

***"UNWRAPPING THE GIFT"
THEMES AND ETHICS***

**CSE 312 – Legal, Social, and Ethical Issues
in Information Systems**

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CH 1: UNWRAPPING THE GIFT

Overview

1.3 Themes

1.4 Ethics

1.4.1 What Is Ethics, Anyway?

1.4.2 A Variety of Ethical Views

1.4.3 Some Important Distinctions

1.3 THEMES

- Old problems in a new context: crime, pornography, violent fiction
 - helpful perspective for analysis and even ideas for solutions to new problems **by looking at older technologies and established legal and social principles.**

THEMES

- Adapting to new technology: thinking in a new way
 - Changes in technology usually require **adaptive changes in laws, social institutions, business policies, and personal skills, attitudes, and behavior.**
 - During Japanese election campaigns in 2005, candidates were afraid to use email and blogs and to update their websites to communicate with voters, because a 1955 law that specifies the legal means of communicating with voters does not include these methods.
 - We might naturally think some actions are criminal or legal because the legislators **did not consider them when writing existing laws.**
 - The major impact of computer technology on privacy means we have to think in new ways about how to protect ourselves.

THEMES

- Varied sources of solutions to problems: natural part of change and life
 - Solutions for problems that result from new technology come from more or improved technology, the market, management policies, education and public awareness, volunteer efforts, and law.
 - Technology: Authentication technology helps reduce identity theft.
 - Market mechanisms: competition and consumer demand generate many improvements.
 - Legal: appropriate penalties for people who commit fraud online, and there must be appropriate liability laws for cases where system failures occur.

THEMES

- **Global reach of Net: ease of communication with distant countries**
 - **It makes crime fighting and law enforcement more difficult, because criminals can steal and disrupt services from outside the victim's country.**
 - **Laws in one country prohibiting certain content on the Web or certain kinds of Web services restrict people and businesses in other countries because the Web is accessible worldwide.**

THEMES

- Trade-offs and controversy:
 - Increasing security means reducing convenience.
 - Protecting privacy makes law enforcement more difficult.
 - Unpleasant, offensive, or inaccurate information accompanies our access to the Web's vast amounts of useful information.
 - Leaking confidential information on the Internet.
- It is important to know the arguments on the other side
 - Analyze the weight on different factors
 - **Use logic and mathematical arguments to avoid fallacies (a mistaken belief based on unsound arguments)**

THEMES

- Perfection is a direction, not an option.
 - In general, when evaluating new technologies and applications, we should not compare them to some ideal of perfect service
 - That is impossible to achieve in most aspects of life
 - **Instead, we should compare them to the alternatives and weigh the problems against the benefits**
 - The ideal shows us the direction to seek improvements and solutions to problems

THEMES

- There is a difference between personal choices, business policies, and law.
 - The criteria for making personal choices, for making policies for businesses and organizations, and for writing laws are different.
 - A business bases its policies on many factors, including the manager's perception of consumer preferences, what competitors are doing, responsibilities to stockholders, the ethics of the business owners or managers, and relevant laws
 - Laws are based on the notion of rights not on personal views about their benefits or how we want people to behave (such as is a good idea, or is efficient, or is good for business, or is helpful to consumers).

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1.4 ETHICS

“Honesty is the best policy.”

—English proverb, pre-1600

What is Ethics?

- Study of what it means to “do the right thing”.
- Assumes people are rational and make free choices.
 - There are Rules to follow in our interactions and our actions that affect others.
 - **Ethical rules are rules to follow in our interactions with other people and in our actions that affect other people.**
- People make decisions about what technologies and products to develop and how to use them
 - **Ethics matters in Computer Technologies**

ETHICS

- Ethics matters in Computer Technologies:
 - Should you download movies from unauthorized websites?
 - Should you talk on your cellphone while driving on a freeway?
 - Should you hire foreign programmers who work at low salaries?
 - Should you warn potential customers that the smartphone app you sell needs to copy their contact list?
 - Should you fire an employee who is criticizing your business in social media?
 - What information should you allow advertisers and other trackers to collect from visitors to the website you run?
 - **ETHICS: “Is it right to . . . ?” (all of the above)**

ETHICS

- **Ethical rules:**
 - are intended to achieve good results for people in general
 - Ethical theories attempt to achieve the same goal: to enhance human dignity, peace, happiness, and well-being
 - Ethical rules are good and work for people:
 - Most of the time we are honest, we keep our promises, we do not steal, we do our jobs
 - Behaving ethically is usually practical:
 - Honesty makes interactions among people work more smoothly and reliably
 - We might lose friends if we often lie or break promises
 - We might land in jail if caught stealing --- Social institutions encourage us to do right

ETHICS

A variety of ethical views:

- Deontological theories
- Utilitarianism
- Natural rights
- Negative rights (liberties)
 - The right to act without interference
- Positive rights (claim-rights)
 - An obligation of some people to provide certain things for others
- Golden rules
 - Treat others as you would want them to treat you.

