main schools of law.

there is the vague concept of morality which is a sought of norm or a part of normative system. Morals are actually certain yardstick standards in our society which work as prescriptions to human behavior. The starting of preaching of morals start from the very basic unit of our society i.e. family. As in a Hindu family, young people touch the feet of elders to wish them. There is no logic behind these morals but still these morals do prevail in our society. This is fully ones own private practice in which nowhere law has to intervene. A morality can be one which throws a negative impact on society and the other which can benefit the society. Law or morality both are normative systems of our society as both are normative and institutionalized by
nature. The only difference between law and morality is that law is coercive by nature but morality is not. Law is enforced by coercion and its constant application on a society leads to the internalization of law in human soul. Initially, law gives only an external behavior or an overt effect, but with the pace of time the forceful obedience of laws takes the shape of an internalized realization of habitual obedience. For example, the road traffic laws, when are applied on a society get internalized in a citizen's behavior after certain time.

Issue:

Pornography, prostitution, homosexuality etc. are areas of ones own consciousness and hence it is an area of conflict which is still continuing. So, does law has got the right to intervene with religious and moral feelings among people? For example, there is a moral notion in our Indian society that love marriages or inter caste marriages are not feasible enough and hence should not take place. Consider the claim that homosexuality is immoral. I strongly disagree. Now what In a contest between a majority of state legislators and me and those who agree with me, what privileges the legislature's judgment of morality. In what way are they experts. How does being elected to the legislature qualify them to make these judgments. Do they hold hearings on the morality of homosexuality and offer reasons for their conclusions. Or do they just press a button and register their vote. Most importantly, how can we assess the merits of their claim. If we cannot, then in reality they can prohibit whatever they want (and for whatever reason they want). No matter how objective morality may be, any such doctrine of constitutional law is recipe for tyranny. Take the issue of living relationships, which carries a moral ban on it. I don't understand that if two major individuals with their exercise of free consent decide to live together, where the
question of infringement of any rational standards arises. This shows that the moral standards are never rational by effect.

**Connection between Law And Morality**

The actual conclusive situation is that religion, morality or law all have the work of controlling the behaviour of individuals of our society, hence we must not exclude the importance of morality in our society. In the case of International Humanitarian Laws, certain moral standards are also recognized as a part of law. So, the absolute separation of law and morality is not possible in these areas where morality produces a positive effect in society which is prospective in nature.

There seems to be quite a strong connection between law and morality. Although people sometimes say "you shouldn't legislate morality", they presumably don't really mean this - why would we outlaw rape and murder if they weren't wrong? Instead, I suppose they mean that people shouldn't impose their personal moral views (especially regarding sexuality) upon others. I would agree with that sentiment, though my reason is precisely because I think legislation should be morally informed, and the "moral views" in question are entirely misled.

As a quick aside: it is unfortunate that the word "morality" has become associated with conservative values, because the obvious invalidity of those values to many people tarnishes their attitude towards morality as a whole. And that is a damn shame. When conservative groups advocate bigotry masquerading as "family values", we need to recognise the injustice of this, and instead stand up for what is right. But I digress - this isn't intended as a post about how liberals need to reclaim the moral high ground.
So we accept that there is a connection between law and morality, but what sort of connection is it. Their domains are clearly not entirely identical - for example, it may be wrong to lie to your parents, but it certainly is no business of the law. Perhaps the best way to explain this is to acknowledge that the law is an extremely blunt tool, and so will be of no help when dealing with minor or subtle moral issues.

So by this view, law and morality are just two sides of the same coin - namely, that of socialisation. Morality seeks to influence our behaviour by way of our desires, whereas law is the 'back-up' option, and targets our beliefs.

This is true in the United States as well, and not only in how our legally mandated school systems and our criminal laws contribute to the shaping, including the moral training, of citizens.

Yet the typical opinions in a contemporary liberal democracy are likely to be:

(1) that morality cannot be legislated; and

(2) that even if morality could be legislated, it should not be...that to do so is somehow improper, even tyrannical, either because there is no morality objective enough to justify legal enforcement or because one's autonomy and individuality would be violated by attempts to legislate morality or perhaps even because one really has no autonomy that can respond to any external directive.

**Relationship of Law with Ethics and Morality**:

Moral and ethical issues occur at both a local and a global level, and laws and other legal instruments have been developed at both levels to implement the moral and ethical standards of society. We might think about the ethical decision when we walk...
down the street; decisions ranging from not harassing other pedestrians, to giving
money to a homeless person.

