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# Working with Values: Software of the Mind

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*A Systematic and Practical Account  
of Purpose, Value and Obligation  
in Organizations and Society.*

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**The Original Reference Text as used by Consultants in  
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## Chapter 8

# Setting Ethical Rules

Rules are the quintessential ethical entities. Disconnected from the ebb and flow of events and feelings, provided and backed by authority and subjected to prolonged critical scrutiny, rules are the deontologists' dream.

An **ethical rule** may be simply defined as *a statement of duty which seeks to govern the social conduct of individual members of a community*. In other words, rules are a theoretical context deliberately superimposed on practical decisions, just as communal life is a group context for individual activities. Following ethical rules means deciding and acting in a way that is, by definition, right. So rules have the power to legitimate conduct. They possess authority and are a form of authority. Whereas purposes gain their force from a range of internal motivational states, rules gain their force from a range of external authorities intrinsic to a society.

The rules were revealed during the investigation and application of the legitimist approach to choice (L'-6: Ch. 6), and then re-discovered and ordered within society's natural moral institutions (H<sup>III</sup>: Ch.7). For many people, following the rules in such institutions, especially religion, is synonymous with being ethical or leading a moral life. However, for design purposes, the various types of rule are far more important than those institutions within which they originated during man's cultural evolution.

Abstracted from the institution, severed from particular identity realms, and denuded of the trappings of tradition, rules may be defined to govern conduct in a wide variety of settings. When we view rules in this disconnected and instrumental way, we look for conscious adherence to them. For rules within natural moral institutions, by contrast, we assume automatic adherence based on socialization while growing up.

When nothing changes, tradition and the existing moral institutions suffice to guide people. Designing rules is then no more than a philosopher's pastime. When actual or potential social change threatens, people become disoriented and demand rules. And philosophers start writing articles in newspapers.

Changes in society — whether evolutionary like

over-population, reactive like discontent with socio-economic class injustices, or deliberate like technological innovation in health care — disturb accepted ways of living. Such changes generate a diversity of opinions, and put public figures and institutions under strain. They lead to a range of new and possibly unwelcome activities which stimulate an urge to guide and constrain the way people respond.

Ethical rules may be set either to assist, resist, or modify social change. Rules devised for new situations still specify obligations and define what is right, just as in the moral institutions. However, when new rules emerge, identification with them cannot be assumed. Adherence depends instead on recognizing the authority behind the rule, and perceiving the rule as socially or rationally necessary.

Apart from the need to handle change, rules help to manage the diverse inclinations of community members. Ethical rules may be put forward in two ways: either seeking to change others — that is to say other people, other organizations, or public officials; or seeking to change oneself or the group's own members. Rules in businesses are mainly of the latter sort, seeking to guide and control employed staff and to reassure customers and public supervisory bodies about the internal workings of the firm.

Social movements, trans-national bodies, government departments and organizations of all sorts contain quasi-communities, and those within them need rules just like territorial communities. Rules can be designed and authorized in organizations and associations with an ease that is unthinkable within wider society. Of course organizations participate in society just as people do, so they are affected by societal authorities and may propose or seek to influence society's rules.

To understand rules fully is as challenging a task as to understand purposes fully. My aim at this stage is limited. I wish to examine the nature of rules and clarify the numerous practical differences between the different sorts of ethical rule. I will also identify the various ethical codes created by systematizing rules of a single type, and provide a variety of examples of the deliberate use of rules and codes. Finally, during

the review of the chapter, I will discuss the principal tension in using rules in society: freedom for the individual vs coercion on behalf of the group. This account of rules will enable a systematic examination in Ch. 9 of society's ethical (i.e. rule-based) authorities.

## INTRODUCING ETHICAL RULES

Ethical rules specify obligations within a community. They may be defined singly; or a number of rules may be structured and systematized to form a code or framework. Rules are hypothetical or theoretical entities — i.e. rules are value systems (L-6) — until most people in a community recognize their necessity — i.e. rules then become social values (L-5) as well. Even for a useful and necessary rule, this essential transition from an idea to a need is difficult. It depends on instruction and exhortation, which in turn depend above all on clarity about what the rule is. Rules must be explicitly and precisely formulated so that they can be explained, followed and sensibly improved.

Rules create a self-consciously recognized constraint when using any of the approaches to ethical choice. Recall that legitimist choice was about setting rules in response to an ethically problematic situation. Because legitimist choice was at the sixth level, it seemed likely there would be seven special types of ethical rule, one relating to each approach to choice — just as the sixth level of purpose contained the seven approaches, one relating to each form of purpose. This conjecture proved correct. Each of the seven types of rule turned out to have a logical-intuitive basis of legitimacy in a corresponding approach to ethical choice.

The various rules will be described in terms of properties which are common to them all. These properties will now be explained with the key terms italicized.

### Properties of Rules

The core obligation of the legitimist approach is that any proposed rule should be accepted by all in the community. General voluntary acceptance, always difficult to obtain, is only possible if the rule is perceived as supporting the aspiration for the common good. In particular, the rule should ensure group continuity and cohesion. It turns out that each type (level) of rule serves a distinctive *function* in regard to such goals. Because each approach to ethical choice can be used for rule creation (which is after all itself a matter of choice), it is not surprising that a different *basis of legitimacy* for each type of rule can be traced back to these systems.

The various rules and codes are each developed in a characteristic way within society and within organizations. Each gains its force from a distinct source of *authority*. Authorization in practice tends to be complex because there is often a distinction between who devises the rule or code, who legitimates the rule or code, and who handles breaches in the rule or code. The actual authorities used vary in different societies and also according to the rationale for developing that type of rule. It is essential, however, to recognize that there are sources of authority inescapable in any community. We may usefully describe such sources as primal.

The inherent authority and scope of rules together with their binding quality means that *change* in any rule (or introduction of a new code) is likely to be experienced as deeply significant by those affected. Although rules appear to be binding, this cannot be so — except for absolutes. Indeed absolutes positively prevent detailed lower level rules from being completely binding. Paradoxically, an essential ethical rule is freedom of choice. If choices could not be made freely, a change of rule would be a contradiction in terms; and personal autonomy, rather than being a constraint in legitimist choice, would be non-existent.<sup>1</sup>

Nevertheless, compliance is of the essence when a rule is set. A properly set rule carries an expectation of widespread compliance. Achieving compliance is another matter entirely, and each type of rule varies in the control which is required and possible. Because compliance cannot be taken for granted, inducements and sanctions for *gaining compliance* require special attention. What is permitted for rules within the moral institutions is not usually possible or suitable for artificially designed rules. Nevertheless, failure to comply with a current rule, whether inadvertent or deliberate, must be dealt with. If the rule is part of a code, breach of one rule is a violation of the code as a whole. Because breaches are so serious, specific ways to assess and deal with breaches and to control people are needed.

To increase the likelihood of compliance, there is often an urge to press for introduction of enforceable rules, that is to say regulations or laws (at L"-6) rather than depending on lower level rules and codes. But this is not always possible and such a course is often positively unsatisfactory. Partly to counter this perverse craving for enforceability, the particular *advantages* of using rules at each of the other levels will be noted. Advantages notwithstanding, each type of rule has natural limitations and comes in for a specific sort of *criticism*.

### Summarizing the Rules

The hierarchy of rules contains seven levels which derive their legitimacy from each of the seven types of

**Table 8.1: Common synonyms for rules.** The synonyms below are some of those found in the literature. The general terms are commonly used at all levels, and many of the others (e.g. guide, standard, regulation) are not level-specific either. The items in italics have a specific place elsewhere in the framework.

<b>General terms</b>	Rule, value, axiom, <i>policy, principle</i> .
<b>L"-7: Absolute</b>	Commandment, <i>imperative</i> .
<b>L"-6: Law</b>	Regulation, canon, bye-law, edict, ordinance, statute.
<b>L"-5: Maxim</b>	Precept, guide, adage, motto, proverb, saying.
<b>L"-4: Right</b>	Entitlement, duty, claim, power, privilege, liability, immunity.
<b>L"-3: Tenet</b>	Belief, dogma, assumption, article of faith, ideology, <i>conviction</i> .
<b>L"-2: Convention</b>	Norm, expectation, guideline, standard, <i>custom</i> .
<b>L"-1: Prescription</b>	General instruction, requirement, protocol, <i>direction</i> .

approach to ethical choice. In ascending order, the names given to the rules and the associated codes are: *prescriptions* (L"-1) which may be organized into a protocol or *code of practice*; *conventions* (L"-2) which together form a group's *ethos*; *tenets* (L"-3) which may be systematized into a *credo*; *rights* (L"-4) which may be presented in a *charter*; *maxims* (L"-5) which may be formulated as a *code of ethics*; *laws* or regulations (L"-6) which are generally organized into a *logical system*; and *absolutes* (L"-7) which comprise the *eternal verities*.

The hierarchical positioning of the seven types of rule has been diagrammed earlier in Master-Figure 9 (Ch. 6). A fuller picture linking rules with the moral institutions is now provided in Master-Figure 16. The main practical properties of rules and codes are summarized in Master-Table 17. The more general properties of rules can be found summarized in Master-Table 21 (Ch. 9: G"-1).

By way of a brief introduction, the function of each type of rule and code is specified below, together with its relation to the community, and an indication of its use. The source of primal authority is also noted.

**L"-1: Prescriptions** are set to ensure that all know and perform certain social actions strictly as specified. Protocols and **codes of practice**, which are made up of related prescriptions, are used to control activities of people in particular social roles and situations so as to prevent potentially harmful or unfair consequences. Communal leadership is the source of authority. So any prescription, even if worked out by experts, must be proclaimed as practical, desirable and obviously right by whichever person or public body is widely recognized as leading in the domain. Leadership in organizations rests with the governing board and it has the power to authorize codes of practice for implementation by relevant managers.

**L"-2: Conventions** are set to ensure that all know and apply certain attitudes generally in their conduct. In any community, an **ethos** of related conventions limits discretionary action in a wide range of areas. Such constraints are based in existing values which are given authority by the mainstream, usually the majority, of members. This ethos evolves spontaneously but it can be shaped or developed in a constructive way by social leaders (opinion-formers in associations, managerial leaders in firms) who articulate and promote particular conventions.

**L"-3: Tenets** are set to ensure that all know, affirm and express certain values in daily life. A **credo** constructed out of related tenets powers all enduring and effective social sub-groups within the community. Tenets and credos devised for specialized activities are transmitted in society via educational institutions. New credos emerge in social movements. Organizations take on tenets from contemporaneous movements, particularly if a powerful leader insists. However, tenets are highly emotional, and new tenets cannot be properly applied without some re-socialization. So the primal authority for tenets, ultimately, is each person's conscience.

**L"-4: Rights** are set to ensure that all know and respect what is due to and from each individual in a class. Rights (including duties) may need clarifying and stating in a **charter** when there is an inherent power imbalance or recurring conflict between classes in a community. These classes may interact freely in society (e.g. doctors and patients), may be contained within an organization (e.g. managers and work-force), or may involve whole organizations whose users form a class (e.g. newspapers and their readers). Detailed work on any charter is a matter for class representatives, but each individual involved should own the final result.

The authority derives, ultimately, from the power of the class within communal life.

**L"-5: Maxims** are set to ensure that all know and meet general requirements for virtuous functioning. Maxims are specified to maintain confidence within relationships, either between people in a community setting or between a sub-group and individuals in the wider community with whom members of the sub-group deal. Any social group whose members adhere to maxims is said to be 'self-regulating', and forms what may be called a moral community. **Codes of ethics**, which are constructed out of maxims, are common in the professions and are needed in large organizations where managers have wide powers and considerable discretion. The code is tailored from an accepted ethical teaching to suit the nature and social context of the activity. The teaching is the source of primal authority.

**L"-6: Laws** are set to ensure that all know and obey those rules which need to be enforced to maintain a stable social order. Laws apply to the whole community and are organized into a **system** to minimize inconsistencies and incoherences which would undermine their effectiveness. Laws in quasi-communities are usually referred to as regulations. Firms, schools, churches and other associations need to use law-like regulations to maintain order. Laws and law-like regulations only operate within well-defined borders, so the territorial community is the nation-state or sovereign-society. Regulations in organizations are authorized by the governing body, but these must always stay within the law and can be judicially challenged. So primal authority is located in the law.

**L"-7: Absolutes** are set to ensure that all know and aspire to the path of duty. Duty is epitomized in universal and abstract forms like: 'choose good and reject evil'. Such epitomes can be organized as **the eternal verities** obviously applicable anywhere by anyone at any time. Absolutes express the essential spirit of ethics and derive their authority from ultimate values which are underpinned by God (in religious teachings), transpersonal existence (in psychological accounts), or Reason (in philosophers' tracts). A group may choose a particular absolute as its guiding dictum: Hippocrates suggested *primum non nocere* (above all, do no harm) for doctors.

