

# Chapter 9

## The Evolution of Business Ethics to Business Law

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### ABSTRACT

*Ethics in business ethics and law in business law are not as ambiguous, rhetorical, and esoteric as practitioners portray. Excuses as such have subconsciously become a habitus platinum safeguard against all wrongdoing. The usage of the habitus platinum safeguard is to defuse the unethical and malpractice of practitioners due to the ambiguous, rhetorical, and esoteric factors of and related to ethics in business ethics and law in business law. The ethical decision-making process, from ethics to law, involves five basic steps: moral awareness, moral judgment, ethical behavior, ethical behavior theorizing, and (business) law.*

### INTRODUCTION

The relationship between ethics and law has always been ambiguous whereas the evolution from ethics to law has always been esoteric. Scholars and practitioners operating on diverse paradigms often can denote two very different stances, the empirical on one hand, and the abstract or theoretical on the other. It is one thing to interpret a person's actions according to a particular theory of ethics or law, and another to say that the actions result from adherence to this or that theory. Many a judge's decision represents utilitarian principles to one person without having been any real attempt by the judge to reflect or even acknowledge what to another person constitutes "utilitarian" principles. Nevertheless, two legitimate experts, Hart (1958) and Fuller (1958), scholars of jurisprudence wrote

separate commentaries on the relation between law and ethics in the 1958 edition of the *Harvard Law Review*, for those who are interested in exploring the philosophical aspect of it.

In order to address the relationship between ethics and law and understand the evolution from ethics to law so that practitioners can implement ethical business practices, practitioners must first understand the differences among moral, ethics, and law as they apply to business. In so doing, a review of the foundation of the differences among moral, ethics, and law are addressed from a practical stand point. Furthermore, a practical strategy in addressing business ethics is offered, and the evolution to establishing business law is theorized. Therefore, the operational definition of ethics, used here, is that business ethics is the study of business situations, activities, and

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decisions where issues of right and wrong are addressed based on the principles, norms, and standards of conduct governing an individual or group—focuses on conduct. However, law is essentially an institutionalization or codification of ethics into specific social rules, regulations, and proscriptions and is the minimum acceptable standards of behavior.

## **THE EVOLUTION OF BUSINESS ETHICS TO BUSINESS LAW**

The word “ethics,” coined from the Latin word “ethics” and the Greek word “Ethikos,” pertains to character. Ethics is thus said to be the science of conduct. As a matter of fact, it deals with certain standard of human conduct and morals. The field of ethics involves systematizing, defending and recommending concepts of right and wrong behavior. Ethics is a mass of moral principals or set of value about what is right and what is wrong, true or false, fair or unfair, proper or improper, and what is right is ethical and what is wrong is unethical.

The concept of ethics, in business ethics, has been prompted from the status of “to which we dare not speak of,” to the status of taboo, to the status of oxymoron and mystery. Business ethics, it has now been claimed, is an oxymoron (Collins, 1994) and a mystery. By an oxymoron, it means the joining of two apparently contradictory concepts such as in “a cheerful pessimist” or “a deafening silence.” To say that business ethics is an oxymoron suggests there are not, or cannot be, ethics in business: that business is in some way unethical, or that it is, at best, amoral. However, by mystery, the word “ethics” means something esoteric and far removed from reality.

Business ethics is not mysterious. Business ethics is about people making decisions in organizations every day. Certainly, then, the revelations of corporate malpractice should not be interpreted to mean that thinking about ethics in business situ-

ations is entirely redundant. After all, as various researchers have shown, many everyday business activities require the maintenance of basic ethical standards, such as honesty, trustworthiness, and co-operation (Collins, 1994; Watson, 1994).

Similarly, it would be wrong to infer that scandals involving corporate wrongdoing mean that the subject of business ethics is in some way naïve or idealistic. Indeed, on the contrary, it can be argued that the subject of business ethics primarily exists in order to provide us with some answers as to why certain decisions should be evaluated as ethical or unethical, or right or wrong. Thus, there appears to be good reason to suggest that business ethics as a phenomenon, and a subject, is not an oxymoron. While there will inevitably be disagreements about what exactly constitutes “ethical” business activity, it is possible at least to offer fairly uncontroversial definition of the subject itself.

As such, business ethics used here is: Business ethics is the study of business situations, activities, and decisions where issues of right and wrong are addressed based on the principles, norms, and standards of conduct governing an individual or group—focuses on conduct. The terms “right” and “wrong,” used here, refers to morally right and morally wrong as opposed to, for example, commercially, strategically, or financially right or wrong. Moreover, business ethics, used here, is not limited to only commercial businesses, but also to government organizations, pressure groups, not-for-profit businesses, charities, and other organizations. Until about 15 years ago very little was known about the topic of business ethics, but in recent years researchers have begun to rigorously study business ethics as a social science.

## **BUSINESS ETHICS: CYNICISM**

By definition, cynicism is an attitude of scornful or jaded negativity, especially a general distrust of the integrity or professed motives of others.

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