

The Peculiar Concept of Ethics Laws

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Cynicism about the ethics of elected officials may be at an all-time high, continually fueled by new stories of outright corruption or bad judgment. At every level of government there are politicians who can't seem to recognize or resist conflicts of interest, inappropriate gifts, improper use of the power or property entrusted to them, or the discrediting impact of shameful private conduct.

Thus, it's no surprise that news media are continually shining light on real and perceived improprieties and putting the heat on federal, state, and city legislatures to pass new and tougher ethics laws to restore public trust.

The phrase "ethics laws" is peculiar because it marries two very different concepts. Ethics refers to standards of right and wrong, how a person should behave according to moral principles such as honesty, fairness, responsibility, and respect. Living ethically is a matter of conscience. Unethical conduct results in shame and perhaps criticism, scandal, or disgrace.

While ethics is about should, laws are about must. They prohibit or mandate specific conduct. Obeying the law is a matter of compliance, and illegal conduct results in sanctions including fines and imprisonment.

Ethics laws meld the two concepts. They both require conduct such as open meetings and disclosure of financial interests and forbid transactions that could compromise the integrity of government. Because of a high tendency of those regulated to evade the spirit and purpose of such laws, statutes have become more complex and technical.

Historically, legislative bodies have been reactive rather than proactive, doing only what they absolutely must. Thus, existing laws often are a hodgepodge of regulations designed to prevent reoccurrence of specific past improprieties. That's a big part of the problem.

What we need is nonpartisan statesmanship and visionary leadership willing to face up to the fact that relying on the individual judgment of each elected official is a failed strategy that guarantees a continuous flow of scandals that discredits their institutions and even the enterprise of democratic government itself.

While I wish more emphasis was placed on character rather than compliance, the raw reality is that voters do not consistently demand scrupulous integrity as evidenced by the re-election of people severely stained by scandal.

It's often said you can't legislate morality. This is true. But we can require moral conduct. Ethics laws don't make people ethical, but they do deter unethical conduct. And that's an important first step.