

1. ETHICS

Ethics is a code of integrated values which guides our actions and choices and determines the purpose and course of our lives. It is simply a principle that helps promote, enhance, and maintain our lives. Each individual has an influence on society considering that all people and things around them are affected by their choices whether they be good or bad. In that sense ethics play a very important role in our lives. It influence the choices of individuals and eventually determine who they become. Our interpretation of what is wrong and right and how we act upon these interpretations helps us in forming our beliefs, standards, and personalities.

1.1 Introduction

"Ethics is knowing the difference between what you have a right to do and what is right to do".

- Potter Stewart

Ethics as a term in philosophy has several meanings which are open to interpretation, with the meaning often contested. For some authors it is about the *absence* of something such as misconduct or fraud, while others describe it as *presence* of personal and professional values such as honesty, integrity etc. But we need to seek a basic understanding of what it is actually understood as.

The term *ethics* comes from the Greek word *ethos*, which means "character". Many conceptions of ethics in the ancient world were highly influenced by the Greeks, particularly Aristotle and Plato. According to Plato people naturally desire happiness but the problem lies in identifying how to bring it about. And, if in conquest of happiness they do something wrong which is unintentional, the ethical difficulties arising in this situation could be *epistemological* in

nature. Plato suggested four virtues namely wisdom, temperance, justice and courage that define ethics.

Aristotle, on the other hand, went further and described in his *Nicomachean Ethics*, that an act is good because the person doing it is good and it is not the act which is good by itself. In other words something virtuous is good because it is done aiming for the best.

In philosophy, ethics studies the moral behaviour of humans and defines as to how one should act. Ethics is concerned with right or wrong behavior when faced with moral choices. It seeks to resolve questions dealing with human morality—concepts such as good and evil, right and wrong, virtue and vice, justice and crime. It is about systematizing, defending, and recommending the concepts of what could be construed as right and wrong behaviour.

According to James Fieser, Professor of Philosophy at the University of Tennessee at Martin; ethics may be divided into four major areas of study:

- (i) **Meta-ethics** which is about the theoretical meaning and reference of moral propositions and how their truth values (if any) may be determined;
- (ii) **Normative ethics**, which deals with the practical means of determining a moral course of action;
- (iii) **Applied ethics**, which studies how moral outcomes can be achieved in specific situations;
- (iv) **Descriptive ethics**, (also known as comparative ethics) is the study of people's beliefs about morality;

Meta-ethics investigates where our ethical principles come from, and what they mean. The term comes from “meta” which means *after* or *beyond* which can be interpreted to be the bird’s eye view of entire ethical concepts. Meta-ethics

covers two prominent issues which are a) *metaphysical* issues concerning the existence of morality sans humans and b) psychological issues concerning the underlying basis of our conduct and moral judgments.

Normative ethics examines the morality of actions whether they are right or wrong. It can also be described as a test for one's own behaviour. Confucius's Golden Rule is a perfect example of normative principle "Do not do to others what you do not want to be done to yourself" or as the Bible says "Do unto others as you would have them do to you". For instance I would not like somebody to lie to me, it would be morally wrong for me to lie to someone else. 'Normative ethics' key assumption is about having only one criterion of moral conduct.

Applied ethics deals with the analysis of very specific, controversial and debatable moral issues such as euthanasia, LGBT rights and the right to abortion etc. These issues hence for the sake of convenience have been divided into groups such as medical ethics, business ethics, sexual ethics and environmental ethics etc. For an issue to be categorized as one of the applied ethical issue there must be a significant number of people both for and against it. The issue of fake encounters by the police with extremists would not be applied ethics since majority of the people agree that it is wrong. By contrast, the issue of same sex marriages would qualify as applied ethics issue since there are large groups of people both for and against it.

Descriptive ethics in simple words it is comparative ethics which studies people's beliefs about morality. It investigates how ideals, actions and morals are condemned or accepted in different societies at different times. Every generation may have different set of morals and ideals which they consider ethics. Descriptive ethics oversee

whether the same set of ethics holds true for different generations and what changes they have undergone in subsequent generations. Lawrence Kohlberg a psychologist who worked extensively on *Descriptive* ethics conducted an experiment by questioning a group of boys about a person facing a moral dilemma: Should a person steal lifesaving drugs to save his wife or refrain from the theft even though it would lead to her death? Kohlberg was less concerned about the choices the boys made than in the reasoning they gave to support their answers. The choice they made was directly related to the set of ethics they believed in. Descriptive ethics describes moral development of human beings through the empirical lens.