ETHICS

- **Deontological theories:**
 - View acts as good or bad based on the intrinsic aspect of the action
 - emphasize duty and absolute rules
 - whether they lead to good or ill consequences in particular cases
 - One example is: *Do not lie*.
 - An act is ethical if it complies with ethical rules and you chose it for that reason.
 - Immanuel Kant (1724 – 1804) theories:
 - The principle of universality: We should follow rules of behavior that we can universally apply to everyone
 - Follow rationality is ethical: "Respect the reason in you"
 - Principle about interacting with other people: One must never treat people as merely means to ends, but rather as ends in themselves.



ETHICS

- Deontological theories (nonconsequentialist):
 - **Absolute rules: never break these rules, no matter the consequences.**
- **Three Immanuel Kant's ideas about ethics:**
 - Principle of universality: we should follow rules of behavior that we can universally apply to everyone
 - Logic and reason determines rules of ethical behavior. One should use reason, rationality, and judgment, not emotions, when making ethical decisions
 - Never treat people as merely means to ends, but rather as ends in themselves

ETHICS

- **Utilitarianism (consequentialist):**
 - **Consider consequences, aim to increase happiness, or net aggregate “utility” (what satisfies the person’s needs and values)**
 - **We should consider the consequences—the benefits and damages to all affected people—and “calculate” the change in aggregate utility**
 - **Aggregate utility: consider all affected people**
 - **An act is right if it tends to increase aggregate utility**
 - **Problem: difficult to determine all the consequences of an act**

ETHICS

- Distinguish act utilitarianism and rule utilitarianism
 - Act: Consider utility of each act
 - “Rule utilitarianism” applies to utility principle not to individual actions but to general ethical rules
 - they don't measure the effect of one action only
 - Consider utility of general ethic rules instead, not individual act

ETHICS

■ **Asimov's Laws of Robotics (introduced in 1942, *I, Robot*):**

0. A robot may not harm humanity, or, by inaction, allow humanity to come to harm.

1. A robot may not injure a human being or, through inaction, allow a human being to come to harm, except where such orders conflict with the Law 0.

2. A robot must obey the orders given to it by human beings except where such orders would conflict with the Laws 0 and 1.

ETHICS

- **Natural rights:**
 - Try let people make their own decisions, act freely according to their own judgment
 - Ethical behaviors respect fundamental/natural rights including rights to life, liberty, and property
 - Acts are likely ethical if they involve voluntary interactions and freely made exchanges, where the parties are not coerced or deceived
 - Emphasize the process by which people interact, not the result of the interaction

ETHICS

- **Natural rights:**
 - **Three natural rights (John Locke (1632 – 1704) commonly known as the "Father of Liberalism"):**
 - **Life: everyone is entitled to live.**
 - **Liberty: everyone is entitled to do anything they want to so long as it doesn't conflict with the first right.**
 - **Property/Estate: everyone is entitled to own all they create or gain through gift or trade so long as it doesn't conflict with the first two rights.**



ETHICS

■ Natural rights:

- freedom in which people can act freely according to their own judgment, without coercive interference by others
- not dependent on the laws or customs of any particular culture or government
- **universal and inalienable (i.e., rights that cannot be repealed or restrained by human laws).**
- Natural rights are considered beyond the authority of any government or international body to dismiss
- Natural rights were used to challenge the divine right of kings, and became an alternative justification for the establishment of a social contract, positive law, and government
- Problem: anarchism.

ETHICS

- Negative rights (liberties)
 - The rights to act without interference
- Positive rights (claim-rights)
 - An obligation of some people to provide certain things for others, such as work, food, medical care, etc.
- Negative rights and positive rights often conflict
 - Some think protecting claim rights is essential, some think protecting liberties is essential

ETHICS

- Negative rights (liberties)
 - Right to life, liberty, and the pursuit of happiness
 - Right to freedom of speech and religion
 - Right to work, own property, access the Internet
- Positive rights (claim-rights)
 - To life: someone is obligated to pay for food/medical care
 - To freedom of speech
 - To a job: someone must hire you
 - To access Internet: subsidized access for poor people

ETHICS

- **Negative and positive rights are rights that respectively oblige either inaction (negative rights) or action (positive rights)**
 - Negative rights may include civil and political rights such as **freedom of speech**, life, private property, freedom from violent crime, freedom of religion, habeas corpus, a fair trial, freedom from slavery.
 - Positive rights may include other civil and political rights such as **police protection of person and property and the right to counsel**, as well as economic, social and cultural rights such as food, housing, **public education**, employment, national security, military, health care, social security, internet access, and a minimum standard of living.