In global terms, an important ethical milestone came with the post-World War II
development of the doctrine of 'human rights', which was embodied at first in the
Universal Declaration of Human Rights (1948) and subsequently in many
international conventions, treaties and laws.

Law can be seen as a form of 'discourse' that reflects the values and interests of a
society. All legal systems are value-laden - although this is sometimes not readily
understood either within the legal system or by members of the public in general. The
rights and duties set out by the law have their foundation in ethical approaches to
decision-making, and are aimed at setting and upholding what are called 'normative
standards', by which is meant the type of behaviour deemed acceptable and desirable
in society.

Law is rules and principles developed through ethics and apply in situations involving
morality. Ethics and morality cover a wider scope when compared to law because law
only regulates particular aspects of ethics and morality. The limited scope of law in
considering the issue of good or bad or right and wrong is exemplified by the
existence of the concepts of law and equity in the resolution of cases. The
consideration of equity usually occurs in instances when law insufficiently
distinguishes the acceptability of an action subject to litigation or provides a
resolution to the case deemed consistent with the code of ethics and morality
judgments commonly accepted in a particular society. However, law is based on
ethics and morality determined through societal context and translated into
enforceable rules with corresponding penalties. Ethics and morality then translate into
law with the intention of creating a basis for encouraging people to opt for what is
good or right instead of merely relying upon every individual’s value judgments or conscience. Ethics and morality also differ since ethics involves the consideration of reasons underlying existing principles or values while morality constitutes cognitive judgments of the individual regarding right or wrong. This means that ethics consider principles in the decision on right and wrong while morality is the result of the cognitive processing of ethical principles. This further implies that the resulting judgment may not necessarily be aligned to ethical values.

But also, while law often embodies ethical principles, law and ethics are not co-extensive and law cannot be viewed as merely codifying ethical norms. In fact, quite the opposite may be true, in that, in some instances conduct that is deemed unethical is not prohibited by law at all.

Also, without a moral base, we have no choice but to uphold bad laws, such as the Nazi Laws, Apartheid and even the Slave Laws that imprisoned our forefathers simply because they have been promulgated as law. We might think that we have few examples of such immoral laws today, but we still, for example, have Vagrancy Laws, remnants from slave times, under which a person can be arrested for loitering; legislation such as the ‘Dread Act’ enacted in Dominica and still on the statute books, though never enforced, where Rastafarians could be shot on sight. If we believe that law is separate from morality, how do we challenge such laws?

In addition, we must acknowledge that many injustices continue to be imposed in the name of morality. Just this year St. Lucia was one of only 2 countries that went along with a UN vote which would make it lawful, in effect, to kill someone on the basis of their sexual orientation – homosexuality. Is that true morality? Is that ethical?
We have had, of course, famous cases that explored the relationship between law and morality, come before the courts. These include the UK cases of Knuller and the DPP, Shaw and the DPP, and Gibson. In Knuller and Shaw, questions on prostitution and homosexuality were examined precisely from the perspective of the content of morality in the law. In Gibson, the courts addressed the issue whether it was unlawful for an artist to exhibit as art, fried dried fetuses that had been fashioned into earrings. In all of these cases, the courts found a clear nexus between law and morality. Indeed, they went further and declared that the law has a role to uphold morality, so as to protect the very social fabric.

These courts therefore believed that if we were to have laws with no moral or ethical underpinnings, and if the law was not used to enforce moral values, our very society would ‘smolder into dust.”

**Relationship between Law and Morality with Indian Penal Code:**

Law maybe different from morality but one can also not ignore the fact that morality can also not be completely detached or divorced from law. It will not be a false statement that law has developed from the ashes of morality. Law at all times and places has in fact been profoundly influenced both by conventional morality and ideas of particular social groups and also by the forms of enlightened moral criticism of those people whose moral horizon has transcended the morality currently accepted. Therefore, if we club all these views in mind then it will be no wrong to say that though law and morality are distinguishable, morality in some way is the integral part of the Law. As a matter of fact, the Indian Constitution is itself an crystal clear example, our Fundamental Rights (Part III Articles 12-35), Directive Principles Of
State Policy (Part IV, Articles 36-51), all these are having the base of morality and that morality is molded and shaped in the form of law so that it can be enforced and implemented by each and every citizen of India. Therefore, with the advent of time the terms like ‘natural Justice’, Justice, Equity, Good Faith and Conscience have infiltrated into the fabric of law.