The following questions would perhaps highlight the difference between the above mentioned fields of ethics:

- **Meta-ethics:** What does 'right' mean?
- **Normative (prescriptive) ethics:** How should people act?
- **Applied ethics:** How does one imbibe moral knowledge and put it into practice?
- **Descriptive ethics:** What is right according to people?

In short ethics seeks to resolve various questions arising from human morality concepts such as good and evil, right and wrong, virtue and vice, justice and crime. As Valdemar W. Setzer puts it "Ethics is not definable, is not implemental, because it is not conscious; it involves not only our thinking, but also our feeling. Not only do we need to know what ethics are, but we also need to *want* to act upon them". People can have the knowledge of right from wrong, but still have no desire to live and act in an ethical manner.

1.2 Dimensions of Ethics

Ethics as mentioned above refers to standards of right and wrong that prescribe what humans ought to do usually in terms of duties, principles, specific virtues or benefit to society. Ethical dimensions bring the study and exploration of ethics to life, and established who one is and what one stands for.

Ethical dimensions concerned with the availability of choices and potential of some choices to impact negatively on others and those characterizing day to day work place activities can be both easy and difficult to identify. To assess the ethics of any action, it is useful to separate the three dimensions of action namely Prudence, Legality and Ethics.

Prudence: Prudence is the ability to discipline oneself by the use of reason. This dimension helps decide about whether a given action is prudent or not. The action in question should be distinguished separately as prudent or otherwise non-prudent. "Prudential judgment" is exercised when the circumstances must be weighed to determine the correct action. Generally, it applies to situations where two people could weigh the circumstances differently and come to different ethical conclusions. Prudence is defined within the Code of Governance as care, caution and good judgment as well as wisdom in looking ahead.

Legal: The rule of law is the core of a democracy, and equality before the law is primary characteristic. Every action raises the question of legal dimension thereof which pertains to the law of the land, which in turn has a coercive aspect and includes obligations. Administrators have to respect the legal frame work. The administration works within the realm of

law it automatically sets forth for itself a series of controls and regulations. Governments and administrators have to work within the legal frame work.

Ethics: Society as a whole decides what is ethical practice in response to changing social values, and the code of ethics of an organization determines its credibility. An action raises questions in the ethical dimension when it pertains to our pre-determined standards of right behaviour. An action in accord with the reflected code of behaviour is obviously ethical and in conflict unethical. Administrators need to distinguish the three dimensions of action and avoid confusion and complications in making decisions. One common mistake is to characterize emotionally charged prudential actions as ethically sensitive. The Prudential elements can and do require balancing of various factors. It is while drawing the distinction between prudent, legal, ethical dimensions of actions ethical dilemmas are encountered. Public servants need to respect the rights of citizens and serve the interests of society by following the principles and values of ethical governance.

1.3 Human Values

"In the world of values, nature in itself is neutral; it is we who create value and our desires which confer value... It is for us to determine the good life, not for nature - not even for nature personified as God." - Bertrand Russell

The globalization and latest information technologies have posed many challenges to the society all over the world and India is no exception, one of the important area that draw the attention of the society and individual thinkers is on the deteriorating human value system. The focus is on how best we can integrate the globalization with our value system? Concern for the value system is increasing as a result of crisis of values in the society. Human values are closely integrated with human life and every human being lives by certain values. Human values are habit of thoughts.

The values that we as human beings develop indirectly by using our amazing brains to reason about behaviour called as conceived values. And these values are foremost devices for dealing with all social interactions. Every human being is born neutral and like a clean slate, but one can attain or acquire certain values depending on the nurturing of the parents, teachers, circumstances, environment and geographical location. Scientific analysis of the natural origin of human values and understanding of the human nature can be obtained from the combined perspective of biology and social sciences. A value appears to be a norm which helps to judge what is right or wrong? But the values are rooted in the very condition of human existence, hence our knowledge of these conditions that is of the human situation leads us to establishing values which have objective validity the validity exists with regard to the existing man, outside of him there are no values. Value development is a continuous cumulative independent process touching the all the personality development of individuals. Indian society with

heterogeneous population belonging to diversified cultures, religions, creed requires a sustaining value system to strengthen the ethical functioning of the governance apparatus.

