

**GS FOUNDATION
BATCH FOR CSE (2023-24)**

Handout 07

Ethics in Governance

Public Service Values & Ethics in Public Administration

- Concept of Public Service
- Public Service Values
- Status & Problems
- Ethical Concerns & Dilemmas in government in government & private institutions
- Laws, Rules, Regulations & Conscience as a source of Ethical Guidance
- Accountability & Ethical Governance
- Strengthening Moral & Ethical Vales in Governance
- Ethical Issues in international Relations & Funding
- Corporate Governance

Public Service Values & Ethics in Public Administration

Concept of Public Service

- ✓ Services generally offered by Government to people [Public Transport, Health, Education, Security etc.
- ✓ Various Branches – Executive, Defence, Judiciary, Legislature, Regulatory & Autonomous Bodies etc.
- ✓ Broader Definition – NGOs, Civil Society, Media, Agencies instrumental in achieving objectives of state etc.
- ✓ Public Service Vs Private Service
- ✓ Public Servants Vs Civil Servants
 - Legal Provisions – Sec.21, IPC; Sec. 2(c) PCA, 1988 & Lokpal Act, 2013 etc.
 - Public Servants – Ministers, Legislators, Judges, Defence Services etc.
 - Civil Servants – Permanent executive on pay roll

Public Service Values & Ethics in Public Administration

Public Service Values

➤ Nolan Committee – United Kingdom

- ✓ Selflessness
 - decisions taken solely on public interest
 - not for financial or material gain of themselves, family members or friends.
- ✓ Integrity
 - holders of public office shouldn't place them in any financial or other obligation to outside individuals or organizations
 - Fair, transparent & Committed to public service
 - E.g. IAS Rinku Dugga - compulsory retirement [Lack of Integrity & ineffectiveness]
- ✓ Objectivity
 - while carrying out public duties holders should make decision based on merit [Appointments, Awarding contracts, Rewards etc.]
- ✓ Accountability
 - holders of public office are accountable for their actions to public
 - should submit themselves to appropriate scrutiny [Audit, RTI, Vigilance etc.]

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Public Service Values

➤ Nolan Committee – United Kingdom

✓ Openness

- holders of office should be as open as possible about all action's & decisions they take
- give reasons for their decisions & restrict information only larger public interest demands

✓ Honesty

- holders of public office have a duty declare any private interest relating to public duties
- take steps to resolve the conflicts to protect public interest
- E.g., Justice U.U Lalit recusal from Ayodhya case; Justice N.V Ramana recusal to hear appointment of CBI interim director Mr. Nageswara Rao

✓ Leadership

- Holders of office should promote these principles by leadership & examples

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Public Service Values

➤ Principles of Ethics & Good conduct code [Spain]

✓ Integrity

✓ Objectivity

✓ Neutrality

✓ Confidentiality

✓ Dedication to public service

✓ Austerity

✓ Honesty

✓ Accessibility

✓ Credibility

✓ Transparency

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Public Service Values [General]

- ✓ Compassion towards weaker sections
 - sympathetic towards the misfortune or sufferings of others [Social Justice & Social security policies]
- ✓ Perseverance
 - persistence in doing something despite difficulty or delay in achieving success [Defence personnel, delayed gratification etc.]
- ✓ Spirit of service
 - complete dedication & commitment to service
- ✓ Courage of conviction
 - courage to do what you believe is right though others don't approve it
- ✓ Tolerance
 - ability or willingness to tolerate the existence of opinions or behaviour that one dislikes or disagree with

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Practice Questions

1. What do you understand by public service? Identify some of the basic principles of public service & illustrate any three with suitable examples. [10 Marks]
2. What do you understand by the following terms in the context of Public Service? [10 Marks]
 - a) Integrity
 - b) Perseverance
 - c) Spirit of Service
 - d) Courage of Conviction
 - e) Compassion to weaker sections
3. How a public servant differs from a civil servant? Identify some of the essential values to be an effective public servant. [10 Marks]

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Ethics in Public Administration

- Public Administration
 - ✓ Study of structure, functions & behaviour of government institutions
 - ✓ Public Administration is mainly concerned with 'What' & 'How' of the government. [Dimock]
 - ✓ Public Administration is the action part of the government the means by which the purpose and the goals of the government are realized. [Carson & Haris]
 - ✓ Civil servants / Administrators
 - ✓ POSDCORB
- Characteristics
 - ✓ Continual Change, Publicness, Service-Oriented, Bureaucracy, Policy implementation, Political-administrative interaction, Interdisciplinary