## Ethical Dispositions

Adherence to society's natural moral institutions is a product of socialization and is therefore relatively unproblematic. Compliance with newly created rules and codes, however, requires a degree of self-discipline. To comply may sometimes feel unsatisfactory, and

compliance may even be judged wrong from a transcendental point of view.

The difficulties with compliance are many. Rules are all oriented to the collective good — that is to say to the good of the organization or the common interests and needs of others — and not to the specific interests and needs of any particular individual. Hence it may well be to one's own specific benefit to ignore the rule. Further, because rules apply generally, they can feel impersonal and may not invite identification. In any particular situation, the social benefit that flows to the individual from following a rule may be minimal, or uncertain. Finally, because sanctions often receive greater emphasis than inducements, a negative quality surrounds compliance with rules. All these features of rules make compliance difficult at times. Ultimately, adherence to a rule or code at any moment depends on the approach to choice adopted and the motivation provided by inner obligation.

The exercise of inner obligation cannot be taken for granted, and it seems that there are a number of enduring motivational capacities which support its operation. The term I will use for this sort of capacity will be *ethical disposition*. A different and characteristic ethical disposition is required for each type of rule. Ethical dispositions are linked to the ethical aspirations and through them to the motivating experiences: the three referring to successive planes of drive within the self (see central column in Master-Fig. 16). The progressive increase in self-consciousness and discipline which evolves with each of these three planes of motivation deserves note here.

The basic motivations, experiential states found in the lowest plane ( $H^1$ ), are a constant part of human nature — much like the forms of purpose or the forms of experience with which they link. Given ordinary parenting, a child develops awarenesses, intentions, desires, interests, needs, inner obligations and inspirations. Very little effort is required to recognize and translate these into action. Nevertheless, the coherence, effectiveness and ethical direction of such motivations are not to be taken for granted. Inspiration and inner obligation play a crucial role here. Inspiration is essential for the successful instigation and completion of complex or important endeavours. Inner obligation is the guiding drive which ensures harmony and appropriateness amongst the five lower types of motivation. It ensures, for example, that intentions fit with needs, or that desires take interests into account.

Inner obligation, itself, has an internal structure — the ethical aspirations ( $H^2$ ). Although the aspirations are not as self-evident as motivations, they too seem largely unavoidable. They are, after all, a part of the

essential systems for ethical choice. However, like these systems, aspirations require some degree of reflection and conscious valuation if they are to be effectively pursued. Continuity (L'-2) and altruism (L'-5), for example, are felt to be more difficult to appreciate and pursue than intentions (L-2) and needs (L-5). Aspirations are also more problematic because of their associated constraints (cf. Ch. 6: Master-Table 5 and Master-Fig. 7).

The ethical dispositions, like the ethical rules and the identity-defining institutions, exist in a still higher plane, and constitute a structure within the conscious and deliberate pursuit of the common good. The principal dispositions revealed within the framework are meticulousness (L"-1), conformity (L"-2), dedication (L"-3), respect (L"-4), virtue (L"-5), obedience (L"-6) and autonomy (L"-7). Even more than the aspirations, these dispositions are evidently dependent on self-conscious creation and cultivation. They are what self-conscious development of the self as a social being is all about. Most people find certain forms of ethical disposition more congenial and inherently motivating than others. However, a fully rounded social being needs to develop them all, and know when and how to exercise them. In what follows, each disposition will be defined and described briefly in association with each level of rule.

We can now examine rules and codes in more detail. Each level of ethical rule will be taken in turn and described in terms of the properties explained in this introductory section. The earlier caveat still applies to the examples: they are meant only to illustrate a point and do not pretend to be an exhaustive analysis.

## L"-1: PRESCRIPTIONS AND CODES OF PRACTICE

**Nature.** At L"-1, the rules to be followed emerge from the need to have a practical guide to the detailed means for achieving something worthwhile. Hence the *basis of legitimacy* is to be found in the rationalist approach to ethical choice, an approach in which pure means are valued (L'-1). Kant referred to these rules as 'hypothetical imperatives'. In the present context this type of rule is better termed a **prescription** because they are like general instructions or non-discretionary requirements.<sup>2</sup>

The *function* of any prescription is to ensure that all know and perform certain social actions strictly as specified. They are required if harm or unfairness obviously results from an incorrect or omitted action. This is why the prescription is said to be right.

Prescriptions are like general instructions. They may be usefully grouped to form a protocol or **code of practice**. Such codes aim to ensure that a range of inter-related potentially beneficial activities are performed in a particular way and to the letter. The link to formal etiquette (L"-1) is evident, but the range of concerns is no longer constrained to protecting sensory being (L'-1). Note that ceremony and ritual are not an issue, and that prescriptions must have a practical rationale rather than being symbolic.

Prescriptions are typically developed by groups of experts in the field, usually leading practitioners or senior academics, for some or all elements of the community. To be effective in society, a prescription must be backed by the *authority* of community leaders or those social bodies with a standing in society in regard to the topic. The prescription to 'stop smoking' from the Royal Colleges based on a review of the evidence can be authoritative in a way that advice from a family doctor or the conclusion by a researcher in an academic journal can never be. The prescription to 'read the fine print before signing anything' might best come from the Citizens' Advice Bureaux or Consumers' Association. The prescription to 'use seat-belts every trip' might appropriately come from a Minister of State for Transport or Health. These are examples of prescriptions primarily aimed at encouraging each person to act to protect themselves.

In the case of organizations, the power to adopt a code of practice lies with its governing board. But boards are generally inclined to accede to their managers' wishes not to be fettered by rules of any sort. So when politicians or community leaders hope that organizations will adopt a code, an official or formal inquiry procedure leading to a public report is required. A representative committee needs to be set up by whomever wishes to address the issue with inputs from affected organizations. Such inquiries may be government-sponsored (cf. Ex. 8.1 and 8.2), but not necessarily. In the UK, the 'code of banking practice' was set up by the British Bankers Association, The Building Societies Association and the Association for Payment Clearing Services. Public quasi-official bodies of this sort bring pressure to bear on governing boards.

Ethical prescriptions within firms, whether or not stimulated by external pressures, should likewise seek to protect individual people. One bank, concerned to reduce its losses due to stolen credit cards, issued a prescription to its staff which specified that customers should not be informed of the bank's liability. That particular prescription aimed to protect the bank unfairly at the expense of others and so fails the ethical

test.

**Controlling Embryo Research:** A Report on the ethics of embryo research in the UK was produced by a small group of non-representative experts: a medical sociologist, a physician, a lawyer, and a clergyman who was a physicist. The Report recommended adoption of a variety of prescriptions including: no doctor or nurse should be compelled to participate against their conscience, written consent of the mother should be obtained, no financial inducements should be offered to mothers, those receiving transplants must not be told whether the material came from a miscarried or aborted foetus. The Report did not wish these prescriptions to have the status of law, but expected them to be adopted by existing ethical committees who vet research proposals in UK hospitals. If the criteria are not met by any particular study, the ethical committee should take steps to stop the research by refusing permission to commence, or by removing facilities from use. Criticism of the Report focused on whether such committees would actually act as responsible bodies and take such steps given their poor record of supervision.

Ex. 8.1<sup>3</sup>

Prescriptions seem especially required for activities where behaviour is regarded as actually or potentially ethically problematic (as in Ex. 8.1). Often this is where the envisaged change runs contrary to current practice and convention. For example in a store where the attitude to complaints has been that the fault lies with the customer, it may be necessary to stipulate in detail such matters as: how exactly the customer is to be addressed, what immediate action is to be taken with the goods, which manager is to be informed, what compensation should be offered, and so on.

Because prescriptions must be closely specified to suit the situation that people are in, the first stage is often the production of guidelines to aid development of a code. Professional or trade associations and government inquiries which wish to foster code development often provide such guidelines (cf. Ex. 8.1). For matters to improve, each relevant firm or agency must use the guidelines to tailor and implement their own precise detailed code of practice (cf. Ex. 8.2).

**Preventing Child Abuse:** From official inquiries into scandals, national guidelines have emerged in the UK for handling actual or potential cases of child abuse. These include ensuring there are mechanisms of proper communication and cooperation between agencies, rapid involvement of relevant professionals, and sensitive handling of families and documentation. Such guides need to be adopted and specified in detail within the hundreds of separate agencies involved throughout the country. So, in a particular agency with nurses working in the community, the code of practice states that: if the nurse has any reason to suspect abuse of a child, then she must verbally notify the appropriate Local Authority Social Services Office and follow up with a written account, must immedi-

ately make contact with the family doctor and arrange an examination, must inform a designated specialist nurse, must notify other relevant community staff, must maintain clear records including signing and dating all entries, must record any explanations offered, and must not make any accusations. Failure to follow these instructions precisely is a breach of duty irrespective of such things as the nurse's own judgement as to the reliability of the informant, the ability of other professionals or agencies to provide help, the wish to protect or help the parents, or even the principle of confidentiality. In short, no personal judgement or situational feature removes the obligation to follow prescriptions in the code.

Ex. 8.2<sup>4</sup>

**Gaining Compliance.** The need for a prescription or code of practice implies potential resistance at a value level. Authority alone does not generate compliance. Users of a code should understand the rationale of each prescription. Unless prescriptions are self-evidently necessary and meaningful, the rationalist basis of legitimacy is missing. This rationale is part of the inducement to comply. It asserts that what one is doing — stopping smoking, using a seat-belt, calling the police — will be a means to producing a good result and so must be the right thing.

Because any particular business might be disadvantaged if it alone adopted a particular ethical line, firms within an industry commonly form an association to control their own conduct. They are likely to agree to bind themselves voluntarily to a code of practice which they have had a hand in producing and which they know others will adopt. Unfortunately, in the present climate it is not unusual for firms to use a code of practice to limit the degree of ethical control. English banks, for example, were pressed in the 1980's to introduce a code of practice governing relations with customers, but after much delay their initial proposals failed to satisfy anyone but the banks themselves.

A quasi-autonomous body may be required in addition if independent monitoring of a code is felt to be desirable. When such regulatory authorities are non-statutory, they are assigned few overt powers other than to foster self-regulation, and to determine and publicize whether or not a breach has occurred.

**Advertising Codes of Practice:** Advertising is an area of public sensitivity. Many UK firms operated their own codes for many years. These were further supported when the Advertising Association, representing all sides of the British advertising business, developed a general code. To aid self-regulation, an independent but non-statutory Advertising Standards Authority (ASA) was set up in 1962. Its primary task is to develop and promote the British Code of Advertising Practice. This contains a vast number of prescriptions comprehensively covering advertising subjects and issues: e.g. investments should specify that their value may go down as well as up; vitamins must



not be claimed to produce weight loss. To produce this code, the ASA undertakes research into the public's reactions to advertising, surveys adherence to the code, investigates complaints, and publicizes findings. Persistent offenders are not formally penalized, but have difficulty in placing advertisements. Ex. 8.3<sup>5</sup>

Because adherence to a prescription (or non-compliance) is overt and public, the possibility of social control exists. People are not just encouraged and expected but often forced to adhere to applicable prescriptions. Smoking, for example, is now banned in many areas including planes, hospitals, cinemas and restaurants where previously it was accepted as natural.

Within most organizations, implementing codes of practice and sanctioning non-compliance are matters for the responsible managers. Managerial sanction is a form of direct control over people in certain roles: it may involve disciplinary action, transfer from the task, or dismissal from the organization. So, an employee who decides to reject a code is forced to work in a different organization which has not adopted that code, or even to leave that field of work entirely. The possibility of direct overt social control means that *change* in a prescription or code of practice is relatively straightforward — providing those responsible see the need for it, and the proposed changes are evidently sensible.

Detailed codes of practice are unlikely to bear fruit unless those operating them possess the particular *ethical disposition* known as meticulousness. A meticulous person knows exactly what is required and pays careful attention to detail. Such a person is positively disposed to follow prescriptions strictly, irrespective of personal preferences or any pressures in the situation.

**Pros and Cons.** Within an organization, there is little difference between a prescription and a regulation, because both lend themselves to enforcement. In wider society, however, the difference is marked. The *advantages* of using prescriptions rather than laws are many. Prescriptions may be specified in a more straightforward way than laws; and can be more rapidly introduced or modified by the recipient, whether a person or an organization. Organizations must formally adopt a code and may adapt it to maximize its appropriateness and effectiveness. In this process, responsibility is actively accepted. For an employee, breaching a code is far less stigmatizing than law-breaking. Most importantly, breaches can be followed by direct and immediate control of the situation, and the delay and high cost of legal proceedings are avoided.

The main *criticism* levelled at the use of codes of practice is that they ignore the feelings and preferences of

those people or organizations (like the recalcitrant banks) who are compelled to operate the code. Within organizations, it is usual to find that the staff operating a code have not drawn it up. Indeed, the prescription may be required precisely because there is felt to be an urgent and ethical necessity to alter the behaviour of people in certain roles. In such cases, the code will feel unnatural or seem wrong to them, and implementation will be difficult.