The inculcation of human values begins with the birth of an individual and continues till the end. Some of the major values have appealing commonality all over the world irrespective of religions and cultures and acquire universal relevance. According to Berlin, "...universal values... are values that a great many human beings in the vast majority of places and situations, at almost all times, do in fact hold in common, whether consciously and explicitly or as expressed in their behaviour...". The commonly accepted basic five core human values are: *Truth, Love and care, Peace, Justice and Nonviolence*.

Truth: The truth in any context does not depend upon the will or wish of the individual, or is independent of desires and their related interests and opinions and has both individual and communal aspects as it is an inherent value in the human psyche, is why no-one likes to be called a liar. Further, it is much harder to sustain a lie than to maintain the truth, because one lie leads to another until the complexity is unmanageable. The SatyaSai teachings on Truth say "*Truth is that which is not modified by time, space or guna (attribute). It is the same forever, unaffected and unchanging; it is never proved false by some subsequent event or knowledge*". The Upanishads preached it as the highest human value.

Love and Care: Love is universal, and, perhaps, the most important element in our lives and our relationships. Love is the root of global values of compassion, peace, integrity, respect and responsibility. It may be expressed in different ways such as parental love, patriotic love, and love in marriage, Love for nature, the environment and forms of life

such as birds and animals. Dedication and devotion are a variant expression of love.

Peace: The desire for peace and harmony and the disapproval of violence and terror are essential components for the quest of happiness. Peace among nations and relationships between countries has realised by the international organizations such as the UN.

Justice: The concept of justice is based on empathy and respect. Justice means what is good, what is right. And what is righteous in relation to others. It arises from an understanding of basic human equality and of right and wrong in the sharing or the distribution of food, material values, wealth and prosperity. Justice is also about human equality for reward, punishment or inconveniences, or suffering; or about price settings, payments, salaries etc. And also is our standard of justice about the sharing of immaterial values, like knowledge, education and opportunities for development etc., or is a universal and basic virtue that has evolved through passage of time and in response to the changing imperatives of the extended environment.

Ethics and Justice go hand in hand and all ethics cannot be codified into laws, rules and regulations. The principles of natural justice enshrined in the Vedic culture and respected over time merit universal application.

- One should not be one's own judge
- None ought to be judged without being given an opportunity to be heard
- One should not only do justice but also be seen to be doing justice

Respect for local/contemporary customs and traditions is another tenet of ethics that has withstood the test of time. These unwritten values also need to inform every action.

1.4 Ethics in Administration

"The whole art of Government consists in the art of being honest"

- Thomas Jefferson

The subject of ethics has for long been a controversial area of study in the professions of law, politics and public administration. The need to ensure that civil servants or career staff in government functions within the regimes of legal and or organizational controls led to the evolution of code /manuals and job descriptions defining the limits of their responsibilities. Administrators and bureaucrats cannot avoid making decisions, and in doing so they should attempt to make ethical decisions. Administrators have discretionary powers that go beyond the manuals, orders, job descriptions and legal framework of their position and duties, and professional ethics come in as guidelines.

The exercise of discretion by public servants affects people's lives in a direct, lasting, and sometimes in profound manner. Administrators thus need a broad and solid understanding of ethical theories and traditions, and methods for emphasizing the ethical dimensions of their conduct. Ethics in public administration is not a transient concept but an approach which has shown a great deal of sustainability fundamental to the area of public administration. The ethical frame work identifies the general core values which should be recognized universally. These core values include the rule of law, impartiality, objectivity, transparency, accountability, professionalism, reliability and courtesy. The member states of European Union have for instance initiated measures to put in place an ethical frame work. The success of public governance depends on the conduct of public functionaries who are supposed to act fairly and impartially in their dealings with society and people.

Determinants of Ethics in public Administration: The purpose of public service is to essentially fulfill citizens' basic requirements and the promotion of privatization concept has placed a great demand for quality deliverance. Public civil servants are responsible and accountable for the provision of public services. The individual attributes of the administrator play a key role in decision making skills.