Public Service Values & Ethics in Public Administration

Ethics in Public Administration

- Ethics
 - ✓ study of what is morally right and wrong or good and bad
 - ✓ Public administration [land acquisition; displacement of people etc.]
 - ✓ Ethical issues – Conflict of interest, misuse of administrative discretion, Outside employment, Political pressure & crisis of conscience, lack of compassion, administrative negligence, Nepotism etc.
 - ✓ Ancient Indian Treatise on Ethics in Public Administration – Vedas, Upanishads, Bhagavad Gita, Manu smriti, Arthashastra etc.
 - ✓ According to Swami Ranganathananada good administrators should imbibe values of Raja rishi as enunciated by Bhagavad Gita [Authority + Spiritual inwardness = Authority (ethical & human values)]

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Ethics in Public Administration

- Gandhian Ethics [Administrative Perspective]
 - ✓ Dharma; Duty; Seven Social Sins
- Western Philosophers [Perspective]
 - ✓ Virtue Ethics [Aristotle] – emphasis on building the character
 - ✓ Deontology [Immanuel Kant] – Devotion to duty without worrying the consequences
 - ✓ Utilitarian Ethics [Bentham & J.S. Mill] - maximum benefit for maximum people.
- Measures to improve ethical standards in Public Administration
 - ✓ Institutional Mechanism – Vigilance, Citizen Charters, Grievance Redressal, Transparency & Accountability etc.
 - ✓ Personnel management – Value Education & Training, Code of Conduct & Ethics, Rewards & Punishments etc.

Public Service Values & Ethics in Public Administration

Conflict of Interest

- ✓ conflict of interest is a situation where there is clash between personal interest (self-serving) & professional duties & responsibilities.
- ✓ E.g., Case of Member of Parliament [Shri. Shyam Charan Gupta] – rules related to graphic pictorial warning up to 85% for tobacco products; subordinate committee; Business Interest Vs Health of the Public [conflict of Interest]

How to Avoid conflict of Interest?

- ✓ Disclosure of Interest
 - Ethics committee – ‘Register of members Interest’ [Remunerative directorship, activities, shareholding, paid consultancy, professional engagement etc.]
- ✓ Recusal of Judges
 - Abstention from participating in decision making process [E.g., Justice U.U Lalit]
- ✓ Avoid office of Profit

Note: Office of Ethics Commissioner [2nd ARC]

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Practice Questions

4. What do you understand by conflict of interest? As a public official what kind of measures you can take to avoid potential conflict of interest? [10 Marks]

5. Do you think ethical approach to public administration can help address various issues in public service today? Substantiate your viewpoint with illustrations.

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Ethical Concerns & Dilemmas in Government & Private Institutions

- What is an ethical dilemma?
- Ethical dilemmas commonly faced in Public & Private institutions
- What are the factors that affect ethical decision making?
- Reasons for Dilemma
- How to resolve ethical Dilemma

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Ethical Dilemma

- An ethical dilemma is a decision-making problem arising between two moral imperatives neither of which is unambiguously acceptable or preferable
- E.g., Lockdown during covid, Use of Life support system, Old lady boarding reserved coach, Fast moving trolley branching into two lines etc.

Ethical Dilemmas commonly faced in public & Private Institutions

- Truth Vs Loyalty [Corruption Vs Whistle Blowing; Secrecy Vs Transparency etc.]
- Neutrality Vs Partisanship
- Professional Interest Vs Personal Interest
- Individual Vs Group [Policy Dilemmas – Land Acquisition]
- Justice Vs Compassion [Law Enforcement Agencies / Officers]
- Secrecy Vs Transparency [Corporates; Board of Directors & Shareholders etc.]
- Immediate Vs Future [Layoffs Vs Larger good of the company]

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What are the factors that affect the ethical decision making?

