

Contents in Brief

Detailed Contents	vi	Chapter 23 Landlord and Tenant	376
Preface	xii	Chapter 24 Wills, Intestacy, and Trusts	394
Part 1 Ethics, Law, and the Judicial System	1	Case Study: Nylander v. Potter	412
Chapter 1 Ethics	2	Part 5 Negotiable Instruments	415
Chapter 2 Sources of the Law	19	Chapter 25 Nature and Kinds of Negotiable Instruments	416
Chapter 3 The Judicial Process	35	Chapter 26 Drafting and Negotiating Instruments	429
Chapter 4 Criminal Law	53	Chapter 27 Holders in Due Course, Defenses, and Liabilities	447
Chapter 5 Tort Law	70	Chapter 28 Bank Deposits, Collections, and Depositor Relationships	462
Case Study: Planned Parenthood of Pennsylvania v. Casey	89	Case Study: Getty Petroleum Corp. v. American Express Travel Related Servs. Co., Inc.	477
Part 2 Contract Law	93	Part 6 Insurance, Secured Transactions, and Bankruptcy	479
Chapter 6 The Nature, Characteristics, and Status of Contracts	94	Chapter 29 The Nature of the Insurance Contract	480
Chapter 7 Offer and Acceptance	107	Chapter 30 Mortgages and Other Security Devices	497
Chapter 8 Mutual Assent and Defective Agreement	123	Chapter 31 Bankruptcy and Debt Adjustment	514
Chapter 9 Contractual Capacity	138	Case Study: Metropolitan Life Insurance Company v. Pressley	530
Chapter 10 Consideration	150	Part 7 Agency and Employment	533
Chapter 11 Legality	165	Chapter 32 The Principal and Agent Relationship	534
Chapter 12 Form of the Agreement	181	Chapter 33 Operation and Termination of Agency	552
Chapter 13 Third Parties in Contract Law	199	Chapter 34 Employment Law	567
Chapter 14 Discharge and Remedies	213	Chapter 35 Labor-Management Relations Law	589
Case Study: Wilcox v. Trautz	230	Case Study: Stephenson v. Litton Systems, Inc.	604
Part 3 Sales and Consumer Protection	233	Part 8 Business Organization and Regulation	607
Chapter 15 Sales and Leases of Goods	234	Chapter 36 Sole Proprietorships and Partnerships	608
Chapter 16 Title and Risk of Loss in Sales of Goods	252		
Chapter 17 Performance and Breach of the Sales Contract	266		
Chapter 18 Warranties and Product Liability	282		
Chapter 19 Consumer Protection	301		
Case Study: Denny v. Ford Motor Co.	319		
Part 4 Property	321		
Chapter 20 Personal Property	322		
Chapter 21 Bailments	337		
Chapter 22 Real Property	356		

Contents in Brief

Chapter 37 Corporate Formation and Finance	628	Chapter 42 Alternative Dispute Resolution	729
Chapter 38 Corporate Management and Control	646	Chapter 43 International Law	746
Chapter 39 Government Regulation of Corporate Business	663	Case Study: Lama v. Borrás	763
Case Study: Gries Sports Enterprises, Inc., v. Cleveland Brown Football Co., Inc.	683	Appendix A U.S. Constitution	767
Part 9 Emerging Trends and Issues	687	Appendix B Uniform Commercial Code (Abridged)	775
Chapter 40 Professional Liability	688	Glossary	834
Chapter 41 Computers, E-Commerce, and the Law	706	Case Index	856
		Index	859