The major determinants of ethics factor in the public administration are generally accepted as:

Professional codes of conduct: A professional code of conduct helps maintain standards for individuals practising the profession in regard to accountability and responsibility. Codes of conduct are designed to anticipate and prevent certain types of unacceptable conduct for e.g. Conflict of interest, misuse of information and illegal gratification. Most codes focus on "don'ts" rather than affirmative obligations. Sometimes these codes have been used as the building blocks for the edifice of public administration. Countries such as Slovakia focused on ethics standards as a way to reengineer their entire public service system. A written code of conduct is necessary but never sufficient. A mechanism for enforcement and evaluation is essential preferably of self evaluating nature. Good codes need to be simple and easily understood; Hong Kong's independent commission against corruption is a model in this aspect.

Organizational structure with clear accountability: Organizations in this context include Government organizations which are managed by policies, guide lines and systems. And these instruments are to be subjected to reviews from time to time to tune up the efficiency of the public organizations. Accountability in the public organizations has become an increasingly complex issue for contemporary governance. Several changes in policies and public administration influence the complexion of accountability. The individual public servant is expected to

remain responsible to his or her own conceptions of the law being administered, as well as set of internalized values.

The political organizational culture: A country's concept of public administration reflects its underlying philosophy in regard to the role of Society and the State. The term political culture was first used by Gabriel Almond in "Comparative Political System". In the words of Almond and Powell; "culture is the pattern of individual attitudes and orientations towards politics among the members of a political system". Lucian Pye writes that "political culture is the set of attitudes, beliefs and sentiments that give orders and meaning to a political process and that provide the underlying assumptions and rules that govern behaviour in the political system. It encompasses both the political ideals and the operating norms of a polity. Political culture is thus the manifestation in aggregate form of the psychological and subjective dimensions of politics. Politics will always be a part of organizations so long as people are involved. Organizations that are overrun by politics, however, will sooner or later take their place among the ranks. Political decisions encourage hypocrisy, secrecy, deal making, rumors, power brokers, self-interests, image building, self-promotion, and cliques - not a recipe for effective teamwork. The process of ethics obviously depends on true political will.

Law, Regulations, Policies: Law is an universal concept in both politics and society. Administrators need to respect the legal frame work and have to act within its boundaries. Statutory and regulatory devices will sometimes add weight to the code of conduct, in the sense that it will be taken seriously. The law is often seen as a foundation of ethics or the standard code. However codes embodied only as laws and perceived only instruments of enforcement tend to be least effective. A solid legal foundation is very important in implementing effective codes.

1.5 Public Service and Dilemmas

A dilemma has wider dimensions than an ordinary problem and demands considered response. An ethical dilemma arises from a situation that necessitates a choice between competing sets of principles. Confrontations with the fundamental question what to do and how to act in complex situations and to the extent that present contrast in values causes the emergence of such an ethical dilemma. The decision maker may face unwelcome alternatives which may be mutually exclusive in the sense that one can only be chosen if the other is sacrificed. Conflicts of interests are the most obvious example that could place the public administrators in a dilemma and cause confusion and embarrassment. Awareness of the ethical dimensions and their code of conduct can help politicians and public servants follow socially accepted norms of behaviour. Difficult ethical dimensions may arise in the relationship between the personal and public life of politicians and public servants. Most ethical dilemmas are caused by:

- Using discretion in an arbitrary malafide or discriminatory manner
- Nepotism
- Failing to adhere to the requirement of secrecy

Ethical Reasoning: The information technology, globalization, market economies, political conflicts, authority systems and culture have posed several challenges and uncertainties to the public administrators. Western societies and developing countries are often experiencing ethical dilemmas in public governance; hence there is a need for institutional awareness to deal with conflicting values and ethical dilemmas in public services. Everyone is prone to egotism, prejudice, self-justification and self-deception, these features

flow in thinking and causing human sufferings all over the world. Only systematic cultivation of fair mindedness, honesty, integrity, self-knowledge and deep concern for the welfare of the others can provide foundations for sound ethical reasoning. Commitment to trust cannot be mandated, it needs to be earned by the individuals.

