

UNIT

1

UNIT OVERVIEW

Laws generally reflect and promote the values of our society. Our legal system is intended to protect the welfare, safety, and diverse interests of individuals and society more generally. Laws that protect our freedoms, encourage positive interaction with others, and prohibit harmful behavior help improve our society. In this unit, you will study:

- Ethics and the law
- The court system
- Criminal law
- The law of torts



Knowing About the Law



YOUR *Justice Journal*

Birthday Bonus You received a popular computer game for your birthday. When your friends found out, they asked you to burn a copy for them on your CD writer.

In your Justice Journal, write about the legality of copying the program, the ethical dilemma you face, and what you would tell your friends.

POWER READING STRATEGIES

To get the most out of your reading: **PREDICT** what the section will be about.

CONNECT what you read with your own life.

QUESTION as you read to make sure you understand the content.

RESPOND to what you've read.

Ethics and the Law

Understanding Business and Personal Law *Online*



Chapter Overview Visit the *Understanding Business and Personal Law* Web site at ubpl.glencoe.com and click on Chapter 1: Ethics and the Law—Chapter Overviews to preview the chapter information.

The Opening Scene

Starting in this chapter, you will meet Jamila and Trai, who attend New Hope High School. They are having a discussion in their sixth-period law class, taught by Mrs. Ovelia Martinez.

A Debate about Ethics

MRS. MARTINEZ: Okay, class, let's get settled. The bell rang two minutes ago. Our first order of business today involves something a little out of the ordinary. I think many of you will find it interesting. I need volunteers! The principal wants to know if anyone in this class wants to volunteer for peer mediation.

TRAI: I volunteer Jamila.

JAMILA: Peer what?

MRS. MARTINEZ: Very funny, Trai. Haven't you heard of peer mediation, Jamila? It is when students help decide disputes. A three-day training program is scheduled next weekend at Centerburg High.

TRAI: A three-day training program? Does that mean I can miss three days of school if I volunteer to be a peer mediator? If yes, you can count me in! I could use a break from school.

MRS. MARTINEZ: If I were you, Trai, I wouldn't rush into this. The program's not a vacation—you'll be involved in some extensive training. It's not easy to be a peer mediator. Peer mediators have to make complicated decisions. Plus, it's not easy to make fair decisions when you're dealing with friends and classmates.

TRAI: Who needs training? All you have to know is the difference between right and wrong.

JAMILA: Well, not everyone knows the difference.

TRAI: That's not true. Your religion tells you the difference.

JAMILA: Not everyone is religious. You can't assume that every family is like yours, Trai.

FELICIA: It depends on how you're raised. Your parents should tell you what's right and wrong.

PEGGY: My Dad says everything I do is wrong.



DANIEL: When I do something wrong, I get a queasy feeling in my stomach.

TRAI: That's your lunch.

PEGGY: I thought right and wrong come from the Constitution—if it says something is wrong, then it's wrong.

MRS. MARTINEZ: You are partially right, but laws change. Does that mean right and wrong change?

DANIEL: Maybe right and wrong are just a matter of opinion.

JAMILA: If that's true, then maybe morality is no big deal.

MRS. MARTINEZ: Oh, I think it's a very big deal. Judging from some previous class discussions we've had, I think that you think morality is a big deal, too.

TRAI: I agree with Mrs. Martinez. For instance, I bet she would never punish somebody for something they didn't do. Isn't that right, Mrs. Martinez?

MRS. MARTINEZ: Of course. That would be wrong.

TRAI: Sweet!

MRS. MARTINEZ: Why?

TRAI: Because I didn't do my homework.

What Are the Legal Issues?

1. What is the source of morality and ethics?
2. Should ethical decisions be based on a person's feelings or opinions?
3. Do ethical and legal issues ever conflict?
4. Do ethical standards ever change?
5. Does the law ever change in the United States?

Defining Ethics

What You'll Learn

- How ethical decisions are made
- When to apply the greatest good principle
- When to apply the Golden Rule principle
- How to explain the nature of ethical character traits
- When law relates to ethics
- How to explain the importance of law
- How ethics and the law might sometimes conflict

Why It's Important

Learning how to apply ethical principles will help you make ethical decisions.

Legal Terms

- morality
- ethics
- honesty
- justice
- compassion
- integrity
- law

How Ethical Decisions Are Made

Determining the difference between right and wrong can be difficult. Individuals use different methods to choose the right thing to do in any given situation. Some people follow their conscience. Others just make certain that they always follow the rules. Some people look to religious teachings or professional codes of conduct. Others do as their parents taught them.

Defining morals and ethics can be difficult. **Morality** involves the values that govern a society's attitude toward right and wrong. **Ethics**, in contrast, are the means for determining what a society's values *ought* to be. In this text, the words *ethics* and *morality* will be used to encompass both ideas.

Throughout your life, you will face many ethical problems. Adopting a consistent ethical standard can help you deal with big or small moral problems, from deciding how much to tip a waiter to whether to support military spending.

Feelings and Opinions

In The Opening Scene, Daniel said that he knows he is doing something wrong when he gets a queasy feeling in his stomach. Later he suggests that right and wrong may be a matter of opinion. Both ideas imply that right and wrong can change depending on a person's feelings and opinions.

