Ethics is More than Compliance

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Violating a legal regulation and violating an ethical principle are not the same thing. Ethics and law are related, of course---or at least we hope they are. But confusing them, not seeing the differences, or, worst of all, reducing an ethics program to a compliance program (usually staffed by attorneys rather than ethicists), is a big mistake.

In fact, reducing ethics to little more than compliance *may lead to more non-compliance and more regulatory infractions* than if ethics (the real thing) were allowed to share the corporate agenda with compliance. This is not a minor distinction.

"Compliance" means "operating in conformity with" stated regulations, especially governmental ones. It means that you are not transgressing the limits defined by law. For more information on compliance, visit www.compliance.gov, the official web site of the government watchdog established in 1995 to monitor and enforce safety, health, and workplace rights of employees.

The United States Sentencing Commission promulgated a new set of guidelines for sentencing organizational offenders in 1991. One of the goals of the commission was to get organizations to establish their own compliance and ethics programs. Doing so could get offending corporations a significant break on fines and penalties for any infractions. After 1991 there was an explosion of activity in developing ethics codes and compliance programs among *Fortune* 1000 companies.

The Ethics and Compliance Officer Association (www.theecoa.org) has grown from a dozen members to many hundreds since 1991. According to an ECOA membership survey, about one-third of the corporate Ethics Officers in their organization had legal degrees and experience. The other two-thirds did not appear to have much in the way of ethics training or experience. This has been gradually changing but while the ethics label is more and more frequently used, it is legal and regulatory compliance and expertise that is the real game here for many corporations.

No problem with all of this. Business and society need regulations and laws along with interpretive help and enforcement muscle. Compliance is a good thing.

We also need ethics (not just compliance): three reasons

First, an exclusive focus on laws, regulations, and compliance restricts our attention to the edges of the playing field. Cross this line and you are busted. But if you play the game by always working as close to the edges as possible, you are likely to stumble (if not intentionally sneak) across the forbidden limit and get caught.   We could say that legal compliance is the first, minimal step in running an ethical organization. But compliance alone is a risky strategy.

Second, ethics ranges beyond the questions of legality. "Legal" does not always equate with "ethically right." After all slavery and the unequal treatment of women have at times been legal---but that didn't make these practices ethically right. Businesses may set up operations in countries where labor or environmental protection laws are non-existent—but just because it is legal to beat your workers or dump your toxic waste in the community water supply doesn't mean these practices are ethically right.

The ethics question is always "what is right?"---what will protect people from serious, irresponsible harm (physical, financial, relational, reputational, emotional, etc.)?

Ethical codes and principles often enough do spell out "law-like" boundary conditions, but these are based not on what is legal, but on what is right---on what protects people in this generation and the next from harm, on what enables them to live in freedom, peace, and health. Ethical boundary conditions are usually drawn well back from those legal edges we might otherwise trespass.

Third, ethics is not only, or primarily, about defining what is wrong, with setting boundaries in this "law-like" fashion. At its core, a sound ethics holds up a positive vision of what is right, what is good, what is worth pursuing---as a kind of guiding star for our decisions and actions, as a map for our business movements.

Individuals and organizations that have a robust, authentic ethics program will spend their major energy articulating and pursuing positive principles, values, and virtues. Observing moral boundaries---and regulatory boundaries---is important but secondary to this pursuit of the right and good.

So, bless those compliance folks for their efforts . . . but let's not forget the higher call of a robust, positive ethics in our organizations.