ETHICS

- Negative rights (inaction rights / liberties)
 - **The right to act without interference**
 - The rights to “life, liberty, and the pursuit of happiness” described in the U.S. Declaration of Independence (July 4, 1776) are liberties / negative rights
 - Freedom of speech and religion, as guaranteed in the First Amendment of the U.S. Constitution (December 15, 1791, United States Bill of Rights), are negative rights: **the government may not interfere with you, jail you, or kill you because of what you say or what your religious beliefs are.**
 - The right to work, as a liberty, or negative right, means that no one may prohibit you from working or, for example, punish you for working without getting a government permit => NOT ABSOLUTE
 - The liberty or negative right to access the Internet is so obvious in free countries that we do not even think of it. **Authoritarian governments restrict or deny it.**

ETHICS

- Positive rights (claim-rights)
 - An obligation of some people to provide certain things for others
 - Access to the roads, as a claim right, could require such things as taxes to provide subsidized access for poor people
 - Negative rights and positive rights often conflict: positive rights often diminish the liberties of some
 - For example: privacy protection regulations have a positive effect in detecting threats, but may infringe in the privacy right of people

ETHICS

- Golden rules
 - Treat others as you would want them to treat you
 - Reciprocity or a role reversal
 - We want people to respect our privacy
 - Thus, we should respect theirs

ETHICS

- Legal rights are those bestowed onto a person by a given legal system (i.e., rights that can be modified, repealed, and restrained by human laws).

ETHICS

- **Civil and political rights** are a class of rights that protect individuals' freedom from infringement by governments, social organizations, and private individuals.
 - Civil rights: protection from discrimination on grounds such as **race, gender, national origin, color, age, political affiliation, ethnicity, religion, or disability**
 - Individual rights such as privacy and the freedoms of thought, speech, religion, press, assembly, and movement.
 - Political rights include natural justice (**procedural fairness**) in law, such as the rights of the accused, including the right to a fair trial; due process; the right to seek redress or a legal remedy; and rights of participation in civil society and politics such as freedom of association, the right to assemble, the right to petition, the right of self-defense, and the right to vote.

ETHICS

- **Human rights** are moral principles or norms, which describe certain standards of human behavior
 - They are commonly understood as inalienable fundamental rights "to which a person is inherently entitled simply because she or he is a human being," and which are "inherent in all human beings" regardless of their nation, location, language, religion, ethnic origin or any other status.
 - Highly influential in international law (the **Universal Declaration of Human Rights (UDHR)** was adopted by the **United Nations General Assembly in 1948**):

"Everyone has the right to life, liberty and security of person"

- United States Declaration of Independence, 1776:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

ETHICS

- **Contributing to society:**
 - We are focusing on how to make ethical decisions
 - how to live a virtuous life?
 - **Doing one's work honestly, responsibly, ethically, creatively, and well is virtuous.**

"His philanthropy was in his work."

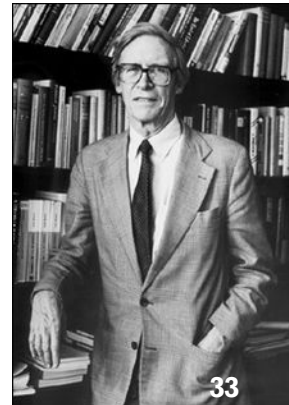
—Mike Godwin, writing about Apple co-founder Steve Jobs



ETHICS

■ Social contracts:

- People willingly submit to a common law in order to live in a civil society.
 - People are rational and will seek a better situation, even at the cost of giving up some independence in favor of common law and accepting some authority to enforce this “social contract.”
- John Locke: people could enforce moral rules, such as the rights to life, liberty and property, **BUT it was better to delegate this function to a government instituted by an implicit social contract**
- John Rawls (1921-2002): reasonable people, recognizing that a legal (or political) structure is necessary for social order, will want to cooperate on terms that all accept, and they will abide by the rules of society, even those they do not like.