Contents

Preface	x
---------------	---

Part 1 Ethics, Law, and the Judicial System 1

Chapter 1 Ethics	2
Ethical and Legal Dilemmas	3
Ethical Character Traits	4
Value Systems and Ethical Decision Making	7
Causes of Unethical Conduct	9
Developing an Ethical Lifestyle	11
The Relationship Between Law and Ethics	13
Chapter 2 Sources of the Law	19
The Purpose of the Law	20
Constitutional Law	21
Statutory Law	26
Court Decisions	27
Administrative Regulations	30
Chapter 3 The Judicial Process	35
The Court System	36
Civil Procedure	41
Criminal Procedure	46
Chapter 4 Criminal Law	53
Definition and Classes of Crimes	53
Elements of a Crime	56
Specific Crimes	58
Defenses to Criminal Liability	62
Chapter 5 Tort Law	70
Tort Law Defined	71
Intentional Torts	71
Negligence	76
Strict Liability	80
Remedies for Torts	81
Tort Reform	82

Case Study: Planned Parenthood of Pennsylvania v. Casey	89
--	----

Part 2 Contract Law 93

Chapter 6 The Nature, Characteristics, and Status of Contracts	94
The Nature of Contracts	95
Contractual Characteristics	99
Status of Contracts	103
Chapter 7 Offer and Acceptance	107
Requirements of an Offer	107
Acceptance of an Offer	111
Revocation of an Offer	117
Option Contracts and Firm Offers	119
Chapter 8 Mutual Assent and Defective Agreement	123
Mutual Assent	124
Fraud and Misrepresentation	126
Mistake	131
Duress and Undue Influence	132
Chapter 9 Contractual Capacity	138
Minors' Rights and Obligations	139
Contractual Capacity of Minors	142
Persons with Mental Impairments and Persons Drugged or Intoxicated	146
Chapter 10 Consideration	150
Requirements of Consideration	151
Types of Consideration	153
Problems with Consideration	155
Agreements Without Consideration	157
Chapter 11 Legality	165
Agreements to Engage in Unlawful Activity	166
Agreements Contrary to Public Policy	170
Consequences of Illegality	176

Contents

Chapter 12 Form of the Agreement	181
Oral Contracts	181
The Statute of Frauds	182
Special Rules for Written Contracts	188
Formalities of Construction	192

Chapter 13 Third Parties in Contract Law	199
Contracts and Third Parties	199
Assignment of Contracts	201
Novation	208

Chapter 14 Discharge and Remedies	213
Discharge by Performance	213
Discharge by Nonperformance	218
Remedies	222

Case Study: Wilcox v. Trautz	230
---	-----

Part 3 Sales and Consumer Protection **233**

Chapter 15 Sales and Leases of Goods	234
The Sale and Lease of Goods	234
The Sales Contract	237
Special Rules for Sales Contracts	238
Form of Sales Contracts	242
Auction Sales	246
Bulk Transfers	247

Chapter 16 Title and Risk of Loss in Sales of Goods	252
Void and Voidable Title	252
The Passage of Title and Risk of Loss	255
Sales with Right of Return	261
Insurable Interest	262

Chapter 17 Performance and Breach of the Sales Contract	266
Obligations of the Parties	266
Tender of Performance	267
Buyer's Rights and Duties upon Delivery of Improper Goods	270

Seller's Right to Cure Improper Tender	273
Breach of Contract	274

Chapter 18 Warranties and Product Liability	282
Express Warranties	282
Implied Warranties	286
Warranty of Title	289
Exclusion of Warranties	290
Duty to Notify Seller of Defective Product	292
Privity Not Required	292
Product Liability	294

Chapter 19 Consumer Protection	301
Federal and State Consumer Protection Laws	301
Unfair or Deceptive Acts or Practices	303
The FTC Trade Regulation Rules	305
Consumer Product Safety Act	308
Consumer Leasing Act	309
Consumer Credit Laws	310

Case Study: Denny v. Ford Motor Co.	319
--	-----

Part 4 Property **321**

Chapter 20 Personal Property	322
Personal Property	322
Intellectual Property	327

Chapter 21 Bailments	337
Bailments of Personal Property	337
Principal Types of Bailments	339
Burden of Proof	343
Special Bailments	344

Chapter 22 Real Property	356
The Nature of Real Property	356
Easements	361
Estates in Real Property	363
Co-ownership of Real Property	364