The view that ethics are based on changing feelings is popular in the United States. Our nation was founded on a tradition of tolerance and encourages a free exchange of ideas, feelings, and opinions on every subject, including ethics. In addition, the United States is a country of immigrants from a variety of cultures, many of which have different ethical values. In an attempt to respect all cultures, we often conclude that each culture is right, even when its values clash with others.

Some people, however, see a problem with this view. They argue that if ethics are just a matter of opinion or feelings, then no one can ever do anything that is wrong.

Example 1. Harriet comes from a poor family, but Frank's family is wealthy. Harriet believes that Frank has more money than he needs. When Frank leaves his backpack unattended, Harriet

steals it. She defends her actions by saying that she needs the backpack and that Frank can buy another one.

Most of us would say that Harriet's theft is wrong, even though she thought she was right. In fact, most of us would say she is wrong even if there were no law against theft. How do we make that decision? One way is to consider how an action helps or hurts people who are affected by it. As you will learn later in this chapter, Harriet's theft is wrong for two reasons: because it hurt Frank and because it set a bad example for others.

The Greatest Good

Most people are not hermits; instead, they live and work together in society. Because of these relationships, every action has the potential to affect other people. When a person does something that hurts innocent people, many others would judge that person's action as wrong. Such a decision is based on whether an action will create the greatest good for the greatest number of people. The more good that results, the more ethical the action.

Some people see the greatest good principle as a natural way to make ethical decisions. Others, however, believe it is often misapplied.

Example 2. Alame knows that 10 of her 20 classmates cheated on their last law exam. The teacher mistakenly believes that only one innocent student is guilty of cheating. Alame decides she will keep silent because doing so will ensure the greatest good for the greatest number of people.

Alame has misapplied the greatest good principle. Her failure to identify the 10 guilty students helps only the cheaters. Alame has also not considered the unethical example that her decision will set for the whole school or how the decision may affect the school's academic standards. In addition, Alame's decision to keep quiet is not fair to the innocent student, who must take the blame for the guilty parties.

TAKING ADVANTAGE

Some people believe that they can do as they please because ethical standards are flexible and changing.

Why would such an attitude cause difficulties in the world today?





A Global Perspective: Laws Around the World

Ghana

A law can be a decree, a prohibition, a statute, a treaty, or any rule or principle that must be obeyed. Laws can also take the form of traditions—unwritten laws or doctrines handed down from generation to generation. In Ghana, festivals are such an important part of tradition that citizens were once given time off from work for celebrations. Fines were even levied against those who did not attend festivals.

Ghana's most important festival, Odwira, celebrates the harvest of the yams. Forty days before the festival all noise, including singing and dancing, is banned. On each day, the event follows a strict set of rules or observances—from sweeping the path to the mausoleum of the past chiefs to an entire day of silence when the whole village honors its dead. The festival's highlight, the durbar, comes on the last day. All neighboring lesser chiefs march through town escorted by drummers and servants carrying guns and swords of gold. Then with singing, dancing, and feasting, the chiefs settle in the main square and pledge their respect and loyalty to the regional chief. Odwira is a time of thanksgiving, remembrance, and fellowship. Here's a snapshot of Ghana.

Geographical area	92,100 sq. mi.
Population	20,244,154
Capital	Accra
Legal System	based on English common and customary law
Language	English, African languages
Life expectancy	57



Critical Thinking Question What are some of the reasons that people celebrate traditions? What are some of your family or school traditions? For more information on Ghana, visit ubpl.glencoe.com or your local library.

The Golden Rule

As commonly expressed, the Golden Rule holds, “Do unto others as you would have them do unto you.” Many people prefer this rule because of its consistency and its universal appeal. Although some may identify the Golden Rule with Christianity, many religions embrace its principles. Buddhism, for example, states, “Hurt not others with that which pains thyself.”

The heart of the Golden Rule is empathy, which means putting yourself in another person's position. One way to test the morality of an action under the Golden Rule is to ask yourself, "Would I want to be treated this way?" If your answer is "no," then the action probably violates the Golden Rule. The principle of good sportsmanship that you learn in athletics is an outgrowth of the Golden Rule.

Example 3. Steve is the star pitcher on New Hope High School's varsity baseball team. During a tough inning against the Vikings of St. Joseph High, Steve gets frustrated and throws two pitches at the Vikings' best batter. When the umpire ejects Steve from the game, his coach does not argue. The coach tells Steve, "You were wrong. If it's right for you to throw at their batters, then it would be right for their pitchers to throw at our batters." Steve agrees that he would not want to be a pitcher's target.

Although the Golden Rule appears easy to follow, it can be difficult to fully understand. Some people may also abuse the rule by placing their own self-interest above the interests of others.

Example 4. Stanley was judging a debate held in social studies class. He gave Abia a better grade than she deserved because he knew she might be assigned to judge his debate. He wanted her to give him a good grade in return, regardless of whether he deserved it.

Even if he does not realize it, Stanley violated the spirit of the Golden Rule.

The Golden Rule or similar moral principle has been adopted by many of the world's major religions for two reasons. First, the rule respects the dignity and worth of individuals.