In other words, even the simplest and most rational of rules and codes embodies values whether or not this is apparent. Prescriptions like all other types of rules are values. So they affect an individual's identity and communal participation. Prescriptions which persistently override peoples' feelings will not feel fair or right to them, and so they will not be maintained. Rules and codes based on a greater force which controls the attitudes governing behaviour in social settings are therefore required. This takes us to the next level.

## L<sup>-2</sup>: CONVENTIONS AND ETHOS'S

**Nature.** At L<sup>-2</sup>, the rules to be followed emerge from the need to have constraints which are an expression of the values current in the social group. Here, the *basis of legitimacy* is clearly the conventionalist approach to ethical choice (L<sup>-2</sup>). The rules themselves are typically referred to as **conventions** (or sometimes norms, standards or expectations) and taken together they constitute a group **ethos** (sometimes loosely called the culture). The ethos determines the prevalent tone within a social group, and shapes conduct indirectly.

The *function* of a convention is to ensure all know and apply certain attitudes generally in their conduct. It is often preferable to introduce conventions, say, to 'reduce litter' or 'stop the waste of energy' than to specify prescriptions. Once people accept the convention, they can find a wide variety of idiosyncratic and locally appropriate ways to follow it. Firms are also likely to innovate in those areas knowing that the public is disposed to respond. But introducing new conventions in wider society is equivalent to altering its defining values. This is a task primarily for politicians, civic-minded people, pressure-group spokesmen, clergy and similar opinion-formers. Still, they have no authority above and beyond the desire of the public to have someone speak up on the issue. The *authority* behind the rule remains diffusely located within the community. Unanimity on values is never found, so conventions are an expression of the mainstream or majority.

Conventions will evolve within any community to constrain discretionary action. People need conventions to know what is acceptable in general as they negotiate their interactions. The acceptability of a convention is what makes it right and gives it a natural feel, not its rationality or appropriateness. So even a compelling need for change may not lead to the alteration of established conventions.

**Professional Conventions:** The medical profession is permeated by an ethos that is difficult for individual doctors to resist. Conventions dictate a pattern of differential fees and fee-sharing between different specialists which has evolved and is not based on any intrinsic qualities of the work. Surgeons, for example, usually get paid far more than physicians. Conventions also control the non-medical social handling of patients. In one society a doctor is expected to take time to listen and reassure, in another to prescribe a pill, in another to inject a drug, in another to provide suppositories. Should what is expected not be provided, the patient gets upset and feels poorly treated. This, combined with attitudes of relatives and professional colleagues, puts considerable pressure on the doctor to conform.

Ex. 8.4

In organizations, conventions lend themselves to a degree of management. If conventions are left to emerge spontaneously, the result may be profoundly unsatisfactory in terms of the mission (cf. Ex. 8.5). The ethos in any department and any operation as a whole should be monitored, shaped and supported by the leadership. Even so, as in wider society, conventions are given reality and *authority* by the social group as a whole. So a board or senior manager cannot simply decide a convention and issue an edict. Leaders must introduce new conventions sensitively and win support for their desired ethos. If they succeed, responsibility for the conventions becomes disseminated throughout the organization and everyone accepts them and ensures they are upheld by themselves and others. Concern for maintaining the desired ethos must never let up. Because conventions are dynamic and continue evolving, the situation can easily become unsatisfactory again.

**Changing an Agency Ethos:** The ethos that had evolved within a voluntary social work agency impeded work. For example, process was given more attention than results, information was devalued and computer solutions ignored, people overworked to the point of falling ill, and overly personal reactions to routine managerial difficulties were common. Such things were not amenable to control by prescriptions or codes of practice. As managerial values were introduced, things changed. It became a matter of convention that work would be shared around without waiting for a state of crisis or an emotional explosion, discussions of priorities became the norm, computers were accepted as a sensible aid rather than as a

depersonalizing intrusion, and a task orientation sensitive to people prevailed. Social pressure resulted in the resignation of a few managers who could not conform to the new ways.

Ex. 8.5

Aspects of popular morality (L"-II) naturally enter into any ethos. The subject matter (sex, aggression, money &c) is relevant in any group and is not amenable to control by a code of practice. A bank, for example, recently issued a dressing code for its staff. Specific prescriptions could have been agreed, but the bank referred generally to the expectation that staff should avoid dressing in a sexually provocative way. This is a matter of evolving convention and within the sphere of popular morality. So it generated intense resentment in staff who objected through their union officials.

**Gaining Compliance.** Unless conventions are based in current values, they will lack the conventionalist basis of legitimacy. Conforming to these values leads to social acceptance and a feeling of security, both powerful inducements. Leaders promote ethos *change* by fostering and channelling the evolution of values and conventions. An ethos is much like popular morality in the sense that control is exerted ultimately through the spontaneous exertion of social pressure.

Within organizations, the sanction of social rejection may be further backed by indirect or informal action like being passed over for promotion or failing to be re-elected to a committee. Within wider society, such immediate controls on individual people or firms are largely absent, but pressure can be brought to bear via the media and through boycotts. Breaches of convention can bring a whole sector into disfavour. At the time of writing, banks are being excoriated for their unconventional business practices which include altering charges without notice or agreement and extracting payment by debiting accounts without permission. Where firms must be allowed discretion despite their tendencies to operate on the borderline of acceptability — in their advertising for example — specific formal channels are needed to focus attitudes and to bring sustained and systematic pressures to bear (see. Ex. 8.6).

**Advertising and Conventions:** Ethical monitoring agencies which must define and aid enforcement of codes of practice necessarily become involved in assessing and reflecting local moral conventions as well. The code of advertising practice referred to in Ex. 8.3 must take account of public tastes as well as pressures in regard to decency. To achieve this, the ASA sponsors research into how advertising is being understood, and assesses how public opinion is moving. The findings from such research lead to continual modification of the code. In addition, adjudications under the code are made in the light of

'standards of decency and propriety that are generally accepted at present in the United Kingdom' [para. 3.1]. Conventions of decency, popular morality, vary greatly between countries: one television advertisement showing stockings legs was banned in the USA, could only be shown after 9 pm in the UK, and won a prize in France.

Ex. 8.6

Conformity is the necessary *ethical disposition*, and is, perhaps, the most easily developed of all the dispositions. Parents and teachers demand it, reward it and get it (more or less) from children. Possibly this is why conformity is so commonly seen by philosophers as not ethical at all — or even as the antithesis of what is ethical. From the elevated perspective of many writers on ethics, public attitudes and majority views, with the mundane values and popular morality which they generally embody, often appear so debased and so contrary to higher principles that to put a value on conformity is almost sacrilegious. Like the reaction against the conventionalist approach to ethical choice, this position is too extreme. To conform is not necessarily to be blind, nor is it to deny the validity of higher level rules and other ethical dispositions. Conformity complements humanity and enlightenment: without it, the person is not accepted in the social group, and the other higher ethical dispositions will not lead to any practical social good.

**Pros and Cons.** Conventions are fuzzy, but this is precisely one of their main *advantages*. It means that conventions can control matters that are semi-private or touch on popular morality, can allow for gradations in adherence, can permit a variety of ways to follow them, and can evolve gradually without stoking up controversy. In an organization, for example, distinct *ethos's* can be created which are adapted to the history, circumstances and needs of particular departments or divisions, whereas any system of regulation must apply as stated across the whole company.

*Criticisms* of convention focus on its unique strengths: mainly its fuzziness and its basis in conformity. It is sometimes forgotten that law itself depends ultimately on vague and poorly understood conventions in a community to respect the law and to accord it supremacy. The real limitations lie in convention's roots in attitude. Attitudes cannot always be harnessed. For example, conventions which do not accord with the way people view reality and social life can never be stable or effective because they do not seem to make sense. So introduction of the rule of law, for example, is difficult in societies habituated to absolutist or corrupt rule. A new type of rule at a higher level which governs how people sustain or refashion their attitudes is required to deal with this problem.

## L"-3: TENETS AND CREDOS

**Nature.** At L"-3, the rules to be followed emerge from the need to specify precisely what values each individual should regularly use when choosing. These values become rules and are recognized as **tenets** (beliefs, dogmas, assumptions, articles of faith). To be tolerated in a community, any set of tenets must be compatible with communal ideals (L"-III). Tenets must also accord with personal beliefs if a person is to use them. The *basis of legitimacy* for such tenets presumably derives from the pragmatist approach (L'-3) in which personal-cum-social ideals form the ethical aspiration.

A set of inter-related tenets forms a **credo** or belief system, ideology, creed or dogma. Such terms bring to mind just how important tenets are for members of political and religious sub-groups within a community. But all associations at some time or another do (or should) ask themselves what they stand for and believe in. The identity, cohesion and endurance of any association depend on tenets which maintain a loyalty and uniformity of approach of members. Clarity about tenets is especially valuable to help newcomers decide whether they can comfortably fit into the group culture.

The *function* of tenets is to ensure that all know, affirm and express certain values in daily life. Rules are right by definition. So, even when scientifically derived or proved, tenets do not depend on the facts. The point is that our deepest guiding values define who we are and cannot be a matter of preference or evidence. They must remain a dogmatic statement of emotional truth. In short, tenets are lived if they are followed at all. Their origins and use in the pragmatist approach (L'-3) and more distantly in setting desired priorities (L-3) confirm their emotional nature.

Businesses which are pragmatically driven may avoid credos, but there is an increasing recognition that the right sort of management culture is a competitive asset. An explicit and genuine credo can be the defining core of such a culture. Many firms do have corporate credos: a well-known one is Johnson & Johnson's which lists a full range of desirable aspects in the relations which (it affirms) 'we must' have with consumers, staff, communities and stockholders. The full one page text is reprinted in a handbook produced by the Ethics Resource Center (USA) which notes that the credo is the oldest and simplest approach to developing an ethical code.<sup>6</sup>

Executive-dominated enterprises may view explicit tenets as optional, but other types of endeavour like regulatory authorities and social movements cannot do without them. Members of a probation board, for

example, are guided in their judgements by tenets in regard to punishment, danger and incarceration. Those joining a popular movement do so precisely because it proclaims certain tenets. Religious movements, for example, commence from a core of tenets which become elaborated and modified over time. At the time of writing, new tenets about the place of women in the Anglican church are being proposed. These could lead to such things as God being addressed as a woman, women being able to become bishops and so on. The real point is that tenets, just like any other form of rule, may be proposed, debated, adopted or rejected.

Of course, whether people understand and use a new tenet is another matter. People accept tenets, respect credos and join movements according to the dictates of their conscience. As noted in regard to communal ideals, the conscience is the key *authority* when it comes to belief. It dispenses self-approval and self-disapproval and exerts control from inside in a direct fashion.

Tenets of movements become tenets of organizations which grow out of the movement (see Ex. 8.7). However, unless tenets are restricted to high level abstract assumptions, they have the potential to create schisms within the group. Religious organizations differentiate from the originating movement, for example, on the basis of what seem to outsiders to be small differences of opinion. The splitting of left-wing political parties and psychotherapy organizations is also tenet-based.

**Psychoanalytic Tenets:** The International Psychoanalytic Association (IPA) formed originally by Freud has demanded adherence to certain tenets from the very beginning. Things like the unconscious, infantile sexuality, defences, dream interpretations, and transference are not just current theories, but rules of thinking and working which cannot be rejected while remaining a psychoanalyst. The use of tenets so close to inevitably changing clinical theory made the IPA vulnerable to schism. Jung, the first President, led the way through his doubt of the importance of sexuality in all disorders and his emphasis on other ideas like the collective unconscious. Adler's belief in the importance of inferior-superior relations, social relations and the use of modified therapeutic techniques led to another split. Horney's and Fromm's emphasis on cultural factors led to a further schism. And so on.

Ex. 8.7

Many phenomena which used to be held as dogma have been reworked by science with great benefit. As a result, most scientists treat scientific methods and assumptions as tenets. In areas where science has made little headway — organizational life, political choice, personal commitment, spirituality — the field is wide open for competing idiosyncratic beliefs and credos. For example: there are two theories about motivating

staff which are actually managerial credos. The tenets of theory X hold that people dislike work and responsibility, need to be coerced and controlled to achieve, and want security above all; while the tenets of theory Y hold that people find work natural and enjoyable, desire self-direction, seek responsibility, and do not use most of their potential.<sup>7</sup>

**Gaining Compliance.** Unless tenets are based on what people actually believe or are prepared to believe, they will lack a pragmatic basis of legitimacy. Even then, gaining compliance to a new credo may be problematic. Tenets come to coincide with personal beliefs through a socialization process, and the support from others for tenets is also a powerful inducement to comply.