The special emphasis is been given to the Indian Penal Code, 1860. Morality is the latent ingredient of almost every Section. To establish a criminal liability we need two basic ingredients, namely, ‘mens rea’ and ‘actus reus’, and a basic Latin term ‘Actus non facit reum nisi mens sit rea’. Mens rea itself means wrongful intention, mala fide intentions or more precisely the guilty mind. Intentions hereby mean the consequences of the act, or a conscious exercise of mental faculties of a person to do an act, for the purpose of accomplishing or satisfying a purpose. The legal maxim means, an act is not an offence if done without a guilty mind. Here wrongful intentions, mala fide intention means execution of malicious actions, therefore we can also say that execution of an act by wrongful conduct, the conduct can only be wrongful if we are doing an act which is immoral. Wrongful intention definitely means an thought of an immoral task. There are ample number examples itself in the IPC to prove this very statement. The actus reus here means a wrongful act.

If we look at the introductory sections of the IPC we will witness that the word ‘intention’ has been used in various ways. Section 34 “Acts done by several persons in furtherance of a common intention” here also by act the statute means ‘wrongful act’ and that too accompanied with common intention. Therefore, an immoral act accompanied with the immoral intention makes it a crime. Not only Section 34 but Section 35 uses the term ‘being done with criminal knowledge or intention’. IPC has also incorporated the sections for Murder, Culpable homicide, theft, rape etc, is it
immoral to do all these ‘acts’? Yes indeed it is immoral to perpetrate such acts. All these Sections are having the term intention though intention is nowhere defined in the IPC but its relevance is of utmost importance and so is the importance of moral and immoral acts. One more example, which would clear the relevance of morality in IPC, is Section 52 which defines ‘Good Faith’. Good Faith here means any act done with bona fide intentions for a bona fide motive, and the person who does so believe it to be of moral character if due care and attention is taken. Hence it will be no wrong to say that morality has a close relation with Indian Penal Code and is a latent ingredient of this very statute.

Law Enforcement, Ethics and the Law--:

Most professions have detailed and enforceable codes of ethics for their respective memberships, e.g. for lawyers, legal ethics, doctors, medical ethical standards etc. Other professions with codes include dentistry, social work, education, government service, engineering, journalism, real estate, advertising, architecture, banking, insurance, and human resources management. Some of these codes have been incorporated into the law. However, even if they have not been codified, they are likely to have some effect on judgments about professional conduct in litigation. Generally, failure to comply with a code of professional ethics will result in some sanction, which may include expulsion from the profession.
Contemporary society is faced with many ethical questions in relation to law enforcement. Some of these issues are already encapsulated into the law, whether or not they are enforced, but others are simply standards of behavior that we expect law enforcement personnel to subscribe to. However, reference points for ethics and moralities go far beyond personnel, they are also about the very law enforcement system that we put into place and our own role in it as citizens.

**Ethics in Individual Law Enforcement--:**

Given our current reality, with huge levels of crime, perhaps it is “ethics in law enforcement,” from the point of view of focusing on authority and power that should occupy our attention mainly at the moment. This leads us to consider a discussion of a formal system of ethics for police officers.

The individual police officer is granted a high degree of discretionary authority and consequently, law enforcement personnel are rightly treated as members of a profession. As such, ethics and ethical conduct have an important role to play. In order to use this discretion to serve the common good, police decision making must be informed by ethical principles that are defensible in the public forum.

In many societies, police corruption continues to be a major problem. The level of harm threatened to the common good is immeasurable. This calls for an acknowledgment of the need for reasonable salary scales, realistic anti-corruption laws, and to adequate training and honest and courageous leadership to counter corruption. In addition, there must be full public accountability by police leadership for alleged and proven wrongdoing.
Some countries have established formal codes of behavior – codes of Ethics. For example, in Kentucky, USA, the law enforcement code of ethics is essentially an oath of service for law enforcement personnel. The code of ethics states that the officer’s fundamental duties are to serve the community; safeguard lives and property; protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and respect the constitutional rights of all to liberty, equality, and justice.