THE GOLDEN RULE

The Golden Rule has been adopted as a guiding moral precept by most of the major religions of the world. *Why would most religions find it comfortable to assimilate this moral precept?*





People want to be treated with respect. The Golden Rule says that those who wish to be treated with respect must first be respectful of others.

Example 5. Vanessa’s older sister, Mary Eileen, frequently goes into Vanessa’s room while she is not there and borrows clothing without permission. When Vanessa approaches Mary Eileen about this problem, Mary Eileen laughs it off and points out that she is the older sister, not the one who should take orders. This upsets Vanessa because she always asks permission before she takes something from her sister’s room.

Vanessa is expressing what most people consider the guiding principle of the Golden Rule—people want to be treated with respect.

The second reason the Golden Rule has been widely accepted is that, if followed properly, it can be applied in almost every situation. A rule that cannot be followed consistently may be abused by those who wish to justify their own immoral actions.

Example 6. Freida and her boyfriend, Emil, have just had a serious argument. To make Emil jealous, Freida tells Luke that she will go to the movies with him on Friday night, even though she has no intention of doing so. When Emil finds out about Freida’s date with Luke, he and Freida make up. Freida then breaks her date with Luke.

Freida has adopted a rule that says, “I will make promises to get what I want even if I don’t intend to keep those promises.” If everyone acted in this manner, people would refuse to trust the promises of others and a complete breakdown in society would result. A world without promises would be a world without commerce, credit, law, or social engagements.

Freida’s rule violates the spirit of the Golden Rule. Consider this opposite case.

Example 7. Esther likes Quon, who is Irma’s boyfriend. Although Esther would love to go to the homecoming dance with Quon, she promises Michael she will go with him. Then Quon breaks up with Irma and asks Esther to go to the dance. Even though she really wants to go with Quon, she says, “Sorry, I already promised Michael I’d be going with him.”

By keeping her word, Esther has adopted a principle that is consistent with the Golden Rule. If everyone acted in this manner, there would be a stable social order based on trust. Unfortunately, not everyone in our society abides by the principle of the Golden Rule.

Figure 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.

ETHICAL CHARACTERISTICS

People in history and fiction who have led exemplary lives often have key ethical traits.

Who are some famous people in history or fiction who display more than one of the named character traits?

Ethical Character Traits

In trying to determine what makes a person ethical, it helps to think of some ethical people. Many of the same names come up as answers: Abraham Lincoln, Albert Schweitzer, Mother Theresa, Mohandas Gandhi, and Martin Luther King, Jr. Fictional characters often mentioned include Don Quixote, Nick Carraway, Sherlock Holmes, Superman, and Wonder Woman. See Figure 1.1 for a list of the character traits that many of these people share. What character traits do those people have that make them ethical?

Honesty

A character trait of a person who is open and truthful in dealings with others is called **honesty**. We admire honesty because it is not easy to be honest in every situation. Most of us want to have honest friends and would like to be described by others as honest. An honest person is someone who tells the truth and can be trusted to keep his or her promises.

Justice

Another character trait ethical people share is **justice**. A person is said to be just if he or she treats people fairly and equally. Being just also means that a person is capable of treating everyone fairly, not just relatives and friends. Because most of us want to be treated with justice, it makes sense to treat others with justice as well. A just person will see that everyone gets his or her fair share of those things that are available to a group.

Compassion

Another trait attributed to ethical people is compassion. A person shows **compassion** when he or she is sympathetic to the difficulties of others and wants to help alleviate their problems. Compassion also involves a respect for other people and their right to make their own

It's a Question of Ethics

Confidentiality

The ethics of confidentiality are crucial in a business environment. Consumers expect that some information, such as credit card numbers, medical records, online passwords, and so on, will remain private. Businesses that fail to ensure that such information is kept safe, secure, and private risk driving customers away, or worse, face serious lawsuits.

Imagine that you operate a small business.

What kinds of precautions will you take to keep your customers information confidential?

decisions. Compassionate people try to understand other people's shortcomings and forgive their mistakes.

Integrity

A person of **integrity** is willing to do the right thing, regardless of personal consequences. People with integrity stand up for their convictions, even if the majority is against them. They are willing to risk many things for the sake of their moral convictions.

The Relationship between Ethics and Law

We have already considered three ways to make ethical decisions: relying on opinions and feelings, gauging the greatest good for the greatest number of people, and following the Golden Rule. If these techniques always reached the same ethical result, and if everyone always acted by those results, there would be no need for law. In the real world, however, some people engage in certain types of conduct that most people agree are immoral or wrong.

Why Law is Necessary

Ethics tell us what we ought to do. Law is needed because people do not always do what they should. **Law** is the system of rules of conduct established by the government of a society to maintain stability and justice. It defines the legal rights and duties of the people. Law also provides a means of enforcing these rights and duties through law enforcement agencies, courts, legislatures, and regulatory agencies.

Law cannot always make people or businesses do what is best. However, law does have the power to punish people or businesses for doing things that are wrong. Consider the contrast between honest or dishonest and legal or illegal business practices.