Commercial firms must take socialization of their employees seriously if they wish to modify tenets. For example, the tenet 'a focus on quality reduces costs' runs counter to everyday experience in most firms and yet one strand of management thinking holds it to be essential. Some top executives regard the introduction of new tenets as too difficult. Many seek to recruit people who already hold the desired tenets. Others imagine that external consultants can do the job for them. There is often the wish to introduce new values without speaking of credos or considering existing beliefs and values. Seemingly worthy attempts at culture change often do little more than generate cynicism and demoralization amongst staff, because the effort to get the new values internalized as beliefs and recognized as communal tenets is missing. Instead, hypocrisy persists. If a credo specifies openness, equality and long-term success while the reality is secrecy, hierarchy, and expedience, staff live the reality not the credo.

From the personal perspective, genuinely accepting entirely new tenets demands something akin to a conversion. Even if the idea that women are inferior to men in some general sense is wrong and socially damaging, getting such an idea changed, internalized and treated as a tenet may take generations. Social movements are usually required: like the suffragette and feminist movements in this case. Movements commence through the banding together of people articulating new ideals and passionately convinced that existing societal tenets need to change. Most people do not go along with a movement in its early stages, and their resistance may generate extreme counter-measures by activists (cf. Ex. 8.8).

**Conversion to Normalization:** Normalization is a recent ideology which has generated a new approach to caring for people with learning difficulties. It was developed to deal with the widespread tendency for such people to be maltreated and even dehumanized. Normalization aims

to increase autonomy and improve the quality of care offered to sufferers. Relatively non-contentious are prescriptions in regard to labelling e.g. substitute the term 'learning difficulties' for 'mental handicap', and conventions describing attitudes e.g. treat the person as a 'client' not as a 'patient'. But some rules are seen as harmful in a particular context, and so generate intense controversy. For example, the prescription that 'the client must always participate in all conferences concerning them' may produce discomfort and constrain staff from contributing during a discussion. Managers may then judge it inadvisable to implement this rule. Promoters of the code regard such apparently reasonable opposition as showing that managers do not really believe in normalization. Training anticipates such opposition. It uses group pressure and powerful emotional techniques akin to brain-washing to convert people and dispose them to adhere to the tenets of normalization.

Ex. 8.8<sup>8</sup>

Even when people become intellectually convinced that tenets upheld by their conscience are out of step with tenets in their organization or community, they may be unable to adhere to the new rules. Many of the patients treated by Masters and Johnson for sexual inadequacy, for example, were found to have been inculcated with beliefs that sex was harmful, degrading and dirty.<sup>9</sup> Despite their wishes, they found it difficult to adopt and use new tenets of sexuality. Altering their consciences involved making themselves emotionally vulnerable and accepting an intense exposure to the new rules of sexual life. All psycho-dynamic therapies seek the formation and internalization of new tenets. They do so by creating an intense, intimate and usually lengthy attachment to the therapist as a precursor to re-working and modifying early socializing experiences.

In other words, once tenets are established in a society or organization, *change* is difficult to arrange. In tribal bodies like churches, political parties and professional associations, maintaining the orthodoxy is a prerequisite to reaching leadership positions. When a person's beliefs no longer fit the group's dogmas, they willingly depart the group — this is known in the church as apostasy; or they attempt to change the group's dogma by proposing new tenets — this is known as heresy. Orthodoxies have a variety of techniques to deal with new tenets. They may avoid or stifle debate; co-opt modify and assimilate the new ideas; isolate and marginalize the proponents; or, at the extreme, proscribe the heretical tenets and use force to subjugate, persecute and expel heretics.

**Complementary Medicine:** Analytic biological and epidemiological sciences underpinning Western medicine are based on tenets of reductionism. Holistic medical practitioners wish to introduce the tenet that each person must be seen and treated as a unique whole. Such ideas

have always existed in medicine, but not in its scientific basis. Like other successful heretics, the supporters of holistic medicine offer a critique of biomedical science by highlighting its failures. A recent BMA review of complementary medicine was organized without proper participation of the main complementary medicine organisations, which include a research council. At the outset, the Report branded non-conventional practices as non-scientific, thereby weakening their acceptability, if not wholly depriving them of legitimacy.

Ex. 8.9<sup>10</sup>

Dedication, a form of passionate conscientiousness, is the *ethical disposition* which must be cultivated if a person is to recognize and act on tenets unwaveringly. Dedication depends on a well-developed conscience which idealizes the relevant tenets and governs actions accordingly. Dedication is a personal quality which does not emerge at the behest of fashion or an executive command. Put another way, people must believe in what they are doing and be dedicated if they are to achieve anything substantial in the face of inevitable obstacles. If a group member publicly ignores or challenges the tenets, others lose confidence in him very rapidly and doubt his loyalty. Restoration to a position of trust is difficult without a convincing explanation, retraction, and explicit re-dedication to the creed.

Dedication to new tenets requires a period of reflection and a determined effort to face and work through internal opposition based on previous convictions and habits. The person must make an internal shift in commitment while receiving a diffuse but genuine social support. Any culture change project must allow for these processes and recognize that they differ from those required in most management change initiatives.

**Pros and Cons.** Tenets to which people are genuinely dedicated have distinct *advantages* over laws or regulations because no external edict or force can be as potent as the conscience. Tenets allow people to act as their own policeman, judge and penal system. Whereas the legal system must deal with matters after the event, the conscience can prevent wrongdoing because it can deal with the state of mind before anything has taken place.

The emotional quality of tenets gives them the potential not only to unite people but also to empower them and their particular group. *Criticism* of tenets focuses on their capacity to foster social tensions and conflicts between communal groups. Tenets which we accept seem so eminently reasonable and necessary, whereas the tenets of other groups so often appear invalid, incomprehensible, dangerous or unimportant. Our group's tenets are considered essential, whereas others seem to be slaves to their ideology. The

community must deal with such attitudes towards group differences if group power is to be safely released. Power will be used constructively if individuals are sure of their authority and responsibility in relation to others, and this requires rules at the next level.

## L<sup>-4</sup>: RIGHTS AND CHARTERS

**Nature.** At L<sup>-4</sup>, the rules to be followed emerge from the need to constrain the handling of power imbalances between classes of individual, given their diversity and mutual inter-dependence. A class is an abstract but immediately recognizable classification or categorization applicable to community members e.g. minors, entrepreneurs, commuters, unskilled labourers. The rules define and protect the individuality of those in the class, and aim to manage feelings of unfairness in the distribution of benefits and dis-benefits engendered by class differences and social arrangements. The *basis of legitimacy* for such rules clearly derives from the individualist approach to ethical choice and dialectical decision-making (L<sup>-4</sup>); and there is an obvious relationship to the social structure (L<sup>-IV</sup>) within which the position of each person is determined in relation to a variety of social classifications which apply.

Class imbalances emerge contentiously in particular situations involving particular individuals, who are described as the protagonists or parties to the dispute. The rules are known as **rights**. Situations often call for rights to be brought together in a **charter** (or declaration or convention). Note that although each person feels the possession (or absence) of rights, they are actually the possession of a recognized class of persons in society.

**The Prototypical Charter:** In 1215, the Magna Carta (Great Charter) defined the relative rights of the Monarch and the Barons and others in England. These rights include: No.8: No widow shall be forced to marry so long as she wishes to live without a husband. No. 10: If anyone who has borrowed from the Jews any sum, great or small, dies before it is repaid, the debt shall not bear interest, while the heir is underage. No. 40: To no one will we sell, to no one will we refuse or delay right or justice. No.41: All merchants shall have safe and secure exit from and entry into England and be free of all evil tolls. No.54: No one shall be arrested or imprisoned upon the appeal of a woman for the death of anyone except her husband. All these rights are unambiguous and can (in principle) be strictly observed. The Magna Carta, granted by King John in the midst of a rebellion, was not subsequently upheld. It only reached its final statute form when Henry III issued it in 1225. It was then reissued and

confirmed at least 37 times down to the time of Henry VI.  
Ex. 8.10<sup>11</sup>

The *function* of rights is to ensure that all know and respect what is due to and from each individual in a class. Rights need to allow for differences and power imbalances while enabling the relationship and integrity of each party to be maintained. Rights, like the other rules, also apply to non-personal individuals like firms and governments. For instance, the leaders of the four powers that divided Germany after World War II spoke of their rights during the re-unification process.

It is not easy to impose a right (or a duty) on a category of individual. The very notion with its origin in individualism implies that each class and its members must, in some way, be allowed to have a say in its own rights. So, the source of *authority* in relation to rights is ultimately the power exercised by the affected class. (Apparently might is right!) Class power, in turn, depends on the efforts of every person in the class affected by the rights. Although most classes — consider widows, war veterans and newspaper readers — do not form a natural social group, organizations can emerge as a voice claiming to defend their interests. In developing and devising rights or agreeing to a charter, representative arrangements are usually needed and such organizations come to exert an influence on the decisions of public bodies.

Many inter-class relationships within society and in organizations show mutual dependence and yet an obvious power imbalance e.g. between managers and subordinates, between employers and staff, between doctors and patients, between lawyers and clients, between newspaper editors and readers, between researchers and subjects, between sellers and consumers and between universities and their students. In all these relationships, unthinking expedience or sheer self-interest of the dominant party will lead to unjust or unnecessarily harmful practices developing. These can be avoided and the relationship in general strengthened if a statement of the rights and duties of both parties are specified and agreed. Charters in such situations invariably take their shape and force from existing moral institutions as adapted to the conflictual situation.

If charters are operated voluntarily, they can benefit both parties e.g. instituting an employee's charter could help boards introduce changes while raising staff self-respect and morale; and instituting a student's charter could aid maintenance of discipline while fostering maturity and releasing creativity.

**Types of Right.** The language of rights is confused in the extreme. The trouble is that rights have come to be used to refer to virtually anything an individual

desires or feels entitled to. Such an emotional basis is unsatisfactory because rights are inherently limited to what others, or the social group as a whole, can actually assign, do or provide. For example, it is meaningless to talk of rights to health or intelligence because these are not within the gift of society or other individuals; whereas it is meaningful to consider possible rights to health care or schooling. Rights are frequently spoken of as if they invariably imply advantage, but rights include what is due from someone, that is to say responsibilities or duties which may be burdensome.

Rights and duties get muddled. When politicians seek the responsibilities of office, their minds generally focus on the powers that will be theirs by right, whereas their constituents envisage the performance of duties which elections confer by right. Common parlance is subtle: to have a responsibility *for* something is a right which is a power, whereas to have a responsibility *to* someone is a right which is a duty or accountability.

Rights and duties tend to go together because if something is due to you it is frequently the case that something complementary is due from someone else e.g. if you have the right to be paid, then someone must have the duty to pay you. However the same thing, say free passage in the streets, may be due from others to you and also due from you to them. At times the notion of duty is virtually synonymous with the notion of right. For example, if one has a duty to vote, then the right to vote must exist as well.

Legal scholars like Hohfeld have gone further and distinguished four types of rights, each of which exists in a positive and negative form. There are rights in respect of being treated (or not being treated) in a certain way. This may be termed a claim (or an absence of a claim). There are rights in respect of avoiding (or not avoiding) being treated in a certain way. This may be termed an immunity (or a disability). There are rights in respect of being enabled (or being expected) to act. This may be termed a privilege or liberty (or a duty). Finally there are rights in respect of being enabled to act on others (or being blocked from doing so). This may be termed a power (or a liability).<sup>12</sup>

**Gaining Compliance.** Adherence to rights and duties should benefit each individual in the class, otherwise the individualist basis of legitimacy is missing. If benefits to each party are not direct and obvious, compliance will be problematic. It is precisely because rights proper seem more self-advantageous than duties that rights have come to be thought of as divorced from duty. *Changes* in rights (or new charters) characteristically generate intense opposition because as soon as any class obtains and asserts rights not previously accorded,

the balance of power in the relevant arena starts shifting. King John was typical in signing and then evading what he had signed (Ex. 8.10).

Compliance depends on each person in the parties to the charter (e.g. each teacher and each student) recognizing their class membership and feeling an inner pressure based on it to use and respect the charter. To support this tendency, charters benefit from mechanisms which encourage people to exert their rights, allow adherence to be monitored, and enable disputes to be openly and fairly resolved. In firms, for example, a worker may have a representative assist him at a special tribunal. In wider society, social workers and Citizen's Advice Bureaux provide information and counselling; and advocates may be provided for those with difficulty speaking up for themselves.

Charters are often named after the weaker party — hence consumer rights, patient rights, workers' rights — and seem to play down associated responsibilities and respect for the rights of the stronger party. It is easy, perhaps tempting, for the stronger party to take advantage of its position. Even after agreeing to a charter, it may nonetheless be disposed to victimize anyone who attempts to use it. If this occurs or is likely, social pressure needs to be orchestrated by a representative body of the class: e.g. the union may take up a case in relation to management practices, a health pressure group may protest about the handling of a patient at a state hospital, the student society can complain on behalf of a student to the university authorities. Alternatively, a regulatory authority of some sort may be used. Ombudsmen, for example, have been appointed in many countries to help people assert their rights in dealing with large impersonal or monopolistic bureaucracies like local government.

