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Ethics, Justice and the Law

Ethics, Morals and Emotions

Ethics and morals

Ethics= principles that guide people in choosing between what is right and what is wrong, in deciding upon the best course of action and in judging the actions of themselves and others

- there are many sources of ethical principles – religion, spirituality, philosophy, tradition and custom and professional practice rules
- ethics is the philosophy of morals

Morals= rules and principles for distinguishing between ‘right’ and ‘wrong’

Approaches to ethical frameworks

(James and Field, the New Lawyer)

- **Virtue ethics:**
 - o Emphasis is on character
 - o If a person focuses upon developing a virtuous character they will know what to do when they are confronted by ethical dilemmas
 - o Ethic of care: responsibility to maintain relationships and communities and to respond caringly to others in particular situations. Eg. feminist ethics
- **Deontological ethics:**
 - o an ethical choice is one that is consistent with ethical values that are objective and universal
 - o Consider the act itself
 - o *Divine command theory*: You do the right thing when you comply with ethical rules based on the word of God
 - o *Kantian principal*: a person can be said to be doing the right thing only when they act with a good will; and they act with a good will when they choose to do something because it is their duty to do so.
 - A person’s duty must be consistent with the *categorical imperative*: you should act only according to that maxim whereby you can at the same time will that it should become universal law
 - *Practical imperative*: you should act in a way that you always treat humanity
- **Consequentialist ethics:**
 - o An ethical choice is one that has the best possible consequence
 - o The right thing to do is the option that maximises the public good – that results in the most amount of pleasure and the least amount of pain for all concerned

Lawyering approaches

(James and Field, the New Lawyer)

- **Traditional, adversarial approach:**
 - o Ultimate duty to the client
 - o Must act in the best interest of your client
 - o Amoral approach
 - o Justifications:
 - The client is morally responsible for the consequences of the lawyer carrying out their instructions