Example 8. World Cars, Inc. advertises its cars by saying “They’re the best on the market!” even though it knows that, while functional and safe, they are quite ordinary. Best Auto Corp., a competitor, uses a similar slogan, but its cars violate several safety laws and are frequently involved in accidents.

Although World Cars, Inc. is in an ethical sense dishonest, their business practices are legal; the law cannot force them to make what are literally the best cars on the market. However, the law can punish Best Auto Corp., not because its slogan is dishonest, but rather because its business practice (of making shoddy cars) is illegal.

Ethical and Legal Conflicts

Because law is made by people, it is imperfect. Legislators and judges bring their personal views on ethics and morality to the law-making process. As a result, ethics and law will sometimes conflict.

Example 9. Clark is the editor of the Richmond High *Herald*. Rita tells Clark that another student is selling drugs on campus, but asks Clark not to reveal her identity in his news article or to the police. Clark agrees. When the article appears and the student is arrested, Clark has to testify at the trial. He refuses to identify his source and is held in contempt of court.

Clark has obeyed the ethics of journalism by refusing to identify the source of his story. He has, however, violated the law by refusing to obey the order of a judge.

While the law and ethical and social attitudes sometimes conflict, they also influence each other in various ways. Changes in individual or social ethics often prompt changes in the law; conversely, changes in the law that originally face resistance may gradually become generally accepted. While our ethical and social attitudes sometimes change, having law is better than letting each individual set their own rules or handle disputes in haphazard or even violent ways.

Section 1.1 Assessment

Reviewing What You Learned

1. Explain how ethical decisions are made.
2. How can the greatest good principle lead to ethical decisions?
3. How can the Golden Rule lead to ethical decisions?
4. What are four ethical character traits?
5. Analyze the effects of unethical and illegal practices on a business and on consumers. What are some consequences of such behavior?
6. Contrast honest or dishonest with legal or illegal business practices. Why are ethics and the law not always the same?
7. How might ethics and the law conflict?

Critical Thinking Activity

Ethics and Law Why is it important to distinguish between actions that are ethical and actions that are not? Why is it important to distinguish between ethics and law?

Legal Skills in Action

Business Ethics Analyze the effects of unethical and illegal practices on a business and on consumers. Create a chart with two columns. In the left column, list several unethical and illegal practices. In the right column, list the effects of such practices on a business and on consumers.

Sources of Law

What You'll Learn

- How to recognize the various parts of the U.S. Constitution
- How to explain the components of common law
- How to explain the purposes of statutory law
- How to identify the various ways that courts make law
- How the government makes administrative regulations

Why It's Important

Learning how the law is made will help you make decisions regarding your legal responsibilities.

Legal Terms

- constitution
- common law
- precedent
- statutes
- legislature
- unconstitutional
- administrative law

The Five Main Sources of U.S. Law

In general, law in the United States today comes from five main sources. Although these sources may seem different, they all pertain to the law in some way. See Figure 1.2 for a summary of these sources.

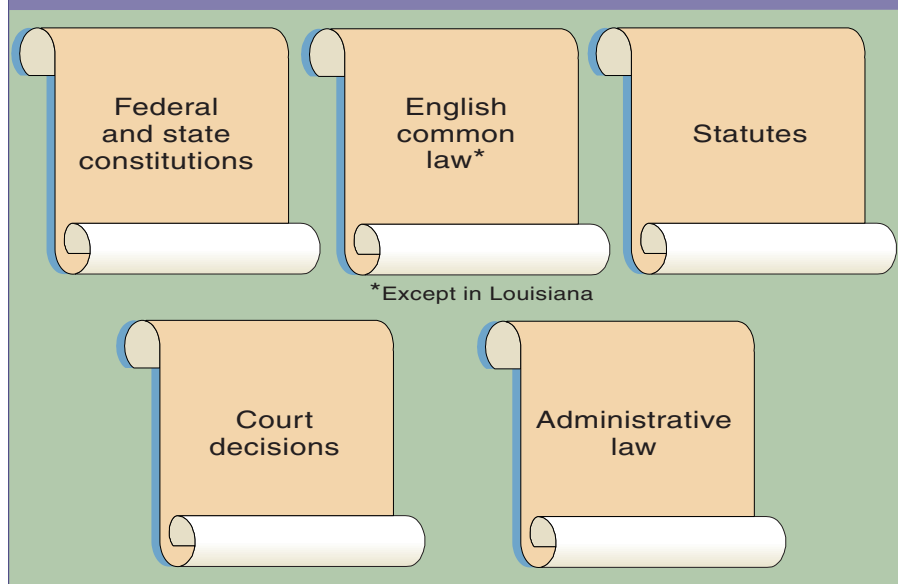
Constitutional Law

We have already defined law as rules of conduct established by the government of a society to maintain stability and justice. A country's **constitution** spells out the principles by which the government operates. In our country, the most fundamental law is the U.S. Constitution.