If the rights violation is recognized and accepted, the offending party needs to provide restitution or compensation, an appropriate apology and an agreement to accord due rights in future. Active steps may have to be taken to ensure that attitudes are reoriented, that disadvantages accrued during the period of violation are rectified, and that arrangements are in place to ensure there is no repetition.

Respect is the *ethical disposition* which fosters the recognition and assertion of rights, and enhances the likelihood that they will be accorded. Humiliation or maltreatment suffered at the hands of a stronger party is evidence of a breakdown in respect. It will be recalled that supplies of respect, both self-respect and respect from others, are essential to maintain self-esteem and support existence as an individual (L'-IV). Respect increases the likelihood that the exertion of rights will enhance social cohesion. Anyone who abuses the rights

of another implicitly devalues a whole class, and so weakens the community. Devalued people often find it difficult to maintain their self-respect, and then their feelings of inferiority may release aggression which causes further loss of respect. So community tensions and discord are heightened in a vicious downward spiral.

**Pros and Cons.** As noted above, people who feel their own position is weakened or jeopardized tend to reject the rights of others. They engage in overt or covert resistance and promote a different balance of power. Until rights are backed by law, class representatives may determinedly pursue their own ends to the detriment of others and even society as a whole. So rights present a potential threat to peace, order and stability. As a result, and unlike rules at previous levels, it is wholly appropriate to make them a focus for law-making.

**Parents Oppose Childrens Rights:** The children's rights movement has been associated with the uncovering of physical harm, sexual abuse, neglect and exploitation of children by parents and relatives. This has led to increased supervision of families and more orders to take children into care. As a result, organizations have formed to uphold 'parent's rights' and to oppose, or at least limit, official intrusion into family life, external control of family behaviours, and compulsory removal of children from the home. The UK government finally responded with a Children's Act (1989) which emphasises that children do have rights and that parents have responsibilities rather than, or as well as, rights in relation to them. **Ex. 8.11**

Nevertheless, the sensitivity that surrounds the need for differential rights (or the wish to eradicate differentials) means that there are often *advantages* in introducing a new charter initially on a non-legal basis. This enables discussions to take place, helps anomalies to be clarified, and ensures that something will be formulated. Violations can then receive publicity without necessarily invoking public penalties. Beliefs can be gradually modified. Attitudes can adapt. If legal status were required *ab initio*, such documents would never see the light of day. Even if they were produced, those most affected would refuse to endorse them. In short, legalizing rights does not necessarily lead to real social change.

**Rights of Children:** When the UN Convention on the Rights of the Child (1989) is ratified by 20 countries after 10 years of debate, it will become international law and binding upon them. However, there will be no judicial machinery to enforce the law and no right of individual complaint. Many of the Articles run counter to practice and law even in relatively advanced countries like the UK where separation of children from parents occurs as a consequence of immigration policies (cf. Art. 9), hitting

children is still condoned (cf. Art. 19), and boys as young as 15 are being remanded in prison with adults (cf. Art 37). **Ex. 8.12**

*Criticism* of those rights which are not binding in law often concentrates on difficulties with enforcement — but, of course, this applies to all the rules thus far. Criticism which is more to the point emphasizes the potential for conflict generated by the very act of defining and recognizing rights. Whenever power relationships are altered — which is precisely the purpose of new rights and duties — those who lose power tend to feel that the developments are unfair. This results in conflict, as exemplified in the clash between supporters of parents' rights and childrens' rights (Ex.s 8.11 and 8.12). The result is that rights campaigners, when fighting discrimination, often discriminate or advocate discrimination against members of previously powerful classes, and even persist in discriminating against other vulnerable classes. Criticism is often targeted at crusaders seeking the assignation of new rights. The most undermining criticism is that they hold extremist views which are not truly representative of the class.

Taking a rights perspective alone is insufficient as a guide in many situations. Consider the not uncommon situation of a hospital patient harassing a nurse.<sup>13</sup> The nurse's rights may indeed be violated, but to avoid the patient or to retaliate does not seem to be ethically desirable, and appealing to a charter or adjudicatory body is hardly the answer. Such situations can only be dealt with ethically using rules at the next level.

## L"-5: MAXIMS AND CODES OF ETHICS

**Nature.** At L"-5, the rules to be followed emerge from the need to regulate the handling of relationships so as to maximize the likelihood of an overall beneficial result. The *basis of legitimacy* for such rules can be found in the communalist approach to ethical choice (L'-5). These rules will be referred to as **maxims**. Maxims are often encapsulated as proverbs, mottos, adages or wise sayings. Maxims are a form of rule developed to govern personal relationships irrespective of issues of individual advantage or power, and their origin is society's ethical teaching (L"-V). An organized collection of maxims designed for a particular purpose is termed a **code of ethics** (or sometimes a code of conduct).

The *function* of a maxim is to ensure that all know and meet the general requirements for virtuous functioning. So maxims tend to be more widely applicable and more self-evidently good than previous types of rule. Maxims apply as much to organizations and governments as to persons. For example, although govern-



ments may break verbal undertakings by their ministers and diplomats (just as people may break promises), it is usually accepted that the ethical precept requiring adherence to agreements freely entered into still applies.

Maxims appeal to the *authority* of the current ethical teaching. Because the teaching is a natural moral institution, the legitimacy of the maxims is immediately recognizable and readily granted without detailed reference or debate. An ethical teaching can be said to define a moral community; and maxims only have validity and automatic respect (as opposed to lip service) within such a community. Those assuming moral leadership in any community address challenges by emphasizing particular maxims and virtues that seem relevant. Calls for restraint and tolerance at times of civil turmoil, exhortations to be industrious and thrifty when economic conditions worsen, pleas for honesty and truthfulness to resolve a scandal, exemplify the use of maxims.

Any individual, person or organization, can determine maxims and virtues for their own use. For example, the general maxim 'to respect confidences' might be expanded in a business to confidentiality in regard to tenders, or confidentiality in regard to advice. The maxim to 'care for others' when applied within a chemical firm might become: 'protect those who produce, package, transport, use and dispose of our products from potential hazards'. Such a maxim could lead to responsible managers devising and implementing a wide variety of prescriptions, conventions, duties, procedures and policies.

One investigator claimed to have found over 400 codes of ethics covering a wide variety of occupations — everything from museum curators to private detectives to public relations. However, the organized use of maxims is most evident and credible in established professions, most prominently medicine. (Hence the choice of examples in this chapter.) Membership associations of doctors and those of other professionals — including social workers, lawyers, accountants, dentists, statisticians &c — seek to gain and maintain the confidence of the public by giving guidance which spells out the virtue of its members while not infringing their autonomy. The code of ethics re-works maxims from within the accepted ethical teaching adapted to suit the stresses of professional activities. The maxims in a code are typically formulated in a very general and unarguable way which facilitates their internationalization. Because the maxims seek to be applicable in any situation, they must be articulated so as to allow considerable latitude in performance.

**Maxims for Doctors:** The Canadian Medical Association captures the flavour of what a code of ethics is about by opening their code with seven maxims. These are — 1: Consider first the well-being of the patient. 2: Honour your profession and its traditions. 3: Recognise your limitations and the special skills of others in the prevention and treatment of disease. 4: Protect the patient's secrets. 5: Teach and be taught. 6: Remember that integrity and professional ability should be your only advertisement. 7: Be responsible in setting a value on your services.

Ex. 8.13<sup>14</sup>

A code is also significant in business, because if a firm gets a reputation for operating ethically, it is undoubtedly strengthened. By providing a recognizable and respected common social framework, a code of ethics helps employees and professionals to do what is right and to explain their actions. In a US survey of corporations and associations, a well-handled code of ethics was claimed to provide legal protection, to increase pride and loyalty, to enhance customer/client and public good-will, and to reduce corruption (theft, bribery).<sup>15</sup> Code development within firms should engage with pay incentives because staff often feel that the design of these incentives encourages them to cut corners and indulge in sharp practice. However, one business ethics consultant working in telecommunications and financial services firms over several years reported that not a single firm had ever agreed to examine its incentive system as part of its ethics programme.<sup>16</sup>

**Gaining Compliance.** Adherence to a maxim should be in everybody's interest. Otherwise the communalist basis of legitimacy is missing. But the awareness that everyone benefits is a comparatively weak inducement to comply. As in the ethical teaching, people may find that by not complying, they gain benefits at the expense of others. For example: should a surgeon allow himself to be tested for hepatitis B virus to protect patients — given that, if he is infected, he loses the right to operate? One surgeon described the unhappy consequences of discovering his infection and reported that his street-wise colleagues had advised him to ignore potential harm to patients and assert his right to refuse to be tested.<sup>17</sup>

In a moral community, action and choice should be determined by the exercise of autonomy and virtue. So adherence to maxims is a voluntary matter. Like the surgeon or an employee of the chemical firm, each person is given considerable freedom about how to interpret a maxim and, in the public domain, even whether to follow it or not. The ethical teaching underpinning any maxim invites identification, and identification makes virtue easy. Others may view virtue with admiration, but for the virtuous person, it is no more

than being natural. Correspondingly, adherence to a maxim with which we are not identified is a constant struggle against passions and expedience.

**An Association reaks the Code:** Psychiatrists in the USSR were involved in the abuse of patients for political purposes for many years. This contravened the code of ethics developed by the World Psychiatric Association (WPA) in its Declaration of Hawaii. In order to avoid expulsion from the WPA, the Soviet Association resigned in 1983 and slandered the British Royal College of Psychiatrists. The Soviets attempted to be readmitted at the WPA Congress in 1989 in association with Gorbachev's attempt to revitalize the USSR via perestroika and glasnost. However, the Soviet contingent imagined that they could do so without acknowledging that there had been abuse, and without bothering to retract their slanders. Eventually they admitted their abuse and apologized. So a conditional reinstatement in the WPA was then agreed subject to Soviet reforms and their monitoring by the WPA. A report in *Izvestia* referred to readmission, but ignored the conditions. It also referred to the full membership accorded to an untainted rival Soviet Independent Psychiatric Association as 'temporary membership'. **Ex. 8.14**<sup>18</sup>

Although ethical teachings have a perennial relevance, maxims and codes of ethics do need to *change* at least superficially to meet new circumstances and challenges. Modifications take the form of a re-interpretation or re-articulation of already recognized maxims. The rise of big business, for example, has led to a demand for the development of business ethics. The opportunity for unethical business operations has dramatically increased in recent decades due to the large amounts of money now involved, the sheer size and complexity of many businesses, the absence of public awareness and scrutiny, increased opportunities for fraud, and over-close connections between many businesses and governments. Applying an ethical teaching to the complexities and legalities of business requires dedicated effort, probably best based in academics.

The *ethical disposition* requiring cultivation in relation to maxims is virtue (or propriety). Virtue is comprehensive. It implies adherence to the ethical teaching, development of a full range of specific virtues, and (according to Plato and Aristotle) the exercise of these virtues and other ethical dispositions in a proper order and balance.

Virtue is so difficult for people that social support for it is essential. The government or public bodies and professional associations may establish regulatory authorities and authorize them to define and monitor ethical maxims relevant to a sphere of activity. In the case of the professions, ethical violation affects the confidence of the public. So most professional associations provide codes of ethics which allow for investigation,

even though disciplinary responses are usually limited to reprimands and expulsion from the association (cf. Ex. 8.14 and 8.15).

The greater the significance that society attaches to proper conduct in a particular domain, the greater the likelihood that statutory regulation of professional or business conduct will be imposed. Statutory regulatory authorities exist to monitor and ensure propriety in a wide variety of areas e.g. financial deals, medical treatment, aesthetic choices in the public sphere, discipline within organizations, sexual and racial discrimination.

**Protecting Medical Virtue:** A doctor's membership of the British Medical Association and adherence to its code of ethics is voluntary. However, registration with the General Medical Council (GMC) is compulsory if a doctor is to practise legally in the UK. The GMC contains lay members and is empowered to investigate 'serious professional misconduct' (i.e. breaches of the profession's maxims) which are brought to its notice. Following initial scrutiny to see if there is a case to answer, a committee documents the allegation, and then there is a formal inquiry in which lawyers are used. Removing a doctor from the register, temporarily or permanently, and so preventing further practice is the sole and powerful sanction. Civil and criminal proceedings may occur in parallel as an independent matter according to the law and within the court system. **Ex. 8.15**

**Pros and Cons.** Maxims are flexible and useful tools. If adhered to, their *advantages* over regulations or laws are many. Maxims provide for trust, smoothness, flexibility and simplicity in social dealings, and avoid the complexity, bureaucracy and impersonality inherent in legalistic arrangements. For example, a firm's ethical policies written as regulations are usually unreadable, while maxims can and must be memorable.<sup>19</sup> Adherence to ethical teachings can also mitigate the effect of unfair or harmful rules at lower levels, and of laws which are ineffective or draconian.

