

ETHICAL DILEMMAS IN PUBLIC SERVICE

“The Light of God surround us,
The love of God unfolds us,
The Power of God, protects us, and
The Presence of God watches over us”.

There are three words in the ‘title’- PUBLIC SERVICE, ETHICS and DILEMMA, each having a very significant role to play, in the ‘scheme of things’.

To begin with, the starting premise is that PUBLIC SERVICE IS A PUBLIC TRUST. Citizens expect the Public Servants to serve the ‘Public-Interest’ with Fairness, and manage the Public Resources, properly on a daily basis. Fair and Reliable Public Service inspire Public –Trust and create a favourable environment for business thus, contributing to well-functioning markets and Economic growth. Public Service Ethics are a pre-requisite to, and , under-pin Public Trust and are a ‘keystone’ of Good Governance’. Based on the experience of several developed and developing countries , including our own , we can easily say, as to what factors constitute go in, to make an Effective and Comprehensive ETHICAL MANAGEMENT POLICY.

In the Public domain, normative nature of Ethics ‘tends to be in the frontline of Ethical reasoning. Consequently, Public Servants usually understand Ethics, to be a prescribed and commonly shared ‘values and standards , relating to’:-

- Trustworthiness-(in the form of) honesty, integrity, reliability and loyalty;
- Responsibility-(in the form of) Accountability, pursuit of excellence, and self Restraint;
- Fairness(in the form of)- open and un-biased process, impartiality and equity ;
- Respect(in the form of)-civility, courtesy, decency , tolerance and compassion ; and
- Rules of Conduct- especially those regarding financial gains, use of public –resources, Transparency, accountability and fair process.

These are some of the ingredients/factors, guiding our obligatory, permissible and prohibitive official- conduct in the Public Service. Invariably, visible and demonstrable , due compliance with Ethical Values would go a long way in bolstering public confidence and Trust in Public Services, while the contrary shall erode the Confidence and Trust in Public Services.

Late Sh. Shekhawat, the than Vice President of India , while delivering a Lecture on Ethical Governance said “ Let me begin by stating that the Reputation and Success of Governance depends upon , the conduct of Public Functionaries and what the Public believe about their

conduct. It is therefore of fundamental importance that Public Functionaries act justly and fairly to all, and not only paying lip service to Ethical conduct, but ensuring that these are manifestly and undoubtedly seen to be done. It is imperative that all public Functionaries, upon accepting Government Employment recognize that they have a special duty, to be open, fair and impartial in their dealings with Society. Personal self-interest should be subordinate to the Public good in all circumstances, especially if circumstances arise, where possibility of a conflict of interest may become an Ethical – Dilemma”.

The question than arises is, What is Ethics?

‘Ethos’ is a Greek word, originally meaning “accustomed place”. Ethos form the moot word ‘Ethicos’ meaning –moral, showing moral character. Later, Latin borrowed it as Ethicus, the feminine of which is ‘Ethica’ meaning Moral philosophy. This gave birth to the word ‘Ethics’. Oxford Dictionary defines ‘ethics’ as ‘science of morals in human conduct, moral principles or Code. Morality could be said to be a ‘set of norms, through which societies, historically describe behaviour, which is viewed as good or bad, as acceptable or not, by the community. Ethics could be said to be, as the character or ‘ethos’ of an individual or a group- a hierarchy of Values and Norms, which a person identify for him/herself.

Ethics thus could be considered to be about, how we ought to live? What makes an action right or wrong? What shall our goals be? Ethics is about positive and not negative values. It is about asking hard questions about values, giving honest answers and living by them.

In a general sense, Ethics could be said to be “MORAL PRINCIPLES” and Values, that governs the behaviours of a person or a Group, with respect to what is right or wrong? Ethics sets standards, as to what is GOOD or BAD in CONDUCT and DECISION MAKING. In other words, ETHICS deals with INTERNAL VALUES that are part of WORK –CULTURE and shapes decisions concerning SOCIAL- RESPONSIBILITY with respect to external environment, and come to assume much GREATER SIGNIFICANCE, when it is known, that the actions of a person of organisation may hurt or benefit others.

Viewing Ethics in this light indicates that people are faced with choices, requiring them to make decisions enabling them to lead an ethical life, within the context of their relationships with others. This also suggests that people can be placed in ETHICAL DILEMMAS.

An ETHICAL DILEMMA is a complex situation, that often involves an apparent conflict between moral imperatives, in which to obey one would result in transgressing the other. Ethical Dilemma arises because Ethical Standards are not codified, and disagreements and dilemmas about proper behaviour often occur. An Ethical Dilemma arises in a situation when each alternative ‘choice’ or behaviour, is undesirable, because of potentially harmful consequences.