The Constitution of the United States Our Constitution sets forth the fundamental rights of citizens. It also defines the limits within

Figure 1.2

Sources of Today's Law



THE SOURCES OF U.S. LAW

The law as it exists in the United States today comes from five sources. *Which of these sources is shared by the federal and the state governments?*

Figure 1.3

United States Constitution

ARTICLE I. The Legislative Branch	Amendments to the Constitution
Section 1 Congress	1st Amendment (1791) Religious and Political Freedom
Section 2 House of Representatives	2nd Amendment (1791) Right to Bear Arms
Section 3 Senate	3rd Amendment (1791) Quartering Troops
Section 4 Elections and Meetings	4th Amendment (1791) Searches and Seizures
Section 5 Organization and Rules	5th Amendment (1791) Rights of Accused Persons
Section 6 Privileges and Restrictions	6th Amendment (1791) Right to Speedy, Fair Trial
Section 7 Passing Laws	7th Amendment (1791) Right to Jury Trial
Section 8 Powers of Congress	8th Amendment (1791) Bail and Punishment
Section 9 Powers Denied to the Federal Government	9th Amendment (1791) Rights Not Enumerated
Section 10 Powers Denied to the States	10th Amendment (1791) Powers Reserved to the States
ARTICLE II. The Executive Branch	11th Amendment (1798) Suits against States
Section 1 President and Vice President	12th Amendment (1804) Election of President and Vice President
Section 2 Powers of the President	13th Amendment (1865) Abolition of Slavery
Section 3 Duties of the President	14th Amendment (1868) Limitations on State Action
Section 4 Impeachment	15th Amendment (1870) Right to Vote
ARTICLE III. The Judicial Branch	16th Amendment (1913) Income Tax
Section 1 Federal Courts	17th Amendment (1913) Direct Election of Senators
Section 2 Jurisdiction of the Federal Courts	18th Amendment (1919) Prohibition
Section 3 Treason	19th Amendment (1920) Women's Suffrage
ARTICLE IV. Relations among States	20th Amendment (1933) "Lame Duck" Amendment
Section 1 Official Acts	21st Amendment (1933) Repeal of Prohibition
Section 2 Mutual Duties of States	22nd Amendment (1951) Limit on Presidential Terms
Section 3 New States and Territories	23rd Amendment (1961) Voting in the District of Columbia
Section 4 Federal Protection of States	24th Amendment (1964) Abolition of Poll Tax
ARTICLE V. The Amending Process	25th Amendment (1967) Presidential Disability and Succession
ARTICLE VI. National Supremacy	26th Amendment (1971) Eighteen-Year-Old Vote
ARTICLE VII. The Ratification of the Constitution	27th Amendment (1992) Instant Congressional Pay Raises Abolished

THE UNITED STATES CONSTITUTION

The United States Constitution consists of seven articles and 27 amendments. *Which of the amendments requires that state governments give their citizens the same rights that the federal government must give to U.S. citizens under the Fifth Amendment?*

Language Arts

The legal profession has a core of professional ethics. They are principles of conduct that members of the profession are expected to observe when they practice law. These principles stress that the lawyer's chief interest lies in serving his or her client and in securing justice.

Research Activity

What if high school students had a code of professional ethics? Work with three or four classmates to write the ethical principles that you think students in your school should observe.

which the federal and state governments may pass laws. In addition, the Constitution describes the functions of the various branches and divisions of our national government. See Figure 1.3 for an outline of the federal Constitution.

Articles I, II, and III of the Constitution set forth the structure and the powers of the three branches of the federal government. Article IV requires each state to give “full faith and credit” to the laws of all other states. That is, each state must accept the laws of other states. Article V tells how the Constitution may be amended or changed.

Article VI contains the supremacy clause. This clause states that the U.S. Constitution and the laws of the United States and treaties shall be the supreme laws of the land. Article VII, the last article, provided for ratification of the Constitution. This event took place in 1787.

The first 10 amendments, ratified in 1791, are called the Bill of Rights. They limit the powers of the government. The basic purpose of the Bill of Rights is to protect two kinds of rights: rights of individual liberty and rights of persons accused of crimes.

The Constitution now has 27 amendments. Let's take a look at one of them. The Fourteenth Amendment provides that no state shall “deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of laws.” This is known as the equal protection clause. As a major principle of justice, this amendment requires equal treatment of all people under the law. The Fourteenth Amendment requires state governments to give to their citizens the same rights that the federal government must give to U.S. citizens under the Fifth Amendment.

Example 10. Joe Hogan was denied admission to the Mississippi University for Women School of Nursing solely because of his gender. The university is supported by funds provided by the state government. In 1982, the U.S. Supreme Court held that the single-sex admissions policy of the state school violated the equal protection clause of the Fourteenth Amendment. The court said that the policy continued the stereotype of nursing as a woman's job. Hogan was admitted to the school of nursing.

State Constitutions Each state has its own constitution. Although similar, state constitutions are not identical to the federal Constitution. They can be more protective, narrower, and more restrictive than the federal Constitution.

Example 11. Lawmakers in Massachusetts wanted to have a graduated income tax like the federal income tax. A graduated tax requires people with larger incomes to pay a higher tax rate

than people with smaller incomes. Such a tax couldn't be passed, however, because the Massachusetts constitution requires all people to be taxed at an equal percentage rate.

Common Law

The legal system of all states, except for Louisiana, (where the influence is more French) is rooted in English common law. The early American colonists came from England, so it was natural for them to adopt the law of England in their new land.

