Abstract:

Purpose – Business is all about making money and earning profits, so when exactly one has to be ethical? Ethics has to do with one’s behavior towards the society. Business ethics is the extent to which the employees’ behavior match up to the standards of the company, its organizational policies and expectations regarding what is right and what is wrong. Thus the need for ethics and moral obligations cannot be denied in the enactments of the government policies which answer both the statutory obligations as well as the moral obligation that the state has towards the public. This study aims at finding the niche grey area where ethics and law persists and influences business, the society and Government.

Design/methodology/approach – This is a qualitative and constructive research based on secondary research. It deals with opinions of various authors and scholars about ethics in business and how very often they are manipulated and how existence of a certain code of ethics is indispensible in every arrangement.

Findings – According to the secondary research, we collected various articles that talks about ethics in business and government and how both ethics and law go hand in hand and together complete each other. Where there is no law, ethics steps in. ethics and morality are like two intersecting spheres aiding each other.

Research limitations/implications –The research is limited to the secondary data collected and the implications follow accordingly.

Practical implications – This paper would focus on the grey area of ethics which cannot be codified and still holds great importance in ever sphere.

Originality/value – The originality of this paper lies in the fact that it carefully scrutinizes popular opinion and existing principles and practical events that takes place when confronted with ethical and moral questions. What role the society and Government plays and what it should play will also be discussed.

Keywords- Business ethics, role of government, society, social responsibility
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Ethics has a role in the imparting of justice while dealing areas where law is not clear, where there is still a degree of uncertainty in the enforcement of the statute. Society develops a conscious approach to fill this gap where law has no say. Government policies are also based on law but the greater need of the society and the good governance of the state is the ultimate objective of any policy that is formulated by the legislature. All the leaders and managers in an organization are also governed by certain principles. There are times when business decisions have to be made and it need not necessarily be what the law says. Ethics and law are separate spheres which intersect each other.

Business is all about making money and earning profits, so when exactly one has to be ethical? Ethics has to do with one’s behavior towards the society. Business ethics is the extent to which the employees’ behavior match up to the standards of the company, its organizational policies and expectations regarding what is right and what is wrong. Thus the need for ethics and moral obligations cannot be denied in the enactments of the government policies which answer both the statutory obligations as well as the moral obligation that the state has towards the public.

Competition has no doubt increased in the market, and there is no way that companies can afford to have failures even of the smallest magnitude. In order to avoid any kind of failure companies can take to any method that is accessible to them. They are determined to make profits by hook or by crook. This phenomenon has become so common that the first question that arises is that of the significance of ethics in business. To what extent, if any, ethics and morality, play a role in business world?

Business ethics sets standards for the corporate world in order to keep a check on companies, adherence to the basic principles and moral values, which arise in a business environment. With developments in law and public awareness, it is becoming mandatory for companies to look into

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1 Business Ethics A Holistic Approach, Edited by KBS Kumar, 2008
matters of ethics and conduct. Companies need to pay significant attention to professional ethics by being fair in their major functional areas. There is a need for regulation of ethics in every function of a business. Be it marketing or human resource or sales. Considering the deduction that law and ethics work like two intersecting spheres and one covers up for the other, it is of utmost importance to lay down certain rules to abide by as well certain embedded pointers to take care of situations where the laws and policies are silent.

Businesses are these days mainly concerned with their image. They avoid any criminal act in the work related activities that would break the criminal law, or result in a civil suit against the Company or spoil the name of the Company in any way because they cannot take the risk of toying with the goodwill of the Company since the money involved is huge. Being ethical cannot be really taught to someone, it is a quality and principle which is fundamental to a personality. Some people are just ethical while others pretend to be, or at times don’t even take the pain of pretending. Give and take is the mantra for them. A company which is ethical will prove it through its policies with regard to good conduct, sexual harassment, environmental impact, working conditions etc. ethicality on a personal basis depends on extent to which one’s behavior measures upto societal standards. Ethics Resource Center says, "Business Ethics refers to clear standards and norms that help employees to distinguish right from wrong behavior at work". In the context of doing business, then, ethics has to do with the extent to which a person's behavior measures up to such standards as the law, organizational policies, professional and trade association codes, popular expectations regarding fairness and what is right, plus one's own internalized moral standards. Business ethics is not entirely different from ethics in normal sense, it is a subset of it and is just the set of principles and values which are important and pertinent to the field of business. Now this may vary from culture to culture. At different places the ethics that govern the business are different, the difference also comes when not just the place but also the businesses vary. The set of codes and ethics are different in Indian and