When confronted with the fundamental question, What to do and how to act in complex situations, and to the extent contrasted values or decisional premises could apply in a situation, one is entering the WORLD OF DILEMMA or that of 'HARD CHOICES'?

Accordingly, Ethical Dilemmas do arise when a Public Servant –decision-maker has to choose between competing considerations of Ethical –values and Rules, in order to determine the right thing to do. These Dilemmas could broadly fall into three categories:-

- Personal Cost Ethical Dilemmas, arising from situations in which compliance with ethical conduct results in a significant personal cost(e.g jeopardising held position, injuring valued relationship) to the Public Servant, or the decision maker.
- Right –versus Right Ethical Dilemmas, arising from situations of two or more conflicting sets of bona fide ethical values(public servants responsibility of being open and accountable to Citizens versus that of adhering to oath of secrecy/confidentiality etc); and
- Conjoint Ethical Dilemmas, arising from situations in which a conscientious public servant –decision-maker is exposed to a combination of the already mentioned ethical dilemmas for the “right –thing –to-do”.

Frequently encountered Ethical Dilemmas tend to arise from three critical relationships-

- Civil Servants and Political Office holders;
- Civil Servants and Citizens; and
- Intra – Civil Service (Ministries, Departments and Agencies, that make up the Country's or State's Civil Service.

Classical cases arise from the management of the relationship between the Minister, the Political –Head, and senior Officials at the level of Secretary, Additional Secretary or Head of the Department.

Conventionally, the Minister is the Political Head of the Ministry accountable to the people through Parliament/ State Assembly. Before assuming Office, the Minister subscribes to adhere to the provisions of the Constitution, and publically expresses commitment to uphold it with a view to preserve and enhance Public confidence and trust in the System.

On his part, the Secretary of a Department is the Chief Policy Advisor, to the Minister as, also the Chief Executive, to execute the decisions taken at the Political level. It should not be forgotten that, as a Civil Servant, he is obliged to abide by the Conduct Rules and other rules/ Regulations in this regard, while demonstrating unflinching loyalty and commitment to the Minister.

However in practice, while discharging their duties and responsibilities, situation(s) may arise, triggering conflict between the Minister and the Secretary and other Senior

officials of the Ministry. The Minister could be under pressure for material and/or pecuniary demands from his political, social or from his Constituency. For political expediency, he may feel obligated to meet the demands. Consequently, he may decide to ignore the Ministerial Ethics and transfer the demands to his departmental Secretary or other senior Officers, with a directive to oblige. But it may be clear that meeting such demands may lead to violation of the acceptable accountability Standards, practices, as well as Administrative Ethical Principles. (give personal example)

In arriving at the right thing to do, the Secretary or other senior Officers or the Ministry/ Department's conscience may raise a myriad of perplexing questions, like:-

- Would refusal to oblige the Minister's Directive not displease him, thereby straining the relationship, between the two? Would a protracted conflict, arising from such incidents not stunt the delivery of the Ministry's/ Department's mandate, thus adversely affecting the image of the Ministry, with a collateral damage to the required public confidence and trust?
- Would succumbing to the pressures of the Minister, with a view to pleasing him, not lead to violation of the acceptable 'accounting standards and practices', as well as 'administrative Ethical principles, thereby derailing country's crusade for sound Public- Service ethical fitness?
- Would such an act not be inimical to the overall image of the Public - Service?

These sort of situations, lead the Senior Officers to Ethical Dilemmas In such situations the Civil Servant , has to consider:-

- Striking a balance between his responsibilities as , his being a Senior Executive Officer , and that of the Minister , as the Ministry's Political-Head, to avoid a unnecessary conflict;
- Uphold the rule –of- law, due process , firmness , fairness and tact in carrying out the responsibilities; and
- Uphold the highest administrative ,financial , ethical and moral standards in the Civil Service.(Give personal example)
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It needs to be appreciated, that the application of these optional principles by the Secretaries, in practice, is not always easy for resolving the Ethical – Dilemmas that confront them. While the first option mentioned above, i.e. the option of striking a balance may be a euphemism for acquiescence , the other two options are squarely all about maintaining Integrity, and perhaps not caring for the consequences. However, very tactful Secretaries do manage to get the Ministers to commit all their demands in writing in such a way that puts potential culpability on the Ministers. In this way, Ministers, with excessive tendencies for unethical actions are checked within the boundaries of the Law.

My experience is that, if you stand your ground and explain the details of its fall-out on the Government as whole, Political bosses do reconsider what they had ordered.