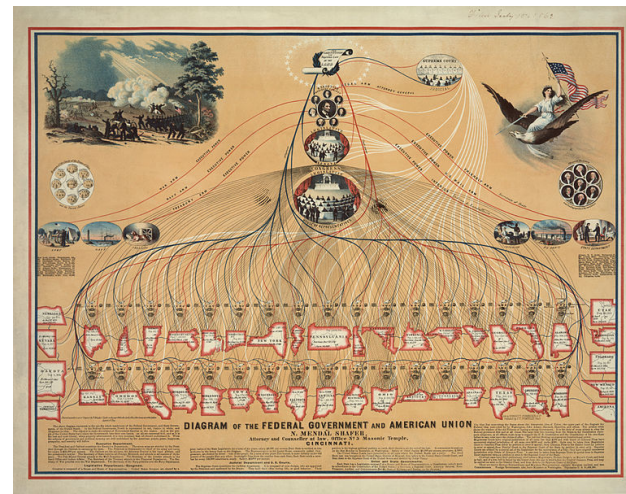


ETHICS

- **No simple answers**
 - **Human behavior and real human situations are complex.**
 - **There are often trade-offs to consider.**
 - **Ethical theories help to identify important principles or guidelines.**

ETHICS

- Do organizations have ethics?
 - Ultimately, it is individuals who are making decisions and taking actions.
 - We can hold both the individuals and the organization responsible for their acts.



ETHICS

Government

- **Children's Online Privacy Protection Act (COPPA)**, 1998, is a privacy law intended to protect a vulnerable population by requiring that websites get parental permission before collecting personal information from children under 13.
 - After COPPA passed, because of the expense of complying with its requirements and the potential liability, some companies deleted all accounts of children under 13 and banned children under 13 entirely.
 - It is not clear how well it actually helps and protects children
 - The fiction that there are no members under 13 implies there is no need to provide mechanisms to protect them

CHANGE AND UNEXPECTED DEVELOPMENTS

- **Some important distinctions:**
 - Right, wrong, or okay: ethically obligatory, ethically prohibited, or ethically acceptable
 - Distinguishing wrong and harm:
 - harm alone is not a sufficient criterion to determine that an act is unethical
 - If your product is really good, you might put a competitor out of business completely and cause many people to lose their jobs.
 - there is nothing wrong with doing honest, productive work
 - some hackers argue that breaking into computer systems is not wrong, because they do no harm
 - might do unintended harm
 - is a violation of property rights: a person has no right to enter your property without your permission

CHANGE AND UNEXPECTED DEVELOPMENTS

- **Separating goals from constraints**
 - **Ethics tells us what actions are acceptable or unacceptable in our attempts to achieve the goals**
 - **There is nothing unethical about a business having the goal of maximizing profits**
 - **The ethical character of the company depends on whether the actions taken to achieve the goal are consistent with ethical constraints**

CHANGE AND UNEXPECTED DEVELOPMENTS

- **Personal preference and ethics**
 - Most of us have strong feelings about a lot of ethical issues
 - We have to know our rights and liberties, and our society rights and liberties
 - We have to know how these rights are decided on and how can we change and protect them

CHANGE AND UNEXPECTED DEVELOPMENTS

- Law and ethics
 - **Some laws enforce ethical rules**
 - The Uniform Commercial Code (UCC), first published in 1952, harmonizes the sales and other commercial transactions across the United States of America:
https://en.wikipedia.org/wiki/Uniform_Commercial_Code
 - Contract formation: Offer, Consideration, Assignments
 - Contract repudiation and breach: Nonconforming goods, Insolvency
 - Copyright law:
 - defines the property right, violation of which is a form of theft
 - Copyright Act of 1790, Copyright Act of 1976, Copyright Term Extension Act of 1998 (also called the "Mickey Mouse Protection Act", because it prevented the copyright from expiring on the first commercial success of the cartoon character Mickey Mouse)

CHANGE AND UNEXPECTED DEVELOPMENTS

- Law and ethics
 - Some laws enforce ethical rules
 - Copyright law: grants authors and artists the exclusive right to make and sell copies of their works, the right to create derivative works, and the right to perform or display their works publicly
 - time limit: expire 70 years after the author's death
 - In the United States, any music composed before January 1, 1923, is generally considered public domain.
 - Regulation W: Transactions Between Member Banks and Their Affiliates
https://en.wikipedia.org/wiki/Bank_regulation_in_the_United_States
 - Basel II: how much capital banks need to hold to guard against the financial and operational risks
https://en.wikipedia.org/wiki/Basel_II