Self-regulation implies responsible action, and this means: first, that there is a suitable explicit code which is felt to be binding; second, that the spirit of the ethical teaching must imbue the individual; and third, that the individual is part of a moral community. Wherever ethical teachings are not voluntarily adopted, legal controls are commonly followed, if at all, to the letter rather than in the spirit. In the UK, for example, bringing in the criminal law to control fraud resulted in a meagre 28 prosecutions over 13 years.<sup>20</sup> Where ethical maxims are undeveloped, laws are unlikely to be passed.

**Propriety in Financial Services:** Many practices within financial services — conveniently delaying orders, holding cheques, dumping unwanted stocks on clients, insider dealing, front-running, giving biased advice, releasing

false information, churning, exploiting regulatory loopholes — seem to be a mixture of theft, fraud, abuse of trust, and bad faith. Such behaviours are the convention in most countries at present and so the usual response by governments has been to gloss over all but the grossest abuses. Here are two examples.

**Japanese banking:** It became clear in 1991, that leading banks in Japan had been issuing forged deposit notes, doing business with criminal organizations, and compensating large clients for losses. They did so with the tacit and active support of officials, and were allowed to lie with impunity to official inquiries into their activities by using formulae like 'I forget'. The amount that Japanese banks have withheld from (defrauded?) Japanese depositors through excessively low interest payments is said to be of the order of £300 billion.

**English Self-regulation:** Leading figures at Lloyds of London, the insurance market, fight for self-regulation but seem to believe that this means deciding what to do to protect the business when complaints of impropriety cannot be hushed up — not that it implies a duty on professionals to adhere to pre-specified maxims in terms of which their behaviour would be impartially and publicly judged. In recent decades massive losses due to negligent underwriting and scandalous practices have led to personal disaster and suicides of people who put up capital. Lloyds underwriters regularly lose legal cases asserting negligence: but waiting for the law to determine fault means ignoring self-regulation. **Ex. 8.16**<sup>21</sup>

The *criticism* of maxims is that, like virtue itself, they are too vague and too discretionary. This makes them unreliable and too dependent on personal integrity. Maxims resemble social values (L-5) in their inherent self-evident goodness, and resemble the communalist approach to ethical choice (L'-5) in the difficulty of applying them given the complexity of social situations.

Ethical maxims, though fundamental to the quality of social life, are not by nature strictly enforceable. Worse, they potentially encourage weak individuals to choose to disregard them and to exploit those who do adhere to them. In order to deal with such defects, a higher level is required containing strictly enforced and impartially adjudicated rules.

## L''-6: LAWS AND SYSTEMS OF REGULATION

**Nature.** At L''-6, the rules to be followed emerge from the need to enforce basic values and ethical concerns dealt with by rules at lower levels. The twin characteristics of definitiveness for the whole community and formal enforcement make these rules, generally called **laws** (or regulations) seem the paradigm for rules, indeed the only real sort of rule. But in

each of the previous sections we saw that laws are not at all the optimum type of rule to govern all situations.

The *basis of legitimacy* for laws is the legitimist approach itself (L'-6) in which value is assigned to rule-making. Laws, it will be recalled, emerge with the governance system (L''-VI). Laws are either defined in the courts by abstraction from custom and as *ratio decidendi* of earlier cases, or from statutes passed by a legislature.<sup>22</sup> The laws of ethical significance are those rules of just conduct which restrain individuals from harming or interfering with each other (i.e. civil and criminal law).

Laws seek to ensure that certain rules cannot be ignored. Because laws are so definitive and apply impartially to the whole community, it is essential that new laws are formulated unambiguously and devised so as to fit with what exists without internal contradictions. In other words, the code should be a **system of regulation**.

The *function* of laws is to ensure that all know and obey those rules which need to be enforced to maintain a stable social order. So laws can only operate within precisely defined boundaries: for communities, this is the state or nation. Within any bounded community, there are invariably differences of view among individuals about what rules are essential and exactly how and when they apply. When these differences cause socially intolerable conflict, laws are enacted by the legislature or decided in the courts. Given that the law-making process has not been perverted, it must be seen as ethical in principle and based in necessity and consent. Social order protects individuals from harm, and organizes and regulates group affairs for their benefit. That is to say, having laws (even bad laws) is inherently good.

Any formally constituted social group — business, club, association, school, church — could not function without its own system of regulation. Regulations are often known as canons in churches, or as bye-laws in associations and community bodies. Regulations in all such circumscribed social groups must be consistent with the laws prevailing in wider society. For example, hitting school-children is legal in some countries — and may therefore be either permitted or forbidden by school regulations; but it is illegal in other countries — in which case corporal punishment in schools is never permissible.

Any rule at a lower level can become a regulation. For example, a governing body may decide that certain duties (L''-4) previously assigned at the discretion of managers should be given only to people with particular qualifications; or that a maxim (L''-5) such as 'to

be dedicated to the firm' needs defining in relation to what off-duty work is permitted or prohibited. Similarly, the membership committee of a sports club, but not the club manager, may convert a convention (L"-2) about dress into a regulation. As with societal laws, such regulations are binding on everyone in the organisation and allow for enforcement.

The transformation of rules into laws is also evident within society. The most mechanical-seeming laws on traffic control or tax calculation derive from prescriptions (L"-1) in that they specify behaviour precisely; legal controls on alcohol consumption or sexual activities formalize popular moral conventions (L"-2); legal provision for capital punishment or euthanasia enshrines social tenets (L"-3); laws about property, shareholding and free passage assign rights and duties explicitly (L"-4); and the law of contract upholds ethical maxims of honest dealing and promises (L"-5). Laws exclusive to this level (L"-6) concern: the making of laws, the monitoring and enforcement of laws, how a judgement is made about whether a law has been violated, sanctions for breaking the law, and provision for managing the sanctions and rehabilitating offenders. Laws also provide for justice to prevail by incorporating terms like 'reasonable' or 'fair' in their wording (L"-7).

**Gaining Compliance.** Adherence to a law should generally benefit the community without unfairly penalizing any member — otherwise the legitimist basis of legitimacy is missing. The support each person gives to the governing authority which guards the law-making process is itself an inducement to abide by laws. On a smaller scale, voluntarily entering a firm or joining a club is taken to mean entering a quasi-society and agreeing to abide by its official regulations. On the larger scale, choice is largely absent and people need to be socialized to support the legal system. That is to say, each person is automatically expected by himself and by the group to adhere to laws. Still, all laws and regulations are backed by force or threats of force.

Laws, like all rules, guide and restrain conduct rather than determining it. Adequate socialization, a just legal system, and suitable laws lead to a minimum of coercion. As a result, breaking laws is often easy. So any system needs to incorporate rules indicating how breaches will be prevented, monitored and handled. Usually a breach leads to a warning or a penalty.

Penalties have included confiscation of money or property, restriction of liberty by imprisonment or supervision, compulsory work, temporary or permanent physical injury, execution and exile or deprivation

of citizenship. Even where a penalty is appropriate and convention demands that it be severe, it is socially desirable that reconciliation with society remains possible. Exercising a vengeance that embitters offenders and creates permanent outcasts is self-defeating. Offenders should be able to make a fresh start on the basis of future compliance with the law. Repeated offences are characteristic of those who are unable to cope with social life, those who are mentally unbalanced, and those who have a psychopathic identity: known respectively as the sad, the mad and the bad.

Organizations also insist on penalties. The association governing a sport, for example, may have a committee which can examine and judge an offender, impose fines and forbid further work in the sport temporarily or permanently. Businesses too may discipline or dismiss staff. It appears that the regulations are not so much about the direct exertion of force as about providing a known framework of procedures which regulate the use of such force.

The *change* of a law has wide social significance and must be formalized and proceduralized to ensure that it is based in social necessity and community consent. This may take a considerable time while more and more people come to recognize why a new rule is needed or why an old rule is harmful. If the delay is long, people may evade or refuse to comply with the existing rule in the hope that their actions will be ignored. If many do likewise, then that law will fall into disrepute and disuse. In society, the individual may join with those of a like mind and campaign for a change in the law. This may even mean working to install a new government who will pass the desired laws. In the extreme, a person may seek to leave the society for another with more congenial laws. Widespread dissatisfaction with laws is therefore a precursor of revolution, anarchy and social collapse.

Obedience is the *ethical disposition* ensuring scrupulous adherence to laws or regulations. Obedience is not to be equated with abdication of responsibility or slavishness. Obedience on its own is insufficient for ethical living; but without obedience, any society disintegrates. It is worth noting the degree to which the freedom of members of organizations may be curtailed by necessary obedience to regulations. Staff within a firm may be told how they should spend their time, to whom they may talk, and what they should wear — a degree of control which would be unacceptable in the wider social context. So long as nothing illegal is proposed, managers have little scope to challenge the constitutionality of regulations passed by a governing board. The demand for obedience goes to further extremes in total institutions like prisons and secure

mental hospitals, which are closed societies from which inmates cannot escape.

**Pros and Cons.** The peculiar *advantages* of laws are their sharp definition, authoritative nature, comprehensive applicability, impartiality, and procedural clarity. However, as noted when examining each of the lower level rules, these qualities can be disadvantageous when used improperly. When laws are created, they subtly alter the non-formal rules and do not necessarily serve the function of the lower level very effectively. It follows that no amount of legal regulation to prevent unfair discrimination can obviate the need for maxims, customary rights and duties, tenets, conventions, and prescriptions which support fair treatment of people.

*Criticisms* of laws, statutes and systems of regulation are many. In their nature, they tend to be negative and constraining, partly because the laws and judicial processes become so complex. Bulky volumes containing long sentences in small type seem not to be designed to be read and mastered except as a penance. So the system becomes impossible to appreciate by ordinary people. Some firms now have special ethics departments with legal specialists, ethical officers and ethical philosophers producing and interpreting rule-books. In the case of society, a dedicated legal profession evolves and the expense of legal proceedings rapidly escalates beyond the reach of most people. To outsiders, the procedures and formalities seem to become more important than the aim of the rule. The more that legal authorities become remote from the members of the group, the more do laws and regulations become rigid, pedantic, dogmatic and sterile.

Laws tend to be unsatisfactory, or even unjust, because they are static whereas organizations and social groups are dynamic. Furthermore the procedures involved in producing laws result in them being more oriented to conventional values or public opinion rather than to higher principles. By invoking fear of punishment, laws invite adherence to the letter rather than the spirit. In the end, not breaking laws is essential but not enough, because knowing what is permitted does not clarify what is good.

Laws allow for enforcement, sanction restraints on freedom, and even permit physical coercion (in total institutions and society) or instant expulsion (in a firm or associations). Unfortunately, those with the authority to make and enforce laws are fallible. Furthermore unless laws (and all other types of rules) are adhered to in the spirit they are useless. An ultimate rule generated and sanctioned by an infallible and indisputable authority appears required as a final buttress for rule-making.

## L<sup>-7</sup>: ABSOLUTES AND THE ETERNAL VERITIES

**Nature.** At L<sup>-7</sup>, the rules to be followed emerge from the need for unchallengeable guidance. Rules of this sort may be termed **absolutes**. The only possible *basis of legitimacy* for such rules is the transcendentalist approach to ethical choice (L<sup>-7</sup>). Taken together, a set of absolutes constitute **the eternal verities**. By tradition, absolutes have been provided by God and offered as part of the divine law within religions (L<sup>-VII</sup>). Philosophers, distancing themselves from religion, have produced similar rules using Reason or the Nature of Man as their source. In our present psychological era, we might say these rules emerge from transpersonal being (L<sup>-VII</sup>).

The *function* of absolutes is to ensure all know and aspire to the path of duty. Indeed the very notion of ethics loses sense without an absolute rule to live ethically (whatever that may mean). It follows that absolutes sustain the whole edifice of ethical rules, the use of the ethical approaches to choice, and the pursuit of values. Absolutes embody righteousness. They have been formulated on the basis of austere meditation (Buddha), divine revelation (Moses, Mohammed), and reasoned reflection (Confucius, Kant). For those lacking spiritual conceptions, the ultimate authority is a transpersonal ultimate value (like Reason or Justice or Compassion) with which one can be completely identified. This is equivalent to locating *authority* in a deity or the transpersonal self. Logically, there can be no higher level of rule, and no higher rule-making authority.

Absolutes underpin ethics within all social groups although their spiritual origin is not always recognized. Absolutes focus on duty and goodness: the timeless and universal deontological and teleological imperatives. Examples include the principles of beneficence: ‘good is preferable to evil’ and ‘choose the greater of two goods or the lesser of two evils’. Another, sometimes called the Pauline principle, is ‘evil may not be done for the sake of the good’. An absolute suggested by Hippocrates for use by the medical profession is: *primum non nocere* — above all do no harm.