Values in Public service

Public servants are guided in their work and their professional conduct by a balanced framework of public service values: democratic, professional, ethical and relationships values. These values are not distinct but overlap and are perspectives from which to observe the universe of Public Service values.

Democratic Values: This is essential to maintain relations between democracy and bureaucracy and particularly in guiding Ministers, under law, to serve the public interest.

- Public servants shall give honest and impartial advice and make all information relevant to a decision available to Ministers.
- Public servants shall loyally implement ministerial decisions, lawfully taken.
- Public servants shall support both individual and collective ministerial accountability and provide legislature and people with information on the results of their work.

Professional Values: These are required to serve with competence, excellence, efficiency, objectivity and impartiality.

- Public servants must work within the laws of state or country and maintain the tradition of the political neutrality of the Public Service.

- Public servants shall endeavour to ensure the proper, effective and efficient use of public money.
- In the Public Service, how ends are achieved should be as important as the achievements themselves.
- Public servants should constantly renew their commitment to serve people by continually improving the quality of service, by adapting to changing needs through innovation, and by improving the efficiency and effectiveness of government programs and services offered.
- Public servants should also strive to ensure that the value of transparency in government is upheld while respecting their duties of confidentiality under the law.

Ethical Values: These are essential at all times in such a way as to uphold the public trust.

- Public servants shall perform their duties and arrange their private affairs so that public confidence and trust in the integrity, objectivity and impartiality of government are conserved and enhanced.
- Public servants shall act at all times in a manner that will bear the closest public scrutiny; an obligation that is not fully discharged by simply acting within the law.
- Public servants, in fulfilling their official duties and responsibilities, shall make decisions in the public interest.
- In the event of a conflict between the private interests and the official duties of a public servant, the conflict shall be resolved in favour of the public interest.

Values in Relationships: These are required to demonstrate respect, fairness and courtesy in their dealings with both citizens and fellow public servants.

- Respect for human dignity and the value of every person should always inspire the exercise of authority and responsibility.
- People values should reinforce the wider range of Public Service values. Those who are treated with fairness and civility will be motivated to display these values in their own conduct.
- Public Service departments and organizations should be led through participation, openness and communication and with respect for diversity.
- Appointment decisions in the Public Service shall be based on merit.
- Public Service values should play a key role in recruitment, evaluation and promotion.

Attributes of ethical conduct

- Compassion; concern for the well-being of others.
- Avoidance of Maleficence: avoiding inflicting suffering and hardship on others.
- Beneficence: preventing and alleviating others' suffering; meeting the needs of the most vulnerable; promoting others' happiness (strongest toward our family and friends).
- Fairness; treating people the way they deserve to be treated; as having equal rights unless merit or need justifies special treatment.
- Courage in opposing injustice.
- Respect for individual autonomy; not manipulating rational individuals even for their own good.

- Respect for the Constitution and other laws enacted by legitimate governing bodies.
- Honesty; not deceiving anyone who deserves to know the truth.
- Not making promises with no intention to keep.
- Keeping promises that are made freely.
- Integrity; upholding obligations in spite of personal inconvenience.

Some specific obligations of public officials:

- Use impartial judgment in the service of all constituents.
- Avoid conflicts of interest that could undermine objective judgment.
- Don't show favoritism toward family and friends in hiring.
- Don't solicit or accept bribes from people seeking to influence your official decisions.
- Don't invest in property or companies that could be affected by your official decisions.

People expect fair and just behaviour from public administrators and servants elected or appointed in view of the power and authority exercised by them, but unfortunately there is a considerable dissatisfaction and discontentment among the citizens. The failure of regulatory authorities in time, give scope for number of big scams in the country. Law and ethical code can't alone ensures ethical conduct of public administrators, it requires a supportive environment. There is a dire need for the active, assertive, public opinion to create a vibrant and supportive environment to face the non-ethical conduct of the public servants including politicians.

1.6 Dealing with Dilemmas in Administration

When confronted with the fundamental question what to do and how to act in complex situations, and to the extent that contrasted values or decisional premises could apply in the situation, one is entering the world of ethical dilemmas or that of 'hard choices' (Hart, 1961). A dilemma is something wider and more demanding than a problem, however difficult or complex the latter may be (Rappoport, 1960). The reason is that dilemmas, unlike problems, cannot be solved in the terms in which they are initially presented to the decision-maker.