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2 James Fieser, Business Ethics


4 Id.
Japanese companies and at the same time they are different in the same country, for a soap company and a textile company. However, they are based on broadly the same theme i.e. taking responsibility for their surroundings and the environment to which the companies belong. It also includes values like avoiding malpractices and doing business as it ought to be done. Adam Smith was of the opinion that business and commerce worked well only if people took seriously their obligations and in particular, their sense of justice.\(^5\) Being ethical in today’s world is more like a challenge for business houses because the path of being unethical and taking the short cut for everything has become the mantra and it is only rare that people chose to walk on the path of what is right and what they should do. Law is in existence to regulate the behavior of people. It lays down what has to be done and what should be avoided, but what happens when law falls silent on some subject. This is when the role of ethics and morals play a crucial role. Business ethics is not just about doing the right thing but also doing things in the right manner e.g. the decision making process should be fair and concrete and has to be done in a transparent and clear manner. It provides with good reasons to build institutions in one way and not other. This reflects the clarification of institutional arrangements that support individual and moral actions in an appropriate manner.\(^6\) Any business if governed with proper ethics earns goodwill and makes money as well. There is a relationship between the actions of individuals and ethicality of organizations. It is understood in terms of the rules and norms laid down and the way the individuals adhere to them.\(^7\) These norms and rules differ as per cultures. Cross cultural differences becomes an important area of concern while discussing business ethics. Culture influences everything, what is right and what is wrong; what is ethical and what is unethical. Accordingly, ethics becomes a subjective concept which varies with culture, people and places. While there may be some commonly shared ethical values across cultures, research suggests that there are many differences across national cultures in regards to ethical beliefs and practices.

\(^5\) Id.


Culture is often considered "one of the most important factors influencing ethical decision making". It defines what ethics are for a certain individual or group of individuals. Public relations are entirely dependent upon ethics. Because, ethics define who we are and thus it gives us an identity which then becomes the tool for communicating and dealing with people; both of which are important for creating good public relations. As already noted that ethics differ with culture, it has been found out that the moral judgments of Chinese managers were significantly more dependent on group norms than were the American managers. It has thus been concluded that the collectivism of cultures is expected to affect the ethical decision making. For example, managers from France and Israel reported that they believe that "accepting gifts/favours in exchange for preferential treatment" is more unethical than the reported belief of the Germany and United States managers. But what is important here to note is that even though there is procedural differences in how ethics are executed in a particular business environment, there isn’t a substantial difference. The existence of ethics is not different. Ethics and moral prevails everywhere, irrespective of the differences in the manner in which it is practiced. The importance of ethics cannot be denied. It is said that business is all about making money and profit and that morals don’t have a say in it. But that belief has changed to a large extent because with globalization, as much as the competition has increased to establish a successful company, the need for ethical values has also increased, at least at the face of it. Even though, in practice, it will take a long time for ethics to sink in and take an irreplaceable position, in theory it has arrived and has become mandatory, at least on papers.

But the need is not just a theoretical one; in fact the need actually is in practice because ethics comes into play in the daily activities and daily decision making process. This is the area where law is silent and ethics come to fill in. Ethics is mostly not associated with economic rationality. The normative factor is emphasized and what should be done in a situation becomes more important than what is being done. For Business ethics to have the position that it should

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9 Id.