It further requires that officers must keep their private lives unsullied and recognize the badge as a symbol of public faith and trust. These guidelines include acting impartially; exercising discretion; using only necessary force; avoiding deception in investigation and interrogation, coercion, maintaining confidentiality, integrity, and a professional image at all times. Four methods are suggested for controlling corruption in law enforcement agencies, including strong leadership, changes in the selection and socialization of new officers, changes in departmental organization and operations, and changes in the environment in which the department works.

**Philosophical Underpinning--:**

We as an individual think of Law as imposed upon us, whilst we perceive morality and ethics as self imposed constraints, or values to which we aspire.

Indeed, the questions surrounding the relationship between the law and morality and ethics are in fact, age old questions that have inspired famous philosophical writings. In fact, our very constitutions are based on some of the theories that have been espoused, because constitutions are very much offshoots of the civil law tradition and its underlying precepts of the natural law theory, the latter which itself is based on
morality. Yet, questions on law and morality remain hard questions, which have never been entirely resolved.

It is still, therefore, pertinent to ask – how much of law is to be based on morality, or is to be separate from morality? How do we arrive at laws which satisfy our need to be governed by values which serve all equitably? What is the value of morality and ethics in any legal system?

Moreover, if we accept that there is a valued place for morality in the law, are we mature enough to be able to resolve issues with often different moral beliefs, without having to trample on anyone’s rights? There are no easy answers to these questions.

In some countries, there is a totalitarian approach to these essentially ethical and moral dilemmas. Consider some concrete examples: – In some Moslem countries, if you commit adultery you may be stoned to death, or if you are involved in drugs, you can be put to death. The law does not care whether you are an addict and need medical treatment. That would be the end of the matter.

Consequently, although these are deep philosophical questions, it is interesting to see how they have such practical ramifications on our daily lives. As I stand here today, I can think of several current and very topical issues that straddle law and ethics/morality such as Jack Warner’s FIFA troubles, [2] police killings at St. Lucia, not to mention gifts from Diplomats etc. [3]

**Public Office, Integrity and Anti-Corruption**

When we speak of ethics, the issues that perhaps most come to mind are those related to duties and obligations with regard to public office. This subject is certainly as relevant today as it was yesterday and there are several codes of conduct based on
ethical standards and good civic obligations that are in place. I want to move the
discussion a little forward to examine a little the underpinning of public office and
obligation – that is, the concepts of discretion and duty.

The very notion of discretion is based on the idea of some fiduciary duty toward
others in your care. In this case, the public officer is obliged to act fairly and
honorably toward the public, since he or she has been entrusted with much power to
act on their behalf. A public person will have discretion to act as he or she thinks fit.
Certainly, the more trust there is, the more discretion should be granted. Our current
system assumes that this trust is in place, but more and more we are seeing that that
very trust is often misplaced.

However, today, the law does not sit idly and helplessly by while this trust is whittled
away. More and more it has found ways to intervene, to oversee these powers, to the
extent that we have had huge developments in judicial review – where the courts will
indeed look over shoulders to see how a decision was made and whether there was an
abuse of power. Courts have also gone into territories that they never ventured into
before, even, for example, examining the exercise of the Crown’s prerogative and
Cabinet decisions, (previously impossible) as we saw in the recent Mondaisy case on
customs duties.

Conclusion:

Law is based on ethics and morality determined through societal context and
translated into enforceable rules with corresponding penalties. Ethics and morality
then translate into law with the intention of creating a basis for encouraging people to
opt for what is good or right instead of merely relying upon every individual’s value
judgments or conscience. Ethics and morality also differ since ethics involves the
consideration of reasons underlying existing principles or values while morality constitutes cognitive judgments of the individual regarding right or wrong. This means that ethics consider principles in the decision on right and wrong while morality is the result of the cognitive processing of ethical principles. This further implies that the resulting judgment may not necessarily be aligned to ethical values. Also, there can never be a hard jacket or a universal formula which could determine that should law be used to enforce morality. It can only be concluded that the level of enforcement of moral standards depends upon case to case.

In the cases where morality shadows a good and beneficial effect on the society, there if required, law could be used to enforce that positive morality. For example, in the case of International Humanitarian Laws, certain moral standards are also recognized as a part of law or in another illustration that, all religious and moral norms say not to kill or not to steal, and this moral is enforced through law.

On the other hand, that morality which produces any harmful effect in any form in the society, there law should never be used to enforce such morality. For example, the celebration of Valentine's Day in Indian society is considered as amoral. But such morals must never get the institutional shape of law.