Kant’s absolutes included ‘to treat others as ends not means’, ‘to use maxims that you would wish to be a universal law’, and ‘to harmonize ends amongst the individuals in the community’. Although, we may be in doubt as to what such absolutes imply, the requirement is clear: each of us must use them as best we can whenever we can. Kant’s view was that goodness depended on the use of goodwill which was brought about by an awareness of duty. It follows that cultivating awareness,

appreciating responsibility, and using goodwill are part of the eternal verities.

As the above examples illustrate, absolutes are typically contentless or so abstract as to defy direct interpretation or localized ownership. Absolutes are assumed to be applicable to everyone in all communities at all times. Once realized they are not subject to *change* and do not need adaptation to suit particular situations, organizations or societies.

**Gaining Compliance.** Adherence to an absolute should be self-evidently and unquestionably right, not just for each person now, but for all people in all times, otherwise the transcendentalist basis of legitimacy is missing. Compliance with an absolute is equivalent to the individual will moving in harmony with the natural order or God's will. So any notion of control links to cosmic forces rather than personal or social influences. Adhering to absolutes, though a matter for each person, is usually supported in the community by religions.

According to many religions, violation of absolutes (God's will) leads to catastrophic destruction of the world. This needs to be recognized as symbolic. Because absolutes emerge from ultimate values, breaching them is equivalent to releasing evil. Events then unfold outside personal identification; and efforts to deal with matters become meaningless gestures.

**Tragedy:** The power of tragedy lies in the way that a flaw in the character of the hero results in the release of evil and social consequences which cannot be undone. Shakespeare's greatness surely lies in part in his deep understanding of these forces that move mankind and society. The destruction following the evil act is inexorable and awesome. In *Hamlet*, a fratricidal murder leads to madness, deaths by murder accident or suicide of all the protagonists, and a foreigner taking over the country. In *King Lear*, the father's inability to recognize flattery leads to civil war, loss of the kingdom to foreigners, his madness and death, and deaths of all his family except for his exiled daughter. In *Macbeth*, the failure to control ambition leads to madness, murders of adults and children, and foreign invasion. Ex. 8.17

An individual can reject an absolute, but that is to embrace evil. If evil is chosen, relationships and events are likely to become unfavourable, and a person becomes increasingly alienated from himself or herself. Of course, many tyrants, petty and grand, have constructed social relationships built on fear and hatred, flattery and lies — and yet died quietly in their beds. But the damage they have caused lives on after them, and their memory is reviled.

If the path of duty is regularly neglected, social abhorrence develops. The ethically flaccid person without a sense of duty is suspected and avoided. Con-

versely, the more real the absolute becomes for us, the more trust others have in us, and the more trust we develop in our own actions. Our misjudgements and mistakes, when they occur, are tolerated and forgiven. This is a powerfully self-reinforcing pattern. It seems that there is no refuge from our responsibility for our self and our universe — which is equivalent to saying that there is no refuge from God. Whatever our past actions, re-finding faith (via transpersonal being) and recognizing the power and value of absolutes and ultimate values is always an option.

**Autonomy.** The *ethical disposition* that facilitates adherence to absolutes is autonomy. Autonomy is expressed in an act of reflection and will. Thus Aiken writes: 'as a moral being, [each man] must...be free to decide absolutely for himself what the law really is'.<sup>23</sup> Autonomy allows and encourages people to contemplate ethical rules and requirements, and then attempt to accept (or change) the kind of person they want to be and the life they want to lead. Autonomy is the exercise of freedom. But such freedom is not license. It means being prepared to modify our interaction with ourselves and with the world, and implies developing awareness of psychological and social forces.

The etymology of autonomy is Gk. *autos* = self, and Gk. *nomos* = rule or law. The term was first applied to the independent Greek city states, not to persons. As we saw when the social structure was explored, a minimum of freedom is the basis on which any society is constructed (Ch. 7); and as we found when the legitimist approach was explained, individual autonomy constrains all formal attempts to promote the common good (Ch. 6).

Autonomy can be ceded, but this is hardly the way for the disposition of autonomy to be developed. Wholly uncritical acceptance of authority and tradition saps autonomy, and so fostering such an attitude is evil. In *The Brothers Karamazov*, Dostoyevsky portrayed the Grand Inquisitor upbraiding and rejecting a reborn Christ. The reason was that He gave man freedom to decide between good and evil and did not recognize mankind's need and desire for miracle, mystery and authority. The habitual demand by many churches that autonomy should be abdicated is the object of rationalist attacks on religion. Evil of this sort seems to be the basis whereby a church usurps the divine role and ends by persecuting its most brilliant followers.<sup>24</sup>

**Luthers Stand:** Martin Luther was conscious of the weakness of human efforts in attaining the absolute good which alone could avail in the sight of a perfectly righteous God. He concluded in the Winter of 1512-13 that God did not judge the sinner according to his merits or good works, which being temporal were inevitably vitiated by

sin. Instead, God accorded grace and mercy given that good works were undertaken with due faith. Subsequently he went on to criticize and dissent from many of the church's activities and doctrines. His persistent refusal to submit to the authority of the church led to his excommunication. At the fateful Diet of Worms in 1521, when asked to recant, he said: 'Unless I am convinced by the testimony of Scripture or by an evident reason — ...since it is certain that [the pope and council] have often erred and contradicted themselves — ...my conscience is taken captive by God's word and I neither can nor will revoke anything.'

Ex. 8.18<sup>24</sup>

**Pros and Cons.** The advantages of absolutes are their immutable, universal and unarguable qualities. These qualities are only possible because of their abstraction. But this is the focus of most *criticism*. Yes, we should do what is right and we should avoid causing harm, but what precisely is right? and what exactly counts as harm? Such questions confuse the issue: absolutes operate on the basis that no temporal authority (not even the state or tradition) and no amount of precision or detailing can capture the spirit of duty. Without that spirit no specific rule will be properly respected or adequately followed.

A further line of criticism focuses on the need to recognize autonomy and/or God, neither of which are subject to social control or external scrutiny. From the perspective of transpersonal being, this is just how it should be. God and man's responsibility are one; or, put another way, man exercises a divine responsibility. A person can choose to turn away from duty, this deepest and most fundamental of human responsibilities, otherwise autonomy would have no meaning.

**Closure.** Absolutes are the most encompassing and most abstract form of rule that is possible both intuitively and logically (in terms of the framework). No higher levels of rule are therefore possible and the tertiary hierarchy of purpose is now completed.

## REVIEWING ETHICAL RULES

The seven sharply distinct varieties of rules that emerged from the exploration of legitimacy have now been described together with the codes in which they are often formulated and systematized. The different types of rule are: prescriptions, conventions, tenets, rights, maxims, laws and absolutes. They are identical with those found in the seven moral institutions which have emerged spontaneously in the course of human evolution. We have seen similarities and correspondences between rules in the natural institutions and artificially created rules and codes for society and its organizations.

Two matters deserve bringing to the fore. The first is the way that rules vary in their tendency to be controlled by individuals or by their social group. The second is the relation between rules and communities.

**The Individual and The Group.** All individual activity in a group context must be legitimate, and rules provide for that legitimacy. In practice, it is impossible for everybody to share in the making of every rule except in families and similar small groups. Rules therefore raise the issue of freedom of the individual and constraint by the group. In particular, we must be clear about whether a rule can be defined in a purely personal way (maximizing freedom) or whether in a purely social way (demanding constraint and possibly coercion), or whether some combination is required. Our analysis reveals that the answer is different for the different types of rules.<sup>25</sup>

For prescriptions to be effective, they must be communally recognized; and yet to be used at all, they must be recognized and respected personally. Conventions are similar. Any convention articulated by an individual alone and not held and used in the group is not part of social reality. It is not a convention at all. At most it is an idiosyncratic attitude. Conversely, a convention which does not feel intrinsically right or real to an individual involved cannot be operated. Rights, too, are inherently private and public simultaneously. Unless the right (or duty) is personally held it cannot or will not be discharged and there will be no solidity in any assertion of its significance. But if the right is not a communal property, then it is not recognized by anyone as having any real existence. In such a situation, the right cannot be claimed or discharged.

Tenets are different. It is perfectly possible for a person to recognize a *social dogma* and to conform outwardly to its tenets and hence maintain it in the community, and yet to reject it inwardly. In the same way it is perfectly possible to hold *personal beliefs* and to act in those terms without others knowing about these. Of course, some link between the two forms of tenet is essential in a healthy society. Maxims and laws are similar to tenets in this respect. In the case of maxims, one can distinguish between *popular precepts* which are communally recognized, generally respected and publicly available and *personal virtues* which are inner self-chosen maxims providing inner private guidance as to conduct. In the case of laws, the distinction between *private regulations* imposed by organizations and *public laws* generated by the government is straightforward.

Absolutes, finally, cannot be devised, respected or followed unless they reflect a fusion of both the personal-internal and the public-social.

**Rules and Communities.** It will be recalled that values defined different types of social group (cf. Ch. 5). Social values were the core of communities which are the basis of society. Clarification of the rules has revealed that *each type of rule aligns with distinctions among and within communities*. L"-7: Absolutes apply to all communities because they do no more than affirm the most general rules about being good and just. L"-6: Laws apply to particular bounded communities formally (and if need be forcefully) regulating the members. L"-5: Maxims apply to a moral community whose members accept a particular ethical teaching. L"-4: Rights apply to social classes whose members are defined by categories within a community. L"-3: Tenets apply to enduring associations, formal and informal, within a community. L"-2: Conventions apply to the mainstream of the community. Finally, at L"-1: Prescriptions apply to the elements of a community, particular social roles held by individual members.

**Transition.** We have said little about which rules might be considered enlightened, just as we said little about which values and purposes might be desirable. This is a matter for individual reflection and articulation by social authorities. Enlightenment could be assessed academically and quasi-objectively by assessing which rules are actually agreed or similar across nations or religions; or subjectively and philosophically, by assessing how far the criteria of universality would be desirable in respect of a given rule. Finding rules which could or should be ethical universals, the ultimate moral authorities, has been a dream of almost all ethical thinkers and writers. The present analysis makes it clear that the only true universals are the nearly contentless absolutes at L"-7, just as the only universally shareable values were ultimate values at L-7.

However, in so far as people in the nations of the world are all human beings and the nations form a community, then rules at lower levels may be developed that in practice (if not in principle) and for now (if not eternally) are universal. A genuine world community within which all people of all nations are under similar obligations is even conceivable because all share the earth, its oceans and atmosphere. Without international laws and maxims a genuine world community, whether of people or nations, could not operate at all. While the notion of certain common rights as a counterpart to membership of this world community appears a reasonable aspiration, genuine commonality of tenets seems less achievable, and common conventions and prescriptions make little sense except in practical matters (like ensuring letters get delivered).

The danger of emphasising universality is that it may lead to the neglect of genuine differences between people and groups. Given that a moral institution cannot be created by fiat, the tendency would be for moral authorities of one group to dominate over others. But any such imposition promotes the potential to authorize coercion and unleash violence. Yet peace and prosperity depend on international cooperation and the institution of rules of some sort transcending particular states.