A dilemma can be best dealt if the terms of reference are altered and the whole situation is reformulated and redefined so that full account is taken and due respect paid every stakeholder's opinion, which are then ordered and linked among themselves in a more systematic and coherent manner.

The advanced set of fundamental principles or criteria that integrate and rearrange the process of dealing with ethical dilemmas in public administration are: (i) Democratic **A**ccountability of Administration, (ii) the Rule of **L**aw and the Principle of **L**egality, (iii) Professional **I**ntegrity and (iv) **R**esponsiveness to Civil Society.

The **ALIR** (from the initials of key notions) forms something similar to Tailcoat Parsons' (1964) 'evolutionary universals' as far as public administration is concerned. As a matter of fact, both sets of concepts bear a close resemblance and may even be considered as complementary to each other. Taking account of the previous hypothesis about the underlying convergence between the Parsonian concept of 'evolutionary universals' and the ALIR imperatives of ethical reasoning expounded here, we may at this point reach a

preliminary conclusion about good governance and the moral standards obtaining in it. Such a type of governance and administration would, therefore, have to be democratic, bound to the rule of law, capable of carrying out its missions and tasks efficiently and effectively and be responsive to civil society.

(i) 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 (Wilson, 1887), connotes not only their 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 or rather governmental control of the administrative machinery of the state in a democracy. The loyalty of the bureaucracy to its political masters is grounded on the obligation of ministers in parliamentary democracies to be answerable and responsible to the legislature (ministerial responsibility to Parliament). It is only by that means that the representatives of the nation may hold the bureaucracy accountable to the will of the people and the general interest (volonté générale).

Since it is ministers who are accountable to Parliament, not civil servants, it follows that the latter are obliged to execute the orders of the former even if they disagree with their content, provided that they originate from a legitimate source of authority in the institutional hierarchy, and that authority insists on being executed despite the remonstrance put forward by officials. Subordination of civil servants to elected representatives who act as law-makers and policy-setters forms a *sine qua non* precondition of democratic politics. Unless subordinated to political control the bureaucracy and administration usurps power, which doe

not belong to it; if that happens the bureaucracy (civil or military) enters the political arena, undermines representative democracy and subjugates politics and government to its own interests and commands.

It is then a fundamental ethical duty bearing on civil servants in pluralist parliamentary democracies to subordinate them to political authority. Hence they owe a duty of loyalty and faithfulness to the duly elected or appointed political masters, however transient they may be. In the same vein they would have to show a spirit of neutrality and discretion in their official capacity as members of the administrative infrastructure of the state vis-à-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 sector: namely, the administration should be held accountable to government and parliament on matters of policy and expediency. It should, however, also be stressed that the supremacy of politics over the administration in the constitutional division of powers does not amount to and cannot be taken to mean the politicization of public services and the state bureaucracy, because that would then undermine the instrumental value of the executive branch of government and administration. Administrators, although guided by and subordinated to politicians, are not their clients or servants in the partisan sense of the term. That would well have been the case in the context of the spoils system that prevailed in administrative practices in many a country in the past. Modern governance and administration, in contrast, is founded on the idea that the differentiation of

roles and functions between politics and administration increases the quality and potential of either of them. In that regard, 'speaking truth to power' can be considered as a vital ingredient of professional ethics and moral integrity of civil servants and the administrative machinery of the state in general.

(ii) The imperative of Legality

The rule of law, (Rechtstaat, Etat de Droit), 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 prerequisite for the legitimacy of state action and the exercise of authority; thus, it was regarded by Max Weber as providing the third type of legitimation of authority (charismatic, traditional, legal-rational).

Respect for and application of the principle of legality entails a particular type of control on administrative action that 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, according to the fundamental constitutional principle of popular sovereignty that is enshrined in most democracies nowadays, it follows that all power must be exercised in the name and to the general interest of the people. Consequently, government and administration alike as the executive branch of the state and indirectly of the nation itself have to respect the law, which is the expression of the will of the nation. In this sense, originating from the constitutional tradition of the French revolution, the state could be seen as no more than the mechanism which the nation set up for its own governance and administration. 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 laws and rules. Their artful application in concrete cases by administrative or judicial authorities then forms the essence of the principle of legality and the rule of law.