In the early days of English history, the kings tried to centralize the English government and establish a court system. Judges, called justices or magistrates, traveled in circuits around the countryside deciding cases. Because there was no written law, judges often made decisions based on the customs and traditions of the people. Judges shared their decisions with other judges and made every effort to share the same law “in common” with everyone else throughout the country. This practice formed the basis of **common law**.

Eventually, court decisions were written down and a body of cases developed. Judges could then refer to past cases when making their decisions. This practice led to the doctrine of **precedent**. Under this doctrine, a judge is required to follow an earlier court decision when deciding a case with similar circumstances. It is also sometimes called the doctrine of *stare decisis*, which means, “let the decision stand.”

Over time, the English common law eroded in the United States with the passing of state statutes and court decisions. Nevertheless, parts of the common law still exist today in some states' laws exactly as they did in England.



COMMON LAW

Common law depends on the doctrine of precedent. Under the doctrine of precedent, a judge is required to follow an earlier court decision when deciding a case with similar circumstances. *Do any parts of common law exist within the legal system today?*

Limits of Free Speech

The First Amendment guarantees Americans the right to express their thoughts and opinions. However, this freedom is not absolute. Some types of speech are not protected by the First Amendment, and engaging in such speech may result in civil or criminal penalties.

For example, you may not make any public statement on private property without the owner's permission, nor can you urge listeners to commit a crime. Also, you cannot, either publicly or in private conversations, knowingly make untrue, damaging statements about a person. Obviously, threats of violence and statements that constitute sexual harassment are not protected forms of expression, nor is obscene language in many situations.

Be aware that "speech" involves more than spoken words. Signs, posters, pamphlets, printed T-shirts, and other "writings" are among many modes of expression that the courts consider to be speech.

Ask First Would passing out flyers to advertise a school event in a store's parking lot be a First Amendment right? Call a few businesses to find out their policy regarding flyers.

Statutory Law

Statutes are laws specifically passed by a governing body that has been created for the purpose of making laws. A statute can be created to declare the law on a particular issue or governing certain circumstances. Statutes may also order people to do something. For example, a statute may require citizens to pay taxes or to sign up for the military draft when they reach 18 years of age. Other statutes forbid people from doing things. One statute prevents people from discriminating in employment or housing matters on the basis of race, color, creed, gender, or national origin.

Laws passed by the U.S. Congress, state legislatures, local city councils, or town meetings can all be called statutory law. Statutory law is found in state and federal statutes, city ordinances, and town bylaws. The different terms tell us at which level of government a law was passed.

Federal Statutes Laws that are passed by the U.S. Congress and signed by the president are called federal statutes. The United States

Congress is a **legislature**, or a body of lawmakers, that has the job of creating statutory law under the powers given to the federal government by Article I of the Constitution. These powers include such things as the power to spend, tax, and borrow money.

One important clause in the Constitution is Article I, Section 8, Clause 3. Called the commerce clause, it gives Congress the power to make laws regulating commerce among the states. Over the years, the courts have interpreted this clause very widely. This broad interpretation has given Congress enormous power, perhaps more than was originally envisioned by the framers of the Constitution in 1787.

As noted previously, the U.S. Constitution is the supreme law of the land. Consequently, Congress may not pass laws that conflict with the U.S. Constitution. The Supreme Court may declare any statute that goes against the Constitution **unconstitutional**, or invalid.

State Statutes Each state also has its own legislature, or body of lawmakers, and most state legislatures are organized much like Congress. Ohio, for example, divides its General Assembly into a Senate and a House of Representatives. Although the names of the state legislatures may differ, their basic function is the same—to make statutory law. Like Congress, the state legislatures cannot pass statutes that conflict with the U.S. Constitution.

Court Decisions

Most people are surprised to learn that courts make law. Court-made law is often called case law, court decisions, and judge-made

Virtual Law

Whose Name Is It, Anyway?

An Internet domain name company has been taken to court, accused of tricking thousands of people. According to the Federal Trade Commission (FTC), the company sent faxes to Web site owners telling them that someone else was about to register an almost identical domain name. The purpose was to mislead people into paying a \$70 fee to have the company block the domain name application. The FTC has asked the court to stop this unethical practice. They also asked that the court shut down Web sites that try to promote the activity. (Source: *New York Times*, p. C3, Feb. 16, 2001)

Connect Search the Internet for a domain name registration, and research the site to review the processes involved.



Adopt a Pet

Are you considering adopting a pet from an animal shelter? Don't be surprised if you must choose from many dogs or cats. Most shelters are full or overcrowded. Government shelters try to control overcrowding by euthanizing animals that are sick, dangerous, or never adopted. *Do you think euthanizing animals is an ethical issue, a legal issue, or both?*

Get Involved

Before you buy a pet from a pet store, check with your local animal shelter. Find out if your city's animal shelters euthanize animals, and if yes, under what conditions. Write a report for your class.

law. Courts make law in three ways: through the common law tradition, by interpreting statutes, and by judicial review.

Decisions made by the highest court of any state become the law of that state and must be followed by other courts in that state thereafter. In general, if not altered by statute, these precedents will continue to rule. It is possible, however, for the highest court of a state to change a line of precedent.

