



# OF COURSE ETHICS MATTERS – EXCEPT WHEN IT DOESN'T?

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**A**lthough many individuals and organisations claim that ethics matters, they would often modify its importance with limiting factors – the proverbial qualifying ‘but’. These limitations include whether ethics applies to some people or organisations and not to others, or in certain circumstances but not in all. The central question that these issues reflect is whether ethics should be constant and unchanging or if it can be selective.

## Different rules for different people?

A good starting point is to consider whether ethics applies equally to everyone. Do values and rules, as key determinants of ethics, apply differently for different people?

Within an organisation, exercising values and rules differently can translate into many scenarios: different qualifying criteria for different suppliers or different criteria for promotions and increases amongst employees. The consequences of this risks not only casting the organisation as being unfair and discriminatory, but also exposes it to reputational damage and legal action – which illustrates clearly that the equal application of ethics makes good business sense.

When leaders appear to be above the law or when their actions flout the rules of their organisations,

an inappropriate ethical message is sent to their followers and stakeholders, as well as to observers. Countering unethical leadership behaviour with a ‘do as I say, not as I do’ response does not address the problem at all. (As many parents know, this response rarely achieves the desired behaviour in their children.) Instead, this approach erodes the leader’s position as a role model worth emulating – again, not a desirable outcome.

Another pertinent question is whether ethics applies to some people or organisations and not to others. In terms of organisations towards which it may appear to be acceptable to behave unethically, cheating insurance and medical aid companies seems to be widespread. When a home or office has been burgled, does the claimant submit a list of exactly what was stolen, or is the list inflated? Inflating the claim is often seen as a means to ensure a fair pay-out for what has been stolen, and to compensate for the perceived likelihood that the insurance company will do its best to reduce the claim as far as it legally can. However, in reality, this kind of claim often amounts to so-called ‘soft fraud’ when it is used as an opportunity to get an increased pay-out, a factor that is often relevant when the economy is weak. To such ‘soft fraud’ can be added ‘hard fraud’ when someone deliberately plans or invents a loss, such as a collision or theft that is covered by their insurance policy, in order to receive payment for damages.





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Statistics reveal that medical aid members and service providers are the greatest perpetrators of such conduct by far – and it’s important to recognise that ‘such conduct’ amounts to fraud. The many medical aid members who fail to disclose prior ailments would probably rationalise their behaviour, but would certainly not see themselves as fraudsters. But they should. After all, their selective ethics have gone totally contrary to the ethical principle that one should ‘do unto others as you would have them do to you’. Instead they have stooped to ‘doing unto others before they have a chance to do to you’.

**Selective ethics**

Another prominent ‘but’ factor is the question of whether ethics only matters sometimes. Or, phrased differently, when is it OK to behave unethically? The simple answer, ‘never’, is not the norm. Rather, it is likely to be: when it suits me or the organisation; when it’s convenient; when it furthers my self-interest or wellbeing; when it builds my self-esteem; or when it prevents or avoids an unpleasant or difficult situation.

This stance is particularly applicable to the introduction of e-tolls in Gauteng. The arguments against e-tolls have been wide-ranging, including that there may have been better and more cost-effective ways to finance the upgrading of the roads. Although these arguments appear to be valid, the government nonetheless decided to go ahead with the implementation of e-tolling. Despite noteworthy legal challenges, primarily by the Opposition to Urban Tolling Alliance (OUTA), it has been held to be a valid law passed by a democratic government.

But many motorists are refusing to buy e-tags, implying that they will also refuse to pay the tolls. This response is being supported by organisations such as OUTA. Wayne Duvenage, who heads OUTA, stated in a January 2014 article in the Daily Maverick that, ‘The law must be rational and acceptable to the masses expected to apply and obey it’. He continues to outline the situation ‘that sparks citizens to see nothing wrong with breaking the law to enforce their rights’.

It would, of course, be ideal if all laws were acceptable to everyone all the time. But, in reality, many citizens may disagree with policies and laws passed by the government. While there are actions that those who oppose a law can pursue (such

as legal protests), it does not include the ‘right’ to choose which laws to obey or disobey. In a democracy, obedience to the law is neither optional, nor can it be exercised sporadically.

Pierre De Vos, writing in Constitutionally Speaking, presents a sound argument against such selective obedience to the law, noting that non-payment amounts to refusal to obey a validly passed law that does not infringe on the fundamental human rights of anyone. He adds that protestors need to recognise that disobeying the law promotes lawlessness: “They demand a right to be lawless in order to oppose e-tolls, while criticising others who are lawless” – others being, for example, strikers who break the law or mini-bus taxi drivers who refuse to obey traffic rules.

He also acknowledges that exceptions may arise when the democratically elected government acts to undermines democracy. In such cases, he recognises that, ‘ignoring the law is aimed at protecting democracy itself and would be morally justified’. Although the impact of e-tolls may be negative for many people, they do not constitute such as an exception because they do not undermine our democracy.

**Consistent ethical behaviour**

There are many other scenarios that question whether ethics should be constant and unchanging or if it can be selective. But, the overriding issue is that being ethical entails constantly and consistently abiding by the applicable values and rules, be they the values enshrined in the Constitution or the company’s values, or the laws of the state or the organisation’s rules and policies. It is the constancy of ethical behaviour that builds ethical organisations and ethical countries. And we have need of both.

Therefore, for those individuals and organisations who accept that ethics is ‘the right thing to do’ and appreciate the benefits of a more ethical society, ‘selective’ or ‘part-time’ ethics is not ethical. Rather, it erodes their ethical status and negatively influences those around them.

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