10 Supra note 6
have it is important to integrate the moral standards to the economic rationality and generate the mentality of a socioeconomic responsibility. Ulrich distinguishes different loci of socioeconomic responsibility. On the constitutional level, Ulrich follows ideas of the school of ordoliberalism (a theoretical foundation of the social market system) while suggesting the so-called concept of Vitalpolitik ("policies aimed at 'vital' prerequisites for a good life"). He proposes the (re-)embeddedness of the market economies "into a higher overall order, which cannot be based on supply and demand, free prices and competition.\textsuperscript{11}

Law lays down certain norms which are inevitable and are mandatory requirements, however, not all that the law makes mandatory has to do with being ethical or moral. This is because the whole purpose of law is not just to prevent a wrong but also ensure that things are carried out in a proper procedure. The procedural laws therefore will not have the element of ethicality and morality. But, when it comes to decision making and dealing with the daily procedures of the company, it is important to have in place certain ethical code of conduct which would regulate the behavior of those who take the decisions. It is important because the discretion given to them can lead to conflicts and misuse of power, which often does happen. Many things in the day-to-day activities are so random that it is not possible to quantify how to respond to contingencies. Thus, ethics become relevant so as to fill in for where law cannot do so. Ethics is important in order to ensure that the organizational goals are not compromised when decisions for the whole organization are done by few individuals. Thus ethics in business is not irrelevant even if the main motive of business is earning profits, morality and ethics are areas where companies can be held accountable for and their responsibility towards the society can be questioned.

Ethics and morality are two elements of the faculty of human mind that are intricately carved out in the frame of our daily chores of life. People may forget the law but they dare not forget the ethics and morality for the society is there like a watchdog to keep a watch on the activities of immoral men and women. There is no law that specifies that when one man has promised a deed to another without any written agreement or terms and conditions set out in the form of a contract, then he is bound to keep it. For enforcement of such agreement matter and executable contracts there are complex laws enacted by our legislators which keep the behaviour of contract

\textsuperscript{11} Id.
bound people to necessarily act in accordance with the agreement that they have signed and bound themselves with.\textsuperscript{12} But when it comes to instances like watching the house when one’s neighbour is away, or looking after the children by that well known uncle when their parents are absent, all such acts do not require any contract to be signed nor any agreement to be executed. These acts are too frivolous in order to be enforced by the law courts. However all these are based on the foundations of morality and good conscience. Today’s society has a withering sense of such morality and good conscience. These are the instances when the need for ethics and morality are felt in our day to day lives and these are the tines when nuclear families crib about the lack of moral support that they face when it comes to times of turmoil. We have been learning the values and morals since our childhood and such sense of right and wrong has been imbibed in our psyche since time immemorial.\textsuperscript{13} By virtue of being humans we are supposed to be ‘social animal’ possessing sense of righteousness, morality etc. but when it comes to being moral and ethical in our day to day life the age old teachings of our parents are out for a toss and they just seem to disappear into thin air and are thrown into oblivion. All of mankind’s social actions cannot be controlled by laws and legislations. Ethics surely play an important role in determining the good conduct of a human being.

Love, care, affection are the requisites and imposing moral restrictions on such attributes are itself immoral. Thus moralistic leader in their quest for imposition of morality commits many extraneous acts in the garb of being moral and ethical. This ambiguity cannot be cleared by laws and that is exactly where conflicts arise. These conflicts do not \textit{per se} have any solution as there is no black lettered law ruling our morality. In the past there have been many debates between eminent scholars and educationists regarding these conflicting issues of law and morality. The positivists consider law as it ‘is’ and what it ‘ought’ to be. In other words they are more focused on the enacted law and therefore consciously create a barrier between the law and morality. The great positivist thinker, Kelsen had talked about the governance of state and therefore the orderly human behaviour. In other words he had said it is the binding nature of law that protects the

\textsuperscript{12} \textsc{Indian Contract Act 1872}

society from awry behaviour of mankind. The law is what it is and it should be allowed to be enforced as it aims to be. To deny so on the basis of moral grounds is a very trifle matter and it would be very unfair and highly whimsical to allow so.\textsuperscript{14} He went on to say that the Nazi law was highly unfortunate and should be regretted by mankind but it is nature of law cannot be denied. It was law and be it immoral or bad in nature, nonetheless it was law and people had to abide by it.\textsuperscript{15} However the naturalists argue that law without justice and morality is no different than mere brutal regimes of the powerful state.\textsuperscript{16}