It also needs to be appreciated that ethical Dilemmas may always not be caused by a conflict between a Civil Servant and his Political Head. It could also arise among Civil Servants, at the level of Secretary to the Ministry/ Department, its Head of Department, his own Additional/ Joint Secretary's. The best thing in such a case is to put everything in writing , explain orally the Dilemmas emerging out of it , and order in writing , to carry out the direction , while taking full responsibility for the follow-up action(s).

It also needs to be appreciated that Ethical Dilemmas are not germane to senior functionaries alone. They are equally and perhaps more importantly germane to the levels of Public Service, who deal with public –at-large.

It is in this context and background, that we need to ponder over, how to rise to the occasion and wade through the Ethical Dilemma. We could consider the following 'advanced' set of 'Fundamental –Principles', or criteria, that integrate and rearrange, the process of dealing with Ethical Dilemmas in Public Administration :-

- Democratic ACCOUNTABILITY of Administration;
- The Rule of Law and principle of LEGALITY;
- Professional INTEGRITY; and
- RESPONSIVENESS to Civil Society

This may conveniently described as the- ALIR- model of Ethical reasoning in Public Administration.

The Imperative of ACCOUNTABILITY.

The distinction between Politics and Administration, which forms one of the most classic 'doctrines' of modern Political Science and Public Administration, connotes not only 'division of Functions and their structural separation' , but also the 'subordination' of the latter to the former. Thus, the primacy of 'politics' in the Politico- Administrative nexus explains the ultimate political control or rather Governmental control of the Administrative machinery of the State in a Democracy. The loyalty of the Public Service to its Political Masters is grounded on the obligation of the Ministers in Parliamentary Democracies, to be answerable and responsible to the Legislature (Ministerial responsibility to Parliament). It is only by that means that the Ministers, being Representatives of the people of the nation, may hold the Public Service accountable , to the will of the people and general interest.

It is then the fundamental ethical duty ,bearing on Civil Servants in pluralistic Parliamentary Democracies, to subordinate themselves to political authority , to carry out all 'orders' from the 'top', as long as they are as per Law. In the same vein the Public Servants would have to show a spirit of 'neutrality ' in their official capacity and dealings , as members of Administrative infrastructure of the State vis-a vis Partisan politics, and keep at bay their own personal preferences in the performance of their duties and responsibilities.

The conclusion that may be drawn is, that ‘ Democratic virtue ’ does form part and parcel of the Core-values and ‘normative-determinants ‘ of Administrative behaviour in the public-domain-namely , that the Administration should be held ‘Accountable’ to the Government, and through it to the people via Parliament i.e. the House of Representatives of the people. It also needs to be stressed, that this does not amount to, and cannot be taken to mean the politicisation of Public Services and more specifically, does not give a ‘licence’ to the Political Masters to pass orders, contrary to law/rules/public interest, and expecting the Public Servant to carry them out blindly, because that would undermine the Instrumental value of the Executive branch of the Government and Administration. If a Minister still insists on carrying out his Orders, which the Public Service does not find palatable, in the light of Law on the Subject or any hidden -agenda behind the order, than the best option open to the Public Servant is to get the Orders in writing, and in case of disagreement on the part of the Public Servant, record his views in writing, and resubmit the file to the Minister. ‘Speaking Truth to the Power’ can be considered as a important ingredient of Professional Ethics and moral integrity of Civil Servants and the administrative machinery of the State, in general. The issue of accountability would be clear.

The imperative of LEGALITY.

The Rule of Law, besides being one of the fundamental evolutionary –universals, in both modern Politics and Society, pertains in a very specific and significant way to ‘Administrative -conduct’. Respect and adherence to the Principle of Legality manifests a ‘spirit’ of Constitutionalism and forms an essential pre-requisite for the ‘legitimacy’ of the State action, and the exercise of authority.

Respect for and application of the Principle of Legality entails a particular type of control on Administrative action and aims to see that Public Administration operates within the context of the Law, established by the Legislature (Parliament). Since the source of all power is ultimately, the People, in a Democracy, hence it follows that, all power must be exercised in the name and general interest of the people. And for that to take place, in an effective rather than an arbitrary manner, the running of the business of the State has to be guided and determined by an ‘articulate’ system of Rules and Laws. Their application, while performing official functions, forms the essence of Legality and Rule of Law. The control of Legality of Administrative action, initially exercised by the Administration itself, purports to ensure, that proper procedures have been followed and observed, as well as that equity , reasonableness and impartiality have been respected. It is in these circumstances, that the artful application of the Principle of Legality in Administrative performance would go a long way to serve and promote Rule of Law, and avoidance of ‘abuse of power’. Only decisions/ actions, taken, following above, will help the Public Servant withstand, in a positive manner, any ‘scrutiny’ by a Court of Law , at any ‘stage’.