A second type of judicial decision involves interpreting statutes. When a statute seems to be confusing, incomplete, or unclear, it is the court's job to figure out what the statute means. A judge cannot interpret a statute, however, unless that statute is involved in a dispute between two parties in a lawsuit before that judge.



STATUTORY LAW

Statutory law is made by a legislature. The federal legislature is known as the U.S. Congress and is made up of the House of Representatives and the Senate. Statutes can order us to do something or forbid us to act in a certain way. *What are some examples of statutes that command or prohibit us?*

The courts can also decide whether laws and other government activities are consistent with the Constitution. Any laws or government actions that violate the Constitution can be declared unconstitutional by a court. The Supreme Court of the United States is the final authority regarding the constitutionality of all laws and government actions.

Administrative Regulations

Federal, state, and local legislatures sometimes find it desirable to regulate certain kinds of activities. Legislators, however, often do not have expert knowledge of a particular field. They also do not have the time to give their complete attention to any one kind of activity. For these and other reasons, legislatures often give the power to regulate a particular kind of activity to an administrative agency. Also called a regulatory agency, these agencies are departments of government formed to administer particular legislation. For example, the Federal Communications Commission (FCC) regulates broadcasting.

Administrative agencies tend to have an unusually wide range of powers. They can make their own rules, enforce their rules, investigate violations of their rules, and decide the guilt or innocence of those who violate their rules. **Administrative law** consists of those rules and procedures established by regulatory agencies.

Although regulatory agencies are constitutional, there are checks and balances on their power. The legislature that created an agency has the power to end that agency's existence or to change its powers. Any final decision by an agency can be reviewed by a court.

Section 1.2 Assessment

Reviewing What You Learned

1. What are the various parts of the U.S. Constitution?
2. What are the components of common law?
3. What are the purposes of statutory law?
4. How do the courts make law?
5. Compare common law, statutory law, and agency regulations.

Critical Thinking Activity

Sources of Law Why is it important to be able to distinguish between the U.S. Constitution and statutory law?

Legal Skills in Action

Articles of Confederation The U.S. Constitution is not the original governing document for the United States. At one time, the national government was organized and operated under the Articles of Confederation. The Articles lasted only a decade, however. With a partner, conduct a research project to uncover the weaknesses of the Articles of Confederation.

Chapter Summary

Section 1.1 Defining Ethics

- Ethical decisions can be made by relying on opinions and feelings, by applying the greatest good principle, or by following the Golden Rule.
- A decision made by applying the greatest good principle leads to an action that will create the greatest good for the greatest number of people. Although making decisions by using the greatest good principle may make many people happy, applying this principle does not always bring about ethical actions.
- The Golden Rule is traditionally associated with Christianity. However, the Golden Rule principle is present in many world religions. Applying the Golden Rule leads to an ethical decision much of the time because it requires a person to put the interests of others ahead of personal interests. The Golden Rule requires a person to “do unto others as you would have them do to you.”
- Four ethical character traits are honesty, justice, compassion, and integrity. Honesty is the ability to be open and truthful in dealings with others. A person is said to be just if he or she treats people fairly or equally. A person displays compassion when he or she is sympathetic to the difficulties of others and wants to help people with their problems. Integrity refers to a person’s refusal to compromise his or her values, regardless of personal consequences.
- Ethics tell us what we should do. However, ethics may be subjective, varying from person to person. People do not always do what they should do. In contrast, laws are defined. They provide an objective standard of behavior.
- Law is important because society needs a system of rules to maintain stability and peace. People need to know what their rights and duties are so that they may choose to follow them or accept the consequences for failure to follow them.

- Ethics and the law can conflict in a variety of circumstances. Professional ethics are not always consistent with the rule of law. In other cases, personal or religious ethics may conflict with the law.

Section 1.2 Sources of Law

- A country’s constitution spells out the principles by which the government operates. The U.S. Constitution, which consists of seven articles and 27 amendments, enumerates the fundamental rights of citizens. It also defines the limits within which federal state governments may pass laws. The Constitution sets forth the functions of various branches of our national governing body. Each state has its own constitution.
- A body of cases called common law originates from England. These cases and their offspring can be applied to interpret statutory law. The doctrine of *stare decisis*, or precedent, is used to analogize or distinguish a case at hand from a previous case. Some parts of common law still exist today in some states’ laws much as they did in England.
- Statutory law consists of rules of conduct established by the government of a society to maintain stability.
- Courts make laws through the common law tradition, by interpreting statutes, and by deciding issues of constitutionality. Decisions made by the highest court of any state become the law of that state.
- Legislatures form regulatory agencies, which have wide-ranging powers to create, enforce, and adjudicate rules and procedures. However, there are limits imposed on regulatory agencies. The legislative body that formed the agency has the power to terminate that agency. In addition, any final decision by an agency is always subject to judicial review.

Using Legal Language

Consider the key terms in the list below. Then use these terms to complete the following exercises.

morality

ethics

honesty

compassion

justice

integrity

law

constitution

common law

precedent

statutes

legislature

unconstitutional

administrative law

1. Using the key terms, pictures, drawings, and symbols, create a poster that promotes ethical and legal principles. Be creative.
2. Working with a partner, explain each of the principles depicted in your poster. Why was it selected and what messages were you hoping to convey?
3. Compare your poster with your partner's poster. In what ways are your posters similar? In what ways are they different?

