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Creating ethical businesses requires more than legislation

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Faith and Policy

The Sarbanes-Oxley Act of 2002 changed the landscape of auditing and reporting for publicly traded companies. Those who blow the whistle on unethical or illegal practices are given an added protection. And there are new regulations regarding auditor independence, the reporting of conflicts of interest in financial analysis, and how publicly traded companies report their financial situations.

The estimated average cost of complying with Sarbanes-Oxley is approximately \$2 million per year per company. The cost is high, but if corporate executives will not police themselves, goes conventional wisdom, legislators will have to step in and increase regulation.

But is such legislation a healthy development? Or will the result be more insidious? It isn't yet known, for instance, if the people who led Enron were criminals under the laws that existed at the time. Their impending trials will determine that. But they certainly were unethical.

The Sarbanes-Oxley laws, however, create a situation in which corporate executives and boards of directors change their orientation to ethics. Instead of being responsible for doing what is right, their responsibility becomes determining the line of legality and then moving as close to it as possible without going over, while maximizing shareholders' return on investment.

I recently asked a few chief executives of publicly traded companies what they thought of the new legislation now that they have had an opportunity to live under them for a

season or two.

First, they discussed the enormous cost. Second, they talked about corporate ethics becoming a matter of "box-checking" in which they don't have to wrestle with the ethical issues any longer. Under Sarbanes-Oxley, ethics has become only a matter of law — and no longer a matter of conscience or prudence.

This places legislators and corporate leaders in a dangerous ethical game of cat and mouse. Can those making the laws fully anticipate what the unethical few under them will do? Probably not. At best, legislation is only a portion of the answer.

Those teaching business ethics will have to make choices about what is virtuous and what is not.

The rest of the answer is a matter of the development of our culture and society. Perhaps a good place to begin the conversation is in the halls of the academies teaching our business leaders. The days of "value-less" ethics education are over. The all-too-common method of presenting case studies without examining the rightness or wrongness of possible solutions is no longer adequate.

Those teaching business ethics (and even business in general) must return to requiring their students to reflect on the core issue of human existence. Students would do well to consider their answers to questions like these:

- What is my responsibility to my community?
- Can I do well and good at the same time?

• What is the difference between being successful and being significant?

• How do I balance the demands on my time?

• How much is enough?

Those teaching business ethics will have to make choices about what is virtuous and what is not. They will have to be able to defend their choices to their students. They will have to provide guidance to students who are wrestling with some of these core issues.

But they will not have to enter this debate without resources. There is an enormous body of literature available that has been built up for thousands of years. It is found in the major teachings of world's religions. It is found in ancient and modern philosophers.

Rather than finding adamantly opposed answers to the kinds of questions listed above, my sense is that there will be a consistency that will surprise many. Think, for instance, of how ethical reflection on human dignity might begin to provide answers to these questions. Or how reference to traditional moral virtues such as justice and prudence might help to address them.

Legislation will never have the effective power of ethically well-developed people. Sarbanes-Oxley might prevent some unethical acts, but it will not be able to morally shape people. Now is the time to return to the core questions of what it means to be responsible human beings.

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