When we talk about ethics per se in a society, a plethora of ideas come across, like religious ethics, cultural ethics etc. Ethics is a subjective term, as has been maintained constantly throughout this article. It is different for different people depending on the religion they belong to, the culture they come from, how they have been brought up, and what environment are they sustaining in. In this era of globalization and capitalism, it is even more important to stick to the roots and not lose yourself in the crowd. For doing so it is important to be grounded to the ethics and personal guiding principles one should have. We are rational human beings and therefore know that what is right and what is not. But somewhere, the rationality has gone overboard, making us too practical to be ethical and moral. Morality and ethics are not exactly in the same field as practicality. It may be ethical to do something but not practical or not rational on someone’s part. Ethics are more importantly also the values\textsuperscript{17} that are attached to one’s personality and may be specific to an individual. The basic knowledge about how to act in a morally right and wrong way is not something to be invented, but is rather contained in what


\textsuperscript{15} ibid

\textsuperscript{16} ibid

Kant calls common knowledge. It is the common knowledge of ours that helps us take decisions in certain circumstances where it become absolutely essential to rely on just intuition and what we hold to be right to arrive at a conclusion. Social responsibility is again something very closely related to ethics and morality. The principles that are important and govern the functioning of ethics in the society are the same as the business ethics, at least in some aspects. The essential element of social responsibility is fundamental to both business and society. The main aim of ethics and law is the same, i.e. to promote good in the society and curtail what is bad. Even though it has been codified as to what amounts to good and bad in the eyes of law, it is very important to do so on a personal level as well. Thus this debate of law and morality has been continuing since time immemorial and yet there has been no plausible solution to the issue as to who has superiority. Both are in wet grounds and are constantly submerging or rising as the circumstances are. They are intersecting sets in the world of human beings who are legally bound by law but morally they can be as lethal as savage beasts. Today’s society are ruled by law but governed by morality. That mean the basic control is assumed by the law but what the law cannot guarantee is fed by morality. Ethics are important to make up for the times when law is silent on that issue. The outcome of ethics is positive, therefore, ethics in business is said to be a good investment. It is a prerequisite for building trust with various inside and outside stakeholders.

When we talk about Government ethics it essentially means application of ethical rules by the Government. In this era, where politics is no more than a profession aimed at drawing wealth from the people to fill personal riches, ethics have become a rather distant dream. It is important, thus, to have ethical practices within the government, so that the country also functions

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20 Id.
accordingly. The relationship between law and politics is also something which is very important to the discussion regarding ethics in Government and governance.

Law and politics go hand in hand. Since time immemorial they have been considered together while determining various aspects of governance. Politics happen at every stage of the Government and it is done through the laws made by the politicians themselves. So it is rather a vicious circle which goes on continuously. Law and ethics do form intersecting circles and therefore, ethics form a big part of politics as well. However, to what extent is it actually carried out? To what extent are our politicians ethical? Although ethics and law are compatible to a large extent as each one takes place when the other is missing but politics in today’s world is completely devoid of ethics. Law is defined to be the set of rules which govern the behavior people. Politicians are supposed to aid in this governance. They form the backbone of the Government and people entrust them with the work of making laws as well as executing them. Thus it can be seen that law and politics are not separate from each other. Both of these works in the same field and by the same players, of course there are lawyers who make the best of a law available.