The control of legality of administrative action, initially exercised by the administration itself and ultimately by independent courts of justice, purports to ensure, in particular, that proper procedures have been followed and observed, as well as that equity, reasonableness and impartiality have been respected. It can then be argued and with good cause be expected that the artful application of the principle of legality in administrative performance would serve and promote the rule of law and the avoidance of abuse of power (Wade, 1977; Rivero, 1980; Jowell, 1985; Spiliotopoulos, 1991).

The idea that people should be governed by law rather than by fiat is, of course, germane both to democracy and modernity. It could also be said that law establishes what may be described as the minimum standard of morality. Usually, unethical conduct - be it bribery, theft, favoritism, abuse of power, etc. - consists in a violation of law, that is putting someone above or beyond the law. Thus, consistent and fair enforcement of law can be a first priority of an ethics reform strategy. Even in antiquity, however, the concept of justice, in which all virtue is consummated, according to Aristotle, required that people should recognize the sovereignty of law, not of other humans - the implication being that the legitimately established system of laws should be allowed to rule freely and without interference the affairs of the human community. Thus, Solon abandoned power after establishing a set of rules for his native city-state of Athens in the sixth century BC. What he intended to

declare by this example was the value of respect for the law in itself, and that people should be ruled by law, not by themselves, otherwise he would be a tyrant, not a legislator.

(iii) The imperative of Integrity

The application of knowledge and science in public affairs has been historically related to the advent of and increase in professionalism in their exercise. However relative or tentative that may occasionally have proven to be, it is nonetheless the case that a 'profession of government' (Chapman, 1959) has taken shape in Europe and elsewhere. Thus, the notion of public administration is usually inclusive of all public services exercising authority in accordance with public law and under the overall guidance and direction of politically responsible ministers or other elected officials at the central, regional or local level; in order to carry out their functions public agencies employ personnel having the status of public officers and are thereof governed by special provisions for recruitment, career, discipline and control. Professional integrity and autonomy - the 'professional virtue', as we may call it - qualifying absolute hierarchical subordination entails that public administration may be brought under political guidance and control but its staff is recruited and serve under the authority of law and in the public interest, and not on the basis of partisan favoritism.

The state's 'guardian elite' (Argyriades, 1996) is comprised of the body of civil servants, permanent officers subordinate to ministers who are responsible to Parliament. Civil servants are supposed 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 to implement public policies and decisions in an efficient and effective manner in the public interest. To that end the essential features of the distinct profession of

government and administration have, from a historical and comparative perspective, proven to be as follows:

- (a) Recruitment should take place on the basis of merit ascertained by special tests which are administered by assigned independent authorities so that entry to the service is no longer subject to spoils system practices (clientelism, favoritism, patronage). Thus, meritocracy becomes an important precondition of professional integrity and autonomy.
- (b) Disciplinary measures should be taken by the service's own councils promoting a corporate spirit (*esprit de corps*) and self-government in the administrative profession; promotion on the career ladder should also be based on seniority (to the extent that longer service testifies wider experience) and merit (after rating and evaluation of performance).
- (c) Continuity of tenure of service and exclusiveness of practice in the designated field; that of course may be reserved for the necessary number of permanent civil servants whose duties and responsibilities involve either exercise of powers conferred by public law or/and safeguarding the general interests of the state. There could be exclusion from this category of those employed on a contractual basis (unestablished staff).
- (d) Training and education should increase professionalism in government and administration as a whole; i.e., involving not only its legal or juridical aspects ('*juristenmonopol*') but also other branches and fields of executive action (engineers, doctors, economists, etc.).
- (e) There should also be a special set of rights and obligations promoting loyalty and integrity, including neutrality of practice; namely, a readiness to serve different legitimate governments regardless of one's personal preferences or choices.

Professionalism in public service could then be seen to accrue from a combination of knowledge, of expertise, of judgment and conduct in accordance with standards, as well as commitment to the field. Competence on the basis of knowledge, experience and expertise is in all established professions (doctors, lawyers, engineers, accountants, journalists, academics, etc