

CHAPTER II

Ethics

CHAPTER OBJECTIVES

1. *Increase awareness of the connection between ethics and law.*
2. *Encourage students to understand why there are different ways of thinking about moral questions.*
3. *Build on themes addressed in the philosophy of law discussion in Chapter I (especially natural law, utilitarianism, and analytical positivism).*
4. *Encourage students to think about current highly controversial moral issues (such as same-sex marriage, abortion, physician-assisted suicide, medical marijuana, and capital punishment) from differing ethical perspectives.*

TRUE/FALSE

1. Student's may encounter ethical issues in their academic lives.
ANS: T REF: 58 OBJ: LO1
2. Normative ethicists focus on fundamental characteristics of moral conduct.
ANS: F REF: 59 OBJ: LO2
3. Modern ethicists are primarily focused on solving abstract, theoretical problems.
ANS: F REF: 59 OBJ: LO2
4. If individuals defy the law for just reasons, they are still subject to prosecution.
ANS: T REF: 59 OBJ: LO1
5. In American society, law is expected to play the primary role in promoting ethical behavior.
ANS: F REF: 60 OBJ: LO4
6. Utilitarians believe that decisions about whether laws are good or bad should be determined without taking into consideration the consequences to other people.
ANS: F REF: 60 OBJ: LO3
7. Natural law and positivist philosophers disagree about whether unjust laws should be disobeyed.
ANS: T REF: 61 OBJ: LO3
8. Martin Luther King Jr. revealed himself as a positivist in his letter from Birmingham Jail.

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ANS: F REF: 61 OBJ: LO1

9. Martin Luther King Jr. believed that people did not have to obey laws enacted by governments if these laws were in conflict with “moral law.”

ANS: T REF: 61 OBJ: LO2

10. The U.S. Supreme Court has a history of discussing ethical principles when interpreting the Due Process Clause.

ANS: T REF: 62 OBJ: LO1

11. Moral rules and legal rules rarely overlap.

ANS: F REF: 62 OBJ: LO1

12. There is a clear line dividing individual privacy rights and state police power.

ANS: F REF: 67 OBJ: LO1

13. Recently, legislatures and courts have used law to influence businesses to consider the societal consequences of their actions.

ANS: T REF: 72 OBJ: LO1

14. When judicial integrity is at issue, the U.S. Constitution has no provision for righting a procedural wrong.

ANS: F REF: 78 OBJ: LO1

15. Paralegals follow the same ethical rules as attorneys.

ANS: F REF: 83 OBJ: LO1

MULTIPLE CHOICE

1. What was the significance of the *Gregg v. Georgia* decision?
- That capital punishment was not inherently cruel and unusual punishment
 - That an ethical review is necessary for all statutes related to criminal law
 - That the Court could not, in deciding the case, address issues of ethics
 - None of the above is correct.

ANS: B REF: 53 OBJ: LO2

2. Metaethical scholars
- focus on practical questions.
 - are less concerned with developing comprehensive theories.
 - tend to avoid abstract issues.
 - None of the above is true.

ANS: D REF: 59 OBJ: LO2

3. Ethicists study

- a. moral responsibility.
- b. knowledge.
- c. correct reasoning.
- d. none of the above.

ANS: A

REF: 59

OBJ: LO2

4. If one believes in natural law, one believes

- a. that nature is our guide to right and wrong.
- b. that science is our guide to right and wrong.
- c. that there are intuitive notions of right and wrong.
- d. None of the above is correct.

ANS: C

REF: 59

OBJ: LO3

5. If you believe that you should just “know” what is right and wrong, you are

- a. a natural law philosopher.
- b. an egoist.
- c. a utilitarian.
- d. None of the above is correct.

ANS: A

REF: 59

OBJ: LO3

6. When can one determine whether an action is “good or bad”?

- a. Philosophers disagree that this can be conclusively proven.
- b. By looking at the future implications of an action
- c. By looking backwards to identify relative costs and benefits
- d. None of the above is correct.

ANS: A

REF: 60

OBJ: LO3

7. Immanuel Kant was a(n)

- a. natural law philosopher.
- b. teleologist.
- c. utilitarian.
- d. None of the above is true.

ANS: D

REF: 60

OBJ: LO2

8. Right and wrong can be scientifically proven.

- a. Philosophers generally agree this is true.
- b. Philosophers disagree whether this is true.
- c. This is not a question that philosophers generally consider.
- d. None of the above is true.

ANS: B

REF: 59, 60

OBJ: LO3

9. What sorts of organizations create ethical codes?

- a. Business organizations
- b. Bar and Paralegal associations
- c. Sporting teams
- d. All of the above is true.

ANS: D

REF: 60

OBJ: LO1

10. Which of the following would evaluate a law that permitted the imposition of capital punishment based upon the concept of a universally accepted moral duty?