For the purposes of governing people, political legitimacy is of utmost importance. You can only govern those people who give you the power to stay through their votes. Politics has therefore become legal in the world, though indirectly. The procedure though which we choose our government in legal but there are so many smart players and so much loopholes that the legality is molded according to their benefit and politics takes its own course, and the people remain under the impression that everything is happening in the right manner. When we say legality of politics, this is exactly what we mean. The politics in today’s world has become such an obvious thing that we don’t hesitate while talking about it in the public sphere because it is taken for granted that there will be politics, politicians and only they can run the government. Because we haven’t seen a government being run by methods apolitical, we have no clue whether it is even possible. There was a time when India had only Congress as a political party. But now there are so many, that it is not a choice anymore but an utter chaos and confusion with each party trying its best to build upon its vote banks by promising farce which are a distant cry from reality. Politics, however, is not confined to just public authorities or the government, but even in our
day to day life in schools, colleges and corporate houses. People take to different means of getting popular and become the chosen one. The history of politics is reflected in the origin and development, and economics of the institutions of government.

It is important to have ethics in the governance of the country because for smooth functioning of the country, all the branches of the government must work together with cooperation and proper work ethics. The aim of the government is to provide a good standard of living to its subjects and not derive wealth from them in form of taxes and lavishly spend it in their bungalows and leaving the poor to their condition. In modern times, ethics in government have become not only something of great public interest, but also an important area of study in the academic fields of politics and government. There is always a conflict of interest, be it an organization or the government. Corruption has gone up to such an extent that public officials asking for bribe, no longer surprises us.

One of the most serious ethical issues in government is theft of public property by public officials. Such theft can range from the trivial, such as taking home office supplies, to the graver, such as stealing millions of dollars from the public purse. The public officials are one amongst us, but as soon as they get power they forget about their fundamental principles, the ethics, which should govern them.

When examining government codes of ethics it is important to consider key issues, such as which ethical rules are being included or excluded, specifically how those rules are being set out, and what procedures and mechanisms are in place to ensure adequate accountability and transparency. Accountability of the government has to be put on check in order to regulate the integrity of the branches of the government.

A code of ethics needs to be established in order to regulate the ethical code of conduct of public officials. Executive and Judiciary are two different branches of law, but catering to the same people. The judiciary ensures that the law laid down should be followed and executive is also governed by the same set of laws but has more discretion than ordinary citizens. There is also a

need for a moral standard to be set out. Good moral character is imperative to the functioning of the Government. It is highly essential that those who run the Government and the Companies should not be guilty of offences of moral turpitude which would mean they should not be involved in any morally tainted activity. Our government is in need of “good employees”. This is of course, a subjective criteria and rather difficult to determine such a criteria. Then there is also a difference in being a good employee and good person.22

There should be an authority in action to take care of the accountability of employees. Accountability, then, includes a number of important topics. For example, how are allegations of unethical conduct made and investigated, and who has the responsibility to undertake such investigations? Should a separate ethics agency be created, or should the police handle it? Who should prosecute and adjudicate ethics cases? Should it be an ethics commissioner, the government, or the courts? Finally, what should the punishment(s) be for violating ethical rules? Should there be fines, jail time, or other forms of disciplinary action?

The public has to be aware of what goes on in the office of the Government and therefore it is also important there is a policy of disclosure. Freedom to seek information should be there. This is where ethics and law have overlapped. Right to Information, is a legislation which is operative in many countries which is essentially in place to look into the ethicality in functioning of the Government and Companies. Public access to government documents has often proved to be an important means for bringing to light unethical conduct in the first place, as the media or concerned members of the public often engage in their own investigations of public officials.

Law, ethics and morality are very closely related, in all the spheres, be it government, society or business. They are overlapping and intersecting circles which make up for the other in their absence. There is some difference in both the terms, morality and ethics, but they are used interchangeably in public debates.23 Social responsibility and ethics are also terms very closely related but used in different areas. The relationship between morality and ethics has been characterized in different ways. In some cases the terms are used interchangeably while some

22 Id.

23 Supra note 13
claim that there is a fundamental difference between morality and ethics. Most commonly it is said that morality relates to accepted principles and rules of conduct while ethics is the study of morality. Law in the addition to it is the schematic adoption of morals and ethics and put into code so that they become mandatory. In some instances the terms are used descriptively while in others a normative meaning is intended. Moreover, there are examples in which a descriptive use slips into a normative use. No matter how it is used, it can be concluded that law, ethics and morality are not entirely different altogether and are equally important in all spheres.