The imperative of INTEGRITY.

The State’s “Guardian Elite”, is comprised of the body of Civil Servants, permanent Officers subordinate to Ministers. Civil Servants are expected to be fully competent on the basis of

their ascertained knowledge, experience and expertise, and independent enough to offer 'official' advice to Ministers as well as implement public-policies and decisions in an efficient and effective manner in the public-interest.

The application of knowledge and science in Public affairs has been historically related to the advent and increase in professionalism, in their exercise. Professional Integrity entails that, while Public Administration may be brought under Political guidance and control, but it cannot and must not be forgotten that Public Servants are recruited and trained to appreciate that they serve under the Law and in public interest, and not on the basis of partisan favouritism. Professionalism in Public Service could then be seen to accrue from a combination of knowledge, of expertise, of judgement, and conduct in accordance to the laid-down and expected standards, as well as a commitment to the cause, they are assigned to work for.

The imperative of Integrity, constitute therefore, a source of 'internal self-control' in administrative conduct, based on ethical standards and criteria shared and respected by the corps of professional Administrators. Avoiding, for instance, corruption and exhibiting Integrity would then be for them a matter of personal and professional honour and prestige, in a culture of Ethics, and not simply an externally imposed obligation. In order to facilitate and uphold the Integrity in Administration, several countries have developed and laid down 'Code of Ethics for Public Servants', thus imposing on Public Servants certain rather austere standards, and requiring that they uphold and respect them in their conduct. "Integrity in life and pure from crime", as Horace put in one of its Odes, would than seem to offer an appropriate definition of the Ethical imperative for the Public Servants.

The Imperative of RESPONSIVENESS

The 'civic virtue' of ethical reasoning in State action entails, that Public- Institutions are 'Responsive' to society and pay attention to the needs and demands of the people, facilitating 'access -to -services', and creating an enabling environment for sustainable Human and Social Development. Responsiveness is not restricted to market forces, but also and primarily concerns Citizen's participation in all 'levels' and layers of Government, as well as, Empowering people in human communities. Responsiveness also entails 'consultation in Governance and promotion of a kind of 'Communicative Ethic', in social affairs. It needs to be noted, that Civil society, not only furnishes the State, with needs and demands, but also valuable sources of information, feed-back criticism and evaluation of performance. Therefore notions like 'Decentralisation' and 'Citizens participation' loom large in repertoire of reform programme and practices of the Administrative System. 73rd and 74th Amendment to our Constitution, incorporating Article 243, empowering local -Bodies, both Urban and Rural, need to be appreciated in this perspective.

It is clear that the notions of 'responsiveness' and 'responsibility' bear a 'family resemblance' bordering on each other, as well as with the notion of 'accountability'. However multi-layered their meaning may be, the bottom line is, and what cannot be missed,

is an obligation on the part of the Civil Service to sincerely explain and justify its action in the Public – Interest.

Summarising , it can be said that the people who work in Public Service face Ethical – Dilemmas, many a times , and it is imperative that that you rely upon your Inner -strength / inner voice to ‘guide’ you, which shall never be wrong .It is the’ Conscience’ i.e. the Light of the Soul, that burns inside your heart. It is this little spark of Celestial Fire that makes known to you the presence of ‘In dweller’. It raises the Voice in protest , whenever anything is thought of or done contrary to the interest of the’ In dweller’ i.e. your inner voice/ conscience, because Conscience is the voice of the SELF, which says ‘ Yes’ or ‘no’, when you are involved in a moral struggle, which is what an Ethical Dilemma is. Conscience is the internal monitor and is a form of truth which is the knowledge of our acts and feelings, as right or wrong .This is a very sensitive balance (scales), to weigh actions. It is a guiding voice from within, the Faculty or Principle by which we distinguish right from wrong. We must understand that, Sense of Duty is Conscience. Scrupulousness is Conscience. Conscience is a silent Teacher and guide. It is a needle that points steadily to the pole-star” Do this action. It is right” It warns you also “this is wrong, do not do this”.

You may suffer the consequences for some time, but as they say, when you ‘live’ your ‘second –innings’, you can than look back with great satisfaction, as to what you did.

When people hurt you, you just think of them as ‘sandpaper’. They may rub and scratch you painfully, but you end up ‘Smooth and Polished’, while they end up ‘worn-out’ and of no further use.