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Answer the following questions. Refer to the chapter for additional reinforcement.

4. How can the greatest good principle be misapplied?
5. Name someone you think has strong ethical principles. Which ethical character traits does this person hold? Explain your answer.
6. How can ethics and the law sometimes conflict?
7. What are the five sources of law in the United States?
8. What is the supreme law of our country?
9. What is the Bill of Rights and what is its purpose?
10. Compare and contrast common law, statutory law, and agency regulations.
11. Describe the doctrine of precedent.
12. How do courts make law?
13. Why do legislatures create administrative agencies?

Understanding Business and Personal Law

Online 

Self-Check Quiz Visit the *Understanding Business and Personal Law* Web site at ubpl.glencoe.com and click on Chapter 1: Ethics and Law—Self-Check Quizzes to prepare for the chapter exam.

Linking School to Work**Connect with Science**

In March 2000, scientists in Scotland created pig clones by using genetic material taken from a cell of an adult female pig. The researchers believe that pig clones might serve as sources of organs for human organ transplants. Will this scientific advancement lead to human cloning?

14. Research the current ethical concerns surrounding human cloning.
15. Find out if there are laws being written that will regulate the cloning industry.
16. How do you feel about cloning?

Write a two-page paper stating your opinion about the future of human cloning. Include both ethical and legal implications in your paper.

Let's Debate**Animal Research**

Jason, a high school senior, works at a medical laboratory near his school. He dreams of becoming a medical researcher and finding a cure for cancer.

Last week, when he arrived at work, Jason saw several animal rights activists blocking the entrance to the lab. Jason knew that his lab used animals for research and medical experiments. Although he was able to get into the lab and work that day, he began to think about the ethical issues surrounding using animals for research.

Debate

17. Should animals be used for medical research and experimentation?
18. What ethical and legal issues are involved?

Grasping Case Issues

For the following cases, give your decision and state a legal principle that applies:

19. Amy Adler is a psychiatrist and treats patients who suffer from a variety of mental illnesses. One of Amy's patients is arrested by the Secret Service for writing threatening letters to the president of the United States. When the patient goes to trial, Amy is asked to testify. However, she knows that the patient does not want her to reveal the nature of their conversations. Identify the ethical and legal conflicts that Amy faces.
20. Alex Barsky witnesses a mugging while walking home from school. He continues on his way instead of getting involved. Can the law force Alex to testify? What can the law do about the mugger? How does this demonstrate why law is necessary?
21. Lucy Demps wants to quit high school. However, a state law forbids minors from dropping out of school. The same statute gives juvenile court judges the right to suspend the driver's license of any minor who has dropped out of school. Lucy argues that statutes passed by the legislature may be able to forbid certain acts, such as stealing, but they cannot order her to attend school. Is she correct? Explain your answer.
22. Angela Gannon received a speeding ticket for driving 80 miles per hour in a 65-mile-per-hour zone. She was also cited for not wearing her seat belt, a violation of state law. One day earlier, however, the state supreme court had declared the seat belt law unconstitutional. How would you decide Angela's case?

Analyzing Real Cases

In each case that follows, you be the judge.

23. Jurisdiction

Ewing, a medical student at the University of Michigan, failed a qualifying examination. Knowing that everyone else who had failed the test had been allowed to retake it, he also asked for a chance to take the test again. However, the university refused to allow Ewing to retake the exam. Ewing sued, arguing that the university had acted unconstitutionally, depriving him of due process as promised by the Fourteenth Amendment to the U.S. Constitution. *Can the court judge the constitutionality of a state university's action? Why or why not?*

Ewing v. Board of Regents of the University of Michigan, 742 F.2d 913 (6th Circuit).

24. Vagueness

A parent allegedly insulted his daughter's teacher in the presence of several students. The parent was charged with violating the following Kentucky state statute: "No person shall upbraid, insult, or abuse any teacher of the public schools in the presence of the school or in the presence of a pupil of the school." The parent argued that the statute is unconstitutionally vague. *Do you agree? Why or why not?*

Com. v. Ashcraft, 691 S.W.2d 229 (KY).

Legal Link

Federal Laws and Computer Crime

The Internet and other computer technologies have changed the way we live and work. Unfortunately, they have also created opportunities for criminals to commit computer crime, fraud, and abuse, including stealing personal information, destroying files, and disrupting national security. As a result, the U.S. government has begun creating laws to address Internet- and computer-related crimes.

Connect

Using a variety of search engines, research the current Internet-related legislation under discussion by the federal government. Report on the following:

25. Current and pending legislation surrounding computer crime, fraud, and abuse
26. The purpose of cookies and their impact on a computer user's privacy
27. Security and encryption policies that businesses and the government can use



28. **Predict** How do you know the difference between right and wrong?
29. **Connect** Who is the most honest person you know? Who is the most compassionate?
30. **Question** Why do think individual states have their own constitutions, their own laws, and make many of their own decisions?
31. **Respond** How important is ethics to our legislators and other governmental decision makers?