Methods of Acquiring Title to Real Property	367
Zoning Laws	370
Eminent Domain	370
Chapter 23 Landlord and Tenant	376
The Landlord-Tenant Relationship	376
Leasing Versus Other Relationships	377
Types of Leasehold Interests	378
The Lease Agreement	380
Landlord's Duties	384
Tenant's Duties	387
Tort Liability	388
Eviction Proceedings	388
Chapter 24 Wills, Intestacy, and Trusts	394
Testamentary Disposition of Property	394
Testacy	395
Intestacy	403
Settling an Estate	404
Trusts	406
Case Study: Nylander v. Potter	412
Part 5 Negotiable Instruments	415
Chapter 25 Nature and Kinds of Negotiable Instruments	416
Purpose of Negotiable Instruments	416
Kinds of Negotiable Instruments	417
Parties to Negotiable Instruments	423
Transferring Instruments	424
Chapter 26 Drafting and Negotiating Instruments	429
The Concept of Negotiability	429
Drafting Negotiable Instruments	430
Negotiation by Indorsement	433
Obligation of Indorsers	438
Multiple Payees, Missing, and Forged Indorsements	441
Chapter 27 Holders in Due Course, Defenses, and Liabilities	447
Holder in Due Course	447
Personal Defenses	450
Real Defenses	454
Liability of the Parties	457
Chapter 28 Bank Deposits, Collections, and Depositor Relationships	462
Bank Deposits and Collections	462
Electronic Fund Transfers	463
The Bank-Depositor Relationship	466
Case Study: Getty Petroleum Corp. v. American Express Travel Related Servs. Co., Inc.	477
Part 6 Insurance, Secured Transactions, and Bankruptcy	479
Chapter 29 The Nature of the Insurance Contract	480
The Insurance Contract	480
Types of Insurance	482
Form of the Insurance Contract	489
Cancellation of Insurance Policies	490
Chapter 30 Mortgages and Other Security Devices	497
Necessity of Security Devices	498
Real Property as Security	498
Personal Property as Security	505
Chapter 31 Bankruptcy and Debt Adjustment	514
Bankruptcy and the Constitution	514
Ordinary Bankruptcy—Chapter 7, Bankruptcy Code	515
Reorganization—Chapter 11, Bankruptcy Code	522
Family Farmer Debt Adjustment—Chapter 12, Bankruptcy Code	524

Contents

Adjustment of Debts—Chapter 13, Bankruptcy Code	526
Case Study: Metropolitan Life Insurance Company v. Pressley	530
Part 7 Agency and Employment	533
Chapter 32 The Principal and Agent Relationship	534
Nature of the Agency Relationship	535
Agency as Distinguished from Other Relationships	535
Principles of Agency Law	542
Creation of the Agency Relationship	545
Chapter 33 Operation and Termination of Agency	552
Scope of the Agent's Authority	552
The Agent's Obligations to a Principal	555
The Principal's Obligations to an Agent	558
Termination of Agency	560
Chapter 34 Employment Law	567
The Employment Relationship	568
Laws Regulating Employment Conditions	574
Worker Benefits	576
Equal Employment Opportunity	580
Chapter 35 Labor-Management Relations Law	589
Source of Labor-Management Relations	589
Major Federal Labor Legislation	590
Collective Bargaining Process	597
Right to Strike in the Public Sector	598
Case Study: Stephenson v. Litton Systems, Inc.	604
Part 8 Business Organization and Regulation	607
Chapter 36 Sole Proprietorships and Partnerships	608
Sole Proprietorships	609
Partnership Characteristics	610
Partnership Formation	611
The Acquisition of Partnership Property	614
Partner Rights, Duties, and Liabilities	615
Dissolution of Partnership	618
The Revised Uniform Partnership Act	620
Registered Limited Liability Partnerships	621
Limited Partnerships	622
Chapter 37 Corporate Formation and Finance	628
The Nature of the Corporation	629
Types of Corporations	630
Corporate Formation	632
Defective Incorporation	637
Piercing the Corporate Veil	638
Corporate Financing	640
Chapter 38 Corporate Management and Control	646
Management of the Corporation	647
Corporate Control	649
Management Responsibilities	655
Other Shareholder Rights	657
Management of a Limited Liability Company	658
Chapter 39 Government Regulation of Corporate Business	663
Business and the Constitution	664
Securities Regulation	665
Antitrust Regulation	667
Regulation of Corporate Expansion	669