- Individual Attributes
- Organizational / Cultural & Institutional Factors
- Political Factors
- Sphere of decision making – Public / Private life

Individual Attributes

- ✓ Stage of Ethical Development
- ✓ Inclination towards Ethical principles

Stages of Development

- ✓ Pre-conventional Level [Decisions made based on external reward or punishment]
- ✓ Conventional Level [Behavioral pattern or decisions will be in conformity with societal norms]
- ✓ Moral Development [Actions are guided by internal standards & values]

Public Service Values & Ethics in Public Administration

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Inclination towards Ethical Principles

- ✓ Virtue Ethics
- ✓ Deontological Ethics
- ✓ Teleological or Consequentialism
- ✓ Ethics of care or Relational Ethics

Virtue Ethics

- ✓ believes in inherent character & integrity of a person rather than actions.
- ✓ Virtuous man is a good man [E.g., Lord Krishna in Mahabharat used dubious means to kill people]
- ✓ Virtues possessed by Virtuous man
 - Prudence – Ability to take appropriate action at appropriate time
 - Courage – Ability to confront fear, uncertainty & Intimidation
 - Temperance – Moderation in thought, action or feelings
 - Justice – fairness in the way people are treated

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Deontological Ethics

- ✓ Action is moral or ethical if it's in line with one's duty or obligation
- ✓ E.g., Lord Krishna to Arjuna [Dharma]; Old women in train in reserved compartment without reservation

Teleology or Consequentialism

- ✓ Final outcome decides the ethical value of an action
- ✓ action has to maximize happiness to maximum number of people
- ✓ E.g., Doctor lying to patient; Encounters (Lack of Evidence)

Ethics of care / Relational Ethics [Carole Gilligan]

- ✓ decisions are made based on love, Compassion & empathy

Public Service Values & Ethics in Public Administration

Sphere of decision making – Public / Private

- ✓ Public sphere
 - Duty ethics & Consequentialism; balance between self & public interest
 - constitution, law, conduct rules, professional expectation, family, friends, public interest etc.
- ✓ Private sphere
 - Virtue ethics & relational ethics
 - Social culture, tradition, religion & law of the land etc.

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Practice Question

6. Do you think a person can be ethical in private life but unethical in public life and Vice-Versa? Explain with examples & analyze the reasons for the same.

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Reasons for Ethical Dilemmas

- Conflict between means & ends
 - ✓ should a civil servant always follow the rules?
 - ✓ E.g., - Pedophile arrested but no evidence?
- Conflict between Prima Facie Principles [W D Ross]
 - ✓ Fidelity; Non-Maleficence; Beneficence; Autonomy & Justice
 - ✓ E.g., A friend planning to organize a heist in a bank; a colleague planning to take bribe
- Conflict between Legality & Morality
 - ✓ Legality is based on written laws & rules, but morality is based on inner voice [Voice of Conscience]
 - ✓ Case 1: Whether to deny an old women pension under the Old Age Pension Scheme due to lack of documentary proof?
 - ✓ Case 2: Should a police file FIR against a student in drink & drive case?

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Practice Questions

7. "A mere compliance with law is not enough, the public servant also has to have a well-developed sensibility to ethical issues for effective discharge of duties." Do you agree? Explain with the help of two examples, where (i) an act is ethically right, but not legally and (ii) an act is legally right, but not ethically.

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- Conflict between justice & Mercy
 - ✓ Case 1: A person stealing to save life of his child?
 - ✓ Case 2: A hospital staff getting Rs.200 instead of sweets from a father celebrating birth of child?
- Conflict between short term & long-term policies
 - ✓ Infrastructure development; Environmental protection Vs Freebies, subsidies etc.
- Conflict between professional duties & personal views
 - ✓ Citizenship amendment act, 2019; Demonetization, Reservation, GST etc.
- Conflict between duty & love
 - ✓ Mother violating SC / ST atrocities act 1988?

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Guiding principles for an Individual [Ethical Dilemma]

- ✓ Abide by laws unless unjust
- ✓ Normative ethical principles
- ✓ prima facie principles
- ✓ Moral & Legal choices

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Practice Question

8. What do you understand by 'Rule of law' and 'Rule by Law'? As a citizen possessing high moral values will your reaction be the same in both the cases? Discuss

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Steps to resolve ethical dilemmas

- 1) Analyze Problem
- 2) Investigate & collect relevant facts [Natural Justice]
- 3) Analyze legal & Ethical concerns
- 4) Various Alternative course of actions
- 5) Implement the best choice

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Practice Question

9. Explain the process of resolving an ethical dilemma in public administration. [10 Marks]

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Laws, Rules, regulations & Conscience as source of Ethical Guidance

- Freedom vs Liberty
- Human Progress – Values like Justice, Equal treatment, Rights, Obedience law etc.
- Hurdle to human progress (unethical actions) – Instant Gratification [E.g., corruption, Extra-marital affair]
- Prevention – Punishment [External or Internal]
 1. Laws & Social Stigma – PCA, 1988; Conduct Rules; IPC etc.
 2. Conscience – Inner feeling that guides individual to perform the right action and avoid bad ones

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What is Law?