- a. Teleological philosophers
- b. Utilitarian philosophers
- c. Deontologists
- d. Egoists

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ANS: C REF: 60 OBJ: LO3

11. Zoe blatantly cheated on her test. However, everyone else in the class was cheating as well and the teacher did not seem to care. Zoe cheated to bring the problem to the teacher's attention. Which of the following would a Utilitarian believe about this situation?
- Zoe should be evaluated based on his reason for cheating and should possibly avoid punishment.
 - Zoe should be expelled to set an example to other students.
 - Zoe should not be punished because she has the right to act in her own self-interest.
 - None of the above is correct.

ANS: B REF: 60 OBJ: LO3

12. An analytical positivist believes which of the following?
- Laws are neither good nor bad.
 - Laws establish norms of behavior.
 - Laws create the baseline for behavior, not the highest goals.
 - All of the above are correct.

ANS: D REF: 60 OBJ: LO3

13. Martin Luther King's Birmingham Jail letter articulated which philosophical school of thought?
- Logical
 - Metaphysics
 - Natural law
 - Epistemology

ANS: C REF: 61 OBJ: LO2

14. The U.S. Constitution reflects which philosophical view?
- The utilitarian view
 - The view of a natural law philosopher
 - The analytical positivist view
 - The view of an egoist

ANS: C REF: 61 OBJ: LO3

15. Federal and state judges
- always consider moral views when determining their decisions.
 - sometimes consider moral views when determining their decisions.
 - are prohibited from considering moral views when determining their decisions.
 - rarely consider moral views when determining their decisions.

ANS: B REF: 62 OBJ: LO1

16. Why are punishments for crimes like murder, rape, and robbery more stringent than for white collar crimes like forgery?
- Because murder, rape, and robbery impact more people.
 - Because murder, rape, and robbery violate both legal and moral principles.
 - Because white collar crimes happen in business with more privileged people.
 - Because white collar crimes are harder to detect.

ANS: B REF: 62 OBJ: LO1

17. What reasons did the Florida District Court of Appeal give for its conclusion that the common law crime of misprision of a felony should not be judicially made part of Florida substantive criminal law?
- a. Misprision was created prior to the existence of professional police officers.
 - b. American prosecutors had largely rejected misprision because it was not suited to contemporary society.
 - c. Floridians don't want people to be criminally prosecuted for choosing to "mind their own business."
 - d. All of the above are true.

ANS: D

REF: 65

OBJ: LO1

18. Traditionally, persons have not been required to intervene to come to the aid of another unless
- a. a statutory duty exists.
 - b. a contractual duty exists.
 - c. a common law duty exists.
 - d. All of the above are true.

ANS: D

REF: 66

OBJ: LO1

19. A Good Samaritan law
- a. makes it a crime for a bystander to fail to come to the aid of another in serious peril if to do so would not put the bystander in harm's way.
 - b. rewards persons who render assistance to strangers.
 - c. protects persons who refuse to assist another individual who is in peril.
 - d. limits the duty that strangers owe to victims of violent crimes.

ANS: A

REF: 66

OBJ: LO1

20. What gives states the right to enact laws protecting, among other things, morals?
- a. The U.S. Constitution
 - b. The Magna Carta
 - c. Police Power
 - d. The Commerce Clause

ANS: C

REF: 67

OBJ: LO1

21. In *Lawrence v. Texas*, the court determined that
- a. people are entitled to their privacy, so private conduct cannot be a crime.
 - b. people are subject to the norms of common morality, so private conduct can be criminalized.
 - c. where public morality is different from the law, the voters should decide which standard should be followed.
 - d. None of the above is correct.

ANS: A

REF: 67–69

OBJ: LO1

22. Which body generally enacts standards of professional conduct for attorneys?
- a. Bar Associations
 - b. State legislatures
 - c. The U.S. Supreme Court
 - d. State supreme courts

ANS: D

REF: 78

OBJ: LO1

23. What type of attorney conduct is generally covered by rules of professional ethics?
- a. Competency
 - b. Confidentiality
 - c. Conflict of interest
 - d. All of the above are correct.

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ANS: A

REF: 78

OBJ: LO1

24. Why are judges generally willing to recuse themselves when there is even a perception of bias or conflict of interest?
- Because all judges are strongly ethical people
 - Because they must depend on the other branches of government to enforce their decisions
 - Because they will automatically lose their position as judge if they don't
 - None of the above is correct.

ANS: B

REF: 78

OBJ: LO1

ESSAY

1. Compare the arguments of Justices Stewart, Powell, and Stevens with those of Justices Brennan and Marshall in the case of *Gregg v. Georgia*. Which of the three opinions seemed most convincing to you and why?

ANS: Answers may vary.

REF: 54

OBJ: LO4

2. There are many morally controversial issues in the law today, including same sex marriage, abortion, legalization of marijuana, and capital punishment. Select one of these and explain how it might be treated differently by a positivist and a natural law adherent.

ANS: Answers may vary.

REF: 60

OBJ: LO4

3. Do law and ethics overlap? If so, how? If not, why not? Explain your response fully.

ANS: Answers may vary.

REF: 62

OBJ: LO1