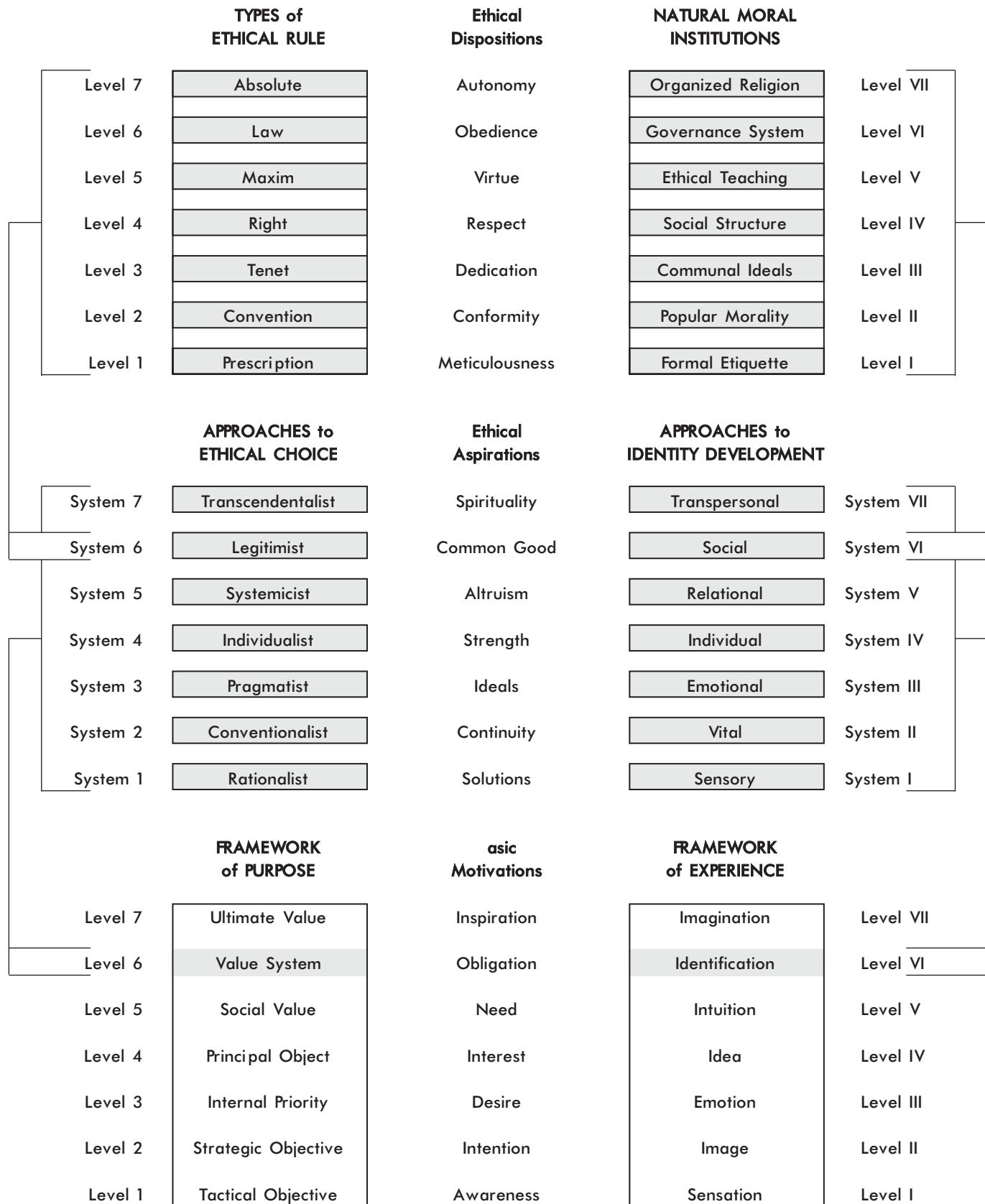
But ethical authority is not simply a problem for the world community. Every person in the smallest society must recognize its existence and somehow accommodate to its pressures. Ethical authority involves more than the determination of rules and their arrangement in codes. Nevertheless, the moral institutions and the fundamental types of rules are the basis for understanding ethical authority. It is now time to use what we have learned so far to confront this awesome topic. ✨



**Master-  
Figure 16**

**Linking the frameworks of experience and purpose via motivation.**

Basic motivations link experience and purpose; ethical aspirations link approaches to ethical choice with approaches to identity development; and ethical dispositions link approaches to ethical choice with approaches to identity development; and ethical dispositions link ethical rules and the natural moral institutions of society. See text for further details and explanation.



**Master-Table 17 Properties of the seven types of ethical rule and associated codes.**

The rule types are those found in the natural moral institutions, but no longer linked to particular identity realms (cf. Master-Fig. 16). Note that the immediate source of authority for a rule or code varies with the frame of reference (e.g. employee hierarchy, association, nation). See text for further details and examples. For a more general account of the rules, see Master-Table 21.

L	Type of Rule & Code	Function	Application	Changing Rules	Advantages (over Laws)	Common Criticisms	Ethical Disposition
1	<b>Prescriptions</b> may be organized as a <b>Code of practice</b>	To ensure all know and perform certain social actions strictly as specified.	When people need precise instructions on what to do to avoid harm.	Change is easy because it flows from rational inquiry.	Straightforward; unambiguous; easy to monitor.	Ignores feelings and preferences of the people affected.	<b>Meticulousness</b>
2	<b>Conventions</b> may be organized as an <b>Ethos</b>	To ensure all know and apply certain attitudes generally in their conduct.	When discretionary action must be constrained in a widely accepted way.	Change emerges because the social group and its values evolve.	Adaptable; feels natural; enables graded adherence.	Too fuzzy and undefined; generates excessive conformity.	<b>Conformity</b>
3	<b>Tenets</b> may be organized as a <b>Credo</b>	To ensure all know affirm and express certain values in daily life.	When a group needs to strengthen its culture by activating ideals.	Change is difficult because people must be re-socialized.	Powerful; preventative; personally owned.	Too distorting; too emotionally invested; too controlling; too difficult to install.	<b>Dedication</b>
4	<b>Rights</b> may be organized as a <b>Charter</b>	To ensure all know and respect what is due to and from each individual in a class.	When conflicts due to power imbalances between classes need to be reduced.	Change is opposed because the balance of power is altered.	Less threatening; allows refining; enables gradual acceptance.	Generates conflict; worsens prejudices; fosters extremism.	<b>Respect</b>
5	<b>Maxims</b> may be organized as a <b>Code of ethics</b>	To ensure all know and meet general requirements for virtuous functioning.	When individuals in society need confidence in the self-control of others.	Change is superficial because the same maxims apply in new situations.	Based in trust; activates virtue; flexible and simple to operate.	Too vague; open to exploitation; too dependent on the individual.	<b>Virtue</b>
6	<b>Laws</b> may be organized as a <b>System</b>	To ensure all know and obey those rules enforced to maintain a stable social order.	When differences of view on what rules are essential become socially intolerable.	Change is formalized because it must be agreed as a social necessity.	Carefully defined; comprehensive; backed by socially permissible force.	Too pedantic; too mechanical; too complicated; too rigid; too procedural.	<b>Obedience</b>
7	<b>Absolutes</b> may be organized as <b>The eternal verities</b>	To ensure all know and aspire to the path of duty.	Applicable by any one anywhere at any time.	Change is absent because it is unnecessary.	Universal; immutable; eternal.	Too abstract; too contentless; too uncontrollable.	<b>Autonomy</b>

## NOTES

1. There is however the special case of personal vows or oaths which are transcendental rules willingly set for oneself only, and which cannot be broken whatever the circumstances. In the Hindu *Mahabharata* epic, the sage-prince Bhishma finds himself fighting on the side of evil as a result of his vow to serve the Kingdom of Hastinapur.
2. Kant implied that hypothetical imperatives were not ethical. See the discussion in: Foot, P. *Morality as a system of hypothetical imperatives*. 1952. In: *Virtues and Vices and Other Essays in Moral Philosophy*. Oxford: Basil Blackwell, 1978.
3. Polkinghorne Report. *Review of the Guidance on the Research Use of Foetuses and Foetal Material*. London: HMSO Cmnd 762, 1989.
4. The prescriptions were extracted from: York Health Authority. *Child Abuse Procedures*. 1989. Note that the guidelines are conventions and tenets which have emerged from maxims and rights. The influence and inter-relation between rules of different sorts is a complex topic not fully examined in this book: see Note [25] below and Ch. 9.
5. Code of Advertising Practice Committee. *The British Code of Advertising Practice*. London: CAP Committee, 1989.
6. See: Ethics Resource Centre, Inc. *Creating a Workable Company Code of Ethics*. Washington, DC, 1990. The comment on credos is in Section IV: Code Structure.
7. McGregor, D. *The Human Side of Enterprise*. New York: McGraw-Hill, 1960.
8. Wolfensberger, W. *The Principle of Normalization in Human Services*. Toronto, Canada: National Institute on Mental Retardation, 1972. Wolfensberger's passion is evident in his equation of the mishandling of the mentally handicapped with genocide.
9. Masters, W.H. & Johnson, V.E. *Human Sexual Inadequacy*. Boston: Little Brown, 1970.
10. The account is taken from correspondence in the British Medical Journal following publication of the Report of an inquiry: BMA Board of Science and Education. *Alternative Therapy*. London: BMA, 1986.
11. Walker, D. M. *The Oxford Companion to Law*. Oxford: Clarendon Press, 1980, p.795-797.
12. As noted in Ch. 7 in relation to the social structure, rights seem to be a perennial source of confusion among the experts as well as among ordinary people. The following texts are useful. Cranston, M. *What are Human Rights?* London: Bodley Head, 1973; Dworkin, R. *Taking Rights Seriously*. London: Duckworth, 1977; White, A.R. *Rights*. Oxford: Clarendon Press, 1984. Hohfeld was concerned with legal rights, not rights in social life generally, but his distinctions are still valid and relevant. See: Hohfeld, W.N. *Fundamental Legal Conceptions as Applied in Judicial Reasoning*. New Haven: Yale University Press, 1919. In law, the various terms describe legal relations of legal persons, and there are a variety of logical relations (jural correlatives and jural opposites) beyond those described. Considerable clarity is gained in particular situations by using the various terms precisely. For my purposes, right is generally sufficient to represent the full range of terms. If what is due to someone is to be emphasized rather than what is due from them (duty), I use the phrase 'right proper'.
13. 'COHSE issues sex pest guide.' *The Health Services Journal*, 27th June 1991, **101**, No. 5258: p.6.
14. As quoted in: British Medical Association. *The Handbook of Medical Ethics*. London: BMA, 1984.
15. Opinion Research Corporation. *Implementation and Enforcement of Codes of Ethics in Corporations and Associations. ORC Study #65334*. Washington DC: Ethics Resource Centre, 1980.
16. Ciulla, J. Breathing new life into a corporate code of ethics. In: Mahoney, J. (ed.) *Business Ethics in a New Europe*. Dordrecht: Kluwer, 1992.
17. Kennedy, S. An elementary mistake? *British Medical Journal*, **302**: 1614, 1991.
18. The code of ethics for psychiatrists is the World Psychiatric Association Declaration of Hawaii as ratified in Vienna, Austria, 10th July 1983. The abuse of patients by psychiatrists was documented in: Bloch, S. & Reddaway, P. *Soviet Psychiatric Abuse: The Shadow Over World Psychiatry*. London: Gollancz, 1984. The events referred to in Ex. 8.14 are described in: Bloch, S. Athens and beyond: Soviet psychiatric abuse and the World Psychiatric Association. *Psychiatric Bulletin*, **14**: 129-133, 1990.
19. The US Ethics Resource Center warns against the 'regulatory mentality' and gives many examples of company maxims in: Ethics Resource Centre, Inc. op. cit. [6].
20. The Serious Fraud Office prosecution rate in the UK is taken from: Hall, M. Regulation in crisis. *Banking World*, **11**(1): 26-27, 1993. About half of the prosecutions led to convictions, so very few people indeed are suffering from their improper activities. Note that these were criminal proceedings requiring any conviction to be 'beyond reasonable doubt'. Civil proceedings, which are based 'on the balance of probabilities', would have probably produced more convictions.
21. Michael Lewis provides an entertaining if slightly horrifying insider's account of the attitudes of people dealing in bonds and related financial instruments, in: *Liar's Poker*. London: Hodder & Stoughton, 1989. The account of the situation in Japan has been taken from regular reports in *The Economist* between 1990 and 1993. The material on Lloyds is based on: Mantle, J. *For Whom the Bell Tolls: The Lesson of Lloyds of London*. (Rev. Ed.) London: Mandarin, 1993.
22. Theories of legal positivism, as developed most notably by Hans Kelsen, divorce ethics/morals and law and take the extreme view that all true law is legislator's law (e.g. *General Theory of Law and State*. New York: Russell, 1961; *What is Justice*. Berkeley: University of California Press, 1957). Such a view leads eventually to totalitarianism (cf. Brunner, E. *Justice and the Social Order*. London: Butterworth, 1945, p.7). All moral theories of law seek to recognize sources of authority outside or beyond that of the government in power.
23. The quotation is taken from: Aiken, H.D. *Reason and Conduct*. New York: Alfred A. Knopf, 1962. Similar views of autonomy are to be found in: Hare, R.M. *Freedom and Reason*. Oxford: Clarendon Press, 1963; and Dworkin, G. *The Theory and Practice of Autonomy*. Cambridge: Cambridge University

- Press, 1988.
24. The Grand Inquisitor's speech is to be found in: Dostoyevsky, F. *The Brothers Karamazov*. (Transl. D. Magarshack). Harmondsworth: Penguin, 1958, Vol. 1, Part 2, Book 5, Section 4, pp.288-310. For an account of the evolution of one church, see: Pelikan, J. *The Christian Tradition: A History of the Development of Doctrine. 5 Vols*. Chicago: University of Chicago Press, 1989.
24. The information and quoted speech have been extracted from: *Encyclopaedia Britannica (14th Ed.)* Vol. 14, pp.491-498, 1961.
25. This analysis is the basis for determining the influences of types of rules on each other. Further pursuit of this topic would take us into appreciating participation, interaction between established institutions and the government of society. As such, it lies outside the scope of values as 'mental software' and requires its own definitive text.