Contents

Other Forms of Regulation	673	Chapter 42 Alternative Dispute Resolution	729
The Government and Corporate Dissolution	677	A Primer on Alternative Dispute Resolution (ADR)	730
Dissolution of a Limited Liability Company	678	ADR Techniques	733
Case Study: Gries Sports Enterprises, Inc., v. Cleveland Browns Football Co., Inc.	683	Proactive ADR	738
Part 9 Emerging Trends and Issues	687	Chapter 43 International Law	746
Chapter 40 Professional Liability	688	National and International Standards	747
The Liability of Accountants	689	International Law and the United Nations	750
The Liability of Architects and Attorneys	695	International Law and Trade	753
The Liability of Health Care Providers	698	The European Union	755
Hospital Liability	701	Case Study: Lama v. Borrás	763
Chapter 41 Computers, E-Commerce, and the Law	706	Appendix A U.S. Constitution	767
Computer Law	707	Appendix B Uniform Commercial Code (Abridged)	775
The Ownership of a Computer Program	709	Article 1: General Provisions	775
Contract Law and the Computer	714	Article 2: Sales	779
E-Commerce and the Law	717	Article 2A: Leases	797
Privacy Law and the Computer	723	Article 3: Negotiable Instruments	815
		Glossary	834
		Case Index	856
		Index	859



Part 1

*Ethics, Law,
and the
Judicial System*

Chapter 1
Ethics

Chapter 2
Sources of the Law

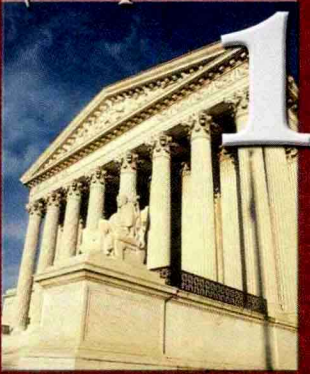
Chapter 3
The Judicial Process

Chapter 4
Criminal Law

Chapter 5
Tort Law

Case Study:
Planned Parenthood of
Pennsylvania v. Casey

Chapter



1-1 Ethical and Legal Dilemmas

Ethics and Morals ■ Ethical Decision Making Subjective Ethics

1-2 Ethical Character Traits
Honesty ■ Fairness ■ Compassion
■ Integrity

1-3 Value Systems and Ethical Decision Making
Determining Values ■ Ethical Character Traits and Values ■ Handling Conflicts of Duty

1-4 Causes of Unethical Conduct
Self-Interest ■ Personal Carelessness ■ Imagined Harmlessness

1-5 Developing an Ethical Lifestyle
Codes of Ethical Conduct ■ Individualized Approaches

1-6 The Relationship Between Law and Ethics
The Need for Law in Our Society
■ Ethical and Legal Harmony

Ethics



THE OPENING CASE: “To Test or Not to Test”

Dr. Laura Thompson is a biochemist in charge of research and development for Thayer-Baumann Pharmaceuticals. Her research team has developed a drug known as biomiocin, a treatment for several serious blood diseases. Once biomiocin is on the market, it will save several thousand lives per year. Moreover, the development of biomiocin has occurred at precisely the right time for Thayer-Baumann. The early marketing of the drug will save an ailing company that would otherwise have to close several plants and distribution centers, thus eliminating 5,000 jobs. On September 9, Dr. Thompson received word that the FDA wants another round of tests before approving the drug for sale. Proper testing will require more than ten months, thus delaying the initial marketing of the drug and destroying Thayer-Baumann's financial base. Dr. Thompson, however, sees an alternative. By using several shortcuts and by falsifying time records, she can have a report ready in half that time. Moreover, since she is convinced that biomiocin is safe and effective, and since she believes that the extra tests are a waste of time, she is certain that she can convince her research team to go along with her abbreviated testing program. As you read the chapter, consider all the angles here and see if you can determine the “right” course of action for Thompson.

CHAPTER OUTCOMES

1. Distinguish between ethics and morals.
2. Explain subjective ethics.
3. Define the ethical character traits—honesty, fairness, compassion, and integrity.
4. Determine how values are created.
5. Recognize how to solve conflicts of duty.
6. Identify the causes of unethical behavior.
7. Describe the place of codes of conduct in ethical decision making.
8. Differentiate among the various individualized approaches to developing an ethical lifestyle.
9. Explore the need for law in our society.
10. Explain how the law and ethics are usually in harmony with one another.

1-1 Ethical and Legal Dilemmas

Ideally, ethical and legal principles should coincide with one another. Realistically, however, they often do not. Ethics and the law have a common goal. They both set down principles that establish the difference between right and wrong. Perhaps the sharpest difference between the two is that legal principles tell people the right way to act in order to live with others, whereas ethical principles tell people the right way to act in order to live with their own consciences. Since people often disagree on the source of ethical principles, both the formulation and application of such principles tend to be hotly debated. In contrast, because the law is the direct result of the traditions and structure of a particular government, the source of the law is not open to debate. Nevertheless, while the formulation of legal principles is not debatable, the application of those principles often is. This chapter explores the sources and the application of ethical principles. The next chapter explores the sources of the law.

Ethics and Morals

Technically, ethics and morals can be distinguished from one another. **Morals** are the values that govern a society's attitude toward right and wrong. Thus, a person who lives by certain social values is said to be moral; one who does not is immoral; and one who does not care one way or the other is amoral. **Ethics**, in contrast, attempt to develop a means for determining what those values ought to be and for formulating and applying rules in keeping with those values. For the sake of simplicity, however, the two terms, morals and ethics will be used here interchangeably to encompass this latter concept.

Ethical Decision Making

Ethical decisions are made in a variety of ways. Some people say that they do not think about ethics, but instead act on instinct when faced with a moral dilemma. Others say that they try to act rationally and eventually do what they believe is right. Still others state that they follow the rules that they learned in school, in their place of worship, or in their family setting. One way in which people solve ethical dilemmas is by applying subjective ethics.

Subjective Ethics

The rules of **subjective ethics** are that there are no objective or absolute standards of right and wrong. Rather, the standards used to distinguish between right and wrong change from circumstance to circumstance and from person to person. Thus, ethical rules are relative; that is, the rules vary depending upon the person's character, the situation, and countless other factors that may affect moral judgments. Since subjective ethics emphasizes the situational nature of ethical judgments, it is also called situational ethics.

Subjective ethics is often cited among Americans because the United States is a country of immigrants from a wide variety of cultures, many of which have different ethical values. Since many Americans want to respect these different cultures and their value systems, they often conclude that each culture is right within its own world, even when the values of that culture clash with another. Moreover, the United States was founded on a tradition

LawLINKS

The state bar of Alaska maintains an informative ethics web site at <http://www.alaska.net/~akctlib/ethop.htm>. The web site includes a series of opinions on legal ethics issued since 1990.

Did You Know?

The Greek word "ethos," which forms the root of the English word "ethics," means "character."

that allows, and even encourages, a free exchange of ideas, feelings, and opinions on all subjects, including ethics.

Example 1-1

Theodore Milavec is confused about the issue of assisted suicide. If he wishes to develop his own opinion about assisted suicide, he need only access the Internet or visit a local library or bookstore. There he will find a variety of opinions on both sides of the issue. He could also consult a law library for an historical view on the development of the law in relation to assisted suicide. The open market place of ideas found in the bookstore, the libraries, and on the Internet is made possible by a tradition that encourages the open availability of ideas from all points of view on most, if not all, subjects.

While many people may seem comfortable with subjective ethics, it is not without its difficulties. People who believe in subjective ethics are often heard to say, "Well, that person's values may be right for him or her but they are not right for me." Herein lies the primary stumbling block of subjective ethics. Ethical standards that change from person to person and from circumstance to circumstance really are not standards at all, but simply matters of opinion. As such, they are of no practical value in establishing a common ethical code of conduct. Clearly, we must find some other, more definite set of common standards.

Quickquiz 1-1 True or False?

1. Legal and ethical principles always coincide with one another.
 2. While the formulation of legal principles is not debatable, the application of those principles often is.
 3. Morals are the values that govern a society's attitude toward right and wrong.
-

1-2 Ethical Character Traits

In thinking about ethical standards, the names of some highly ethical individuals from history and fiction often come up. Interestingly enough, many people, when asked, frequently name many of the same individuals, including Abraham Lincoln, Albert Schweitzer, Buddha, Mother Theresa, Mohandas Gandhi, and Martin Luther King, Jr. Fictional characters often mentioned include Don Quixote, Nick Carraway, Sherlock Holmes, and Superman. We might ask ourselves what character traits these individuals have in common that make them remembered for their ethical principles. Table 1-1 provides an overview of these character traits.



Values vary by culture. What is valued in one culture may not be in another.

Honesty

Honesty is a character trait of a person who is open and truthful in his or her dealings with other people. Being honest is not always easy in every situation. Yet, most of us, if given the choice, would prefer to deal with an honest person rather than a dishonest one. To characterize someone as an honest person is one of the highest compliments. After all, it is no coincidence that Abraham Lincoln was nicknamed “Honest Abe.” Honesty also requires that people be faithful to their word. Thus, an honest person is not only one who tells the truth but also one who can be trusted to do what he or she has promised to do. Possessing an honest character and being truthful, however, are not always the same thing. A person can be truthful without being honest.

Table 1-1 Ethical Characteristics

Trait	Definition
Honesty	Honesty allows a person to be open and truthful with other people.
Fairness	Fairness allows a person to treat other people with justice and equality.
Compassion	Compassion allows a person to care for others.
Integrity	Integrity allows a person to do what is right regardless of personal consequences.

Example 1-2

Sarah Rueber has a copy of an important set of blueprints laying on her drafting table in her home workshop. When Karl Palmer asks her if she has the blueprints, she tells him that she does not. Strictly speaking, she is being truthful because the blueprints are not in her immediate possession. Yet, since the blueprints are on her drafting board at home and, therefore, under her control, and since she could produce them for Palmer if she wished, she is not being honest with him.

Fairness

The second character trait many ethical individuals share is **fairness**. A fair person is one who treats people with justice and equality. A person who is fair minded can also be trusted to deal evenhandedly not only with friends and family but also with his or her enemies. Since people want to be treated fairly, it stands to reason that they would admire a person who has the ability to exercise fairness. That is one reason why Martin Luther King, Jr., is admired by millions of people. His campaign against racial segregation was, in its most basic form, a demand for the fair treatment of everyone, not just minorities.

Compassion

The third ethical character trait is **compassion**. A compassionate person is one who is sympathetic to the suffering of others and has a desire to relieve it. Moreover, compassion is a respect for other individuals and their right to make their own decisions. Those who have compassion wish to preserve individual freedom and liberty. They are understanding of other people's shortcomings and forgiving of others' mistakes. Albert Schweitzer and Mother Theresa are well-known models of compassion. This is because they dedicated their lives to helping those in need.

Example 1-3

Acting with compassion often requires seeing things from another person's point of view. Sgt. Daniel Popson, the watch commander at the local police precinct, has had a lot of trouble with a patrol officer named Gary Salinger, who has had an impeccable work record for years. Recently, however, Salinger is consistently late for work, often leaves early, and frequently takes long, unwarranted breaks. Popson clearly has grounds for disciplining Salinger. Instead, he takes the time to discuss the situation with him. As a result, he discovers that Salinger's wife is very ill and that Salinger is the only one who can care for her. To help Salinger, Popson arranges a leave of absence to allow Salinger the time that he needs to care for his wife. By exercising compassion, Popson has helped another person, and has saved a valuable patrol officer for the city.

Integrity

The final ethical character trait is **integrity**. A person with integrity has the courage to do what is right regardless of personal consequences. People with integrity stand up for their convictions even if the majority of people is against them. They may find themselves at great personal risk and may often suffer great personal loss as a result. A person with integrity is one who has a high sense of duty to do what is believed to be right. Gandhi had been a relatively well-to-do attorney, when, because of his personal integrity and his deep sense of duty, he took up the cause of freedom and fought for the people of India. His unwavering dedication to the principle of nonviolent protest demonstrates his integrity.

Quickquiz 1-2 True or False?

1. A fair person is one who treats people with justice and equality.
 2. A compassionate person is one who is sympathetic to the suffering of others and has a desire to relieve that suffering.
 3. A person with integrity has the courage to do what is right regardless of personal consequences.
-

1-3 Value Systems and Ethical Decision Making

Some people argue that identifying ethical character traits avoids the essential problem of determining what the traits themselves mean. For instance, a compassionate person is good and kind, but this trait fails to explain what constitutes a good or a kind action. Similarly, the principle of fairness requires that people strive for justice and equality in their dealings with each other, but fails to explain what is or is not fair in a given situation. Part of this problem can be solved if we look at the concept of values.

Determining Values

Values is an elusive concept. There is a lot of talk in the media these days about getting back to “family values” and preserving “American values.” Yet, very few people who talk about these things take the time to define them in any meaningful way. This is unfortunate because, unless we define values, we will never be able to determine the difference between right and wrong. Values are a way to determine what things hold central importance to us. Obviously, some things, such as money, precious gems, and rare metals have importance, and therefore value. Yet their importance is not inherent in the things themselves. Rather the money, the gems, and the metals are valued because they can purchase goods and services that are necessary, first for the survival, and later for the comfort of living creatures. What we hold to be important, then, is *life* in general and *human life* in particular. Those qualities and traits that preserve life and promote the quality of that life form the basis of our value system.

Did You Know?

The Koran states that the equality of all humanity serves as the basic foundation for all human rights.



Family members help to determine our values.

Ethical Character Traits and Values

The ethical character traits that help to identify ethical persons—honesty, fairness, compassion, and integrity—help to preserve and promote the quality of life. An *honest* person, for instance, can be trusted to do what he or she has promised to do. If we could trust our politicians, military people, police officers, physicians, attorneys, bankers, and teachers, the quality of our lives would clearly be improved. Similarly, a person who is *fair minded* can be trusted to deal evenhandedly with everyone. Again, if we knew that all people would be treated fairly, the basic character of our lives would be enriched. Furthermore, people who are *compassionate* and understanding of one another help to promote the quality of human life. Finally, people with *integrity* know they have the duty to promote the rights of all others, especially the right to enjoy life.

Handling Conflicts of Duty

If an individual is faced with a genuine conflict of duties, the conflict can sometimes be solved quickly if the values involved are clearly unequal. For example, a conflict of duties would exist if an individual is faced with the need to lie in order to save an innocent person's life. On the one hand is the duty to preserve a human life, and on the other is the duty to tell the truth. However, the two duties are of unequal weight. Since the preservation of human life is the very foundation of our value system, the duty to preserve life is the higher duty in this case. Nevertheless, the need to lie in this situation does not make the lie morally correct. The lie remains morally wrong. However, given the fact that the only way to save an innocent life is to lie, the lie becomes the lesser of the two evils.

The solution to a conflict of duties is not as easily solved, however, when the two duties are of equal or nearly equal weight. What happens, for exam-

ple, when the duty to preserve one life conflicts with the duty to preserve another life? For instance, how does an officer in the military decide which of two towns his troops will protect from an enemy invasion if that officer has only enough fire power to save one of the towns? What happens if a police officer can save only one of several victims who have been taken hostage by terrorists? How does a surgeon decide which of her patients will receive a life-saving heart transplant?

In each of these situations, the person in question has an ethical dilemma. Each dilemma is caused by a conflict of two duties of equal weight. If an individual is faced with such a conflict, often the only way to resolve that dilemma is to ask the following question: Which course of action will produce the greatest good for the greatest number of people in the long run? While not foolproof, this approach may make some ethical decisions easier to make. Of course, this explanation does oversimplify the matter. Rarely is an individual faced with a dilemma that has only two choices. Often several alternative courses of action must be considered.

Example 1-4

Anne Gulden is a physician working in the Chicago area. Bruce Robertson, one of Gulden's patients, needs an immediate heart transplant. A second patient Judith Washington also requires such a transplant. When a heart becomes available, Gulden must decide which patient will undergo the transplant. On the surface this seems like the type of dilemma discussed above and, indeed, this might be the case. However, Gulden must consider all the alternatives that are available to her. For example, one of the two patients may be in greater need of an immediate operation, or the physician may know that one of the two patients is a likely candidate for the temporary use of an artificial heart. The point is that many, perhaps most, ethical dilemmas have more than one solution.

Quickquiz 1-3 True or False?

1. Identifying ethical character traits avoids the essential problem of determining what the traits themselves mean.
 2. Values will rarely help people determine what things hold central importance to them.
 3. When two duties carry equal weight, a conflict involving those duties can be easily solved.
-

1-4 Causes of Unethical Conduct

Much of what has been said in this chapter is basic common sense. Most people do not need a lengthy treatise explaining the need for honesty, fairness, compassion, and integrity. Certainly, it does help to step back for a moment, as we have done here, and think about these four character traits and to remind ourselves why we value them so highly. However, most people know the difference between right and wrong. Why, then, do so many people

act unethically, so often? People act unethically because they are motivated by self-interest, because they are careless, and because they feel that they are doing no harm. Table 1-2 presents a brief outline of these causes.

Self-Interest

Many people act unethically because they place their own interest first. For instance, most people know the right thing to do is to answer honestly when asked a question. However, if the answer is embarrassing, threatening, or just too revealing, many people will lie simply to protect themselves. Similarly, most people know that the fair thing to do is to allow everyone to have an equal chance at getting ahead in the workplace. Yet, many people will take unfair advantage of their coworkers if they know it will mean a raise or a promotion. Most people know that the compassionate thing to do is to donate money to charity. Many people, however, will not do so because they know that such contributions will hurt their personal bank accounts. Most people admire others who demonstrate their integrity by standing up for their convictions even at the risk of great loss. Yet, many people are not willing to face those same risks themselves.

Personal Carelessness

A number of individuals act unethically simply because they have developed the habit of being unethical. For example, people who have “borrowed” supplies and equipment from the workplace may continue to do so merely because it is something they have always done. Or a businessperson may continue to file false insurance claims because he or she has profited from those false claims for years. For such people, acting unethically is more than just a bad habit; it is a way of life, which, if allowed to continue, may eventually become irreversible.

Imagined Harmlessness

We have all heard people defend unethical behavior by explaining that “everyone does it.” The rationalization behind such an argument is often based on the mistaken belief that no one is harmed by the unethical activities of one individual.

Table 1-2 Causes of Unethical Conduct

Cause	Explanation
Self-interest	Placing one's own interest ahead of the interests of others often results in unethical behavior.
Personal carelessness	Unethical behavior is habit forming. Over a period of time a person may not be aware of the harm caused by his or her own behavior.
Imagined harmlessness	The more unethical behavior becomes commonplace, the easier it becomes to take the short-sighted view and say “everyone does it.”