- formally recognized custom or practice or rule by the supreme controlling authority & made obligatory by sanctions.
- Types of Laws
 - ✓ Human Law – man made laws or positive laws
 - ✓ Natural laws – emanates from nature but influences man made laws [E.g., Right to life, Liberty etc.]
 - ✓ Moral Laws – laws based on conscience or inner voice; vary from individual to individual; no legal sanctions
- Classification of Human Laws
 - ✓ Public and Private laws
 - ✓ Civil & criminal Laws
 - ✓ Substantive & Procedural Laws
 - ✓ Domestic & International Laws
 - ✓ Written & Unwritten laws

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➤ Public Vs Private laws

- ✓ Public Law – Laws made to govern relationship between state & citizen [e.g., Constitution, criminal laws, etc.]
- ✓ Private laws – laws concerning relationship between private individuals & parties. [e.g., Laws of torts, contracts etc.]
- ✓ Tort laws are those that deals with actions that are wrong but not criminal in nature; harms caused to others out of negligence & hence liable to pay compensation
- ✓ Remedy – compensation for loss of income, medical expenses, payment for pain & sufferings etc.
- ✓ Restorative Justice

➤ Civil Vs Criminal laws

- ✓ Civil Laws – positive laws formulated to define & deal with problems related to relationships between private citizens [e.g., property laws, matrimonial etc.]
- ✓ Criminal laws – Formulated with an objective of punishing actors whose actions are harmful at large to society [e.g., IPC, PCA, CrPC, SC/ST, Civil Rights act etc.]

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➤ Substantive Vs Procedural Law

- ✓ Substantive law – main body of law dealing with a particular area or domain [e.g., IPC]
- ✓ Procedural law – provides procedures to be followed by law enforcing agencies & courts during trial for violation of substantive law [e.g., CrPC]

Conscience

- Faculty of mind that motivates us to act morally or according to our most deeply held values.
- Views on Conscience [Nature Vs Nurture]
 - ✓ Intuitionism – innate or natural phenomenon of right or wrong
 - ✓ Empiricism – cumulative experience of the past directing action for the future
- Types of Conscience – Antecedent, Consequent, Certain, Doubtful, Lax Conscience, Scrupulous conscience.

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- Voice of Conscience
 - ✓ inner feelings as result of social conditioning that directs our behaviour [learned instincts]
 - ✓ Variables – Social conditioning, Training, Reasons / Consequences
 - ✓ Repeated behaviour against your voice of conscience -> Habit (Lax Conscience) -> No Guilt
- Conflict of Conscience
 - ✓ Inner Voice shows two different paths & you have to forgo one for another
 - ✓ Case 1: Career Choice
 - ✓ Case 2: Layoff in the company
 - ✓ Case 3: Police officer wanted to eliminate crime but lack of evidence
 - ✓ Case 4: decision to marry
- Crisis of conscience
 - ✓ remorse or guilt for a morally wrong act [consequent conscience]
 - ✓ Case 1: Drunk & Drive
 - ✓ Case 2: Breach of trust
 - ✓ Case 3: Accident Victims

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Practice Question

10. What you understand by 'crisis of conscience'? Have you ever faced such a situation in your personal life & what have you done to overcome them in the future? [15marks]

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Ethics, Morals & Laws

- Ethics – rules of conduct approved by a particular society, culture or particular class of people.
- Morals – personal compass of right or wrong; although the values are acquired from society interpreted by person from time to time & situation to situation
- Law – they are written and hence rigid & inflexible

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Practice Question

11. Is conscience a more reliable guide when compared to laws, rules & regulations in the context of the ethical decision making? Discuss
12. What do you understand by the term 'conflict of conscience'? In such a situation how you make an appropriate decision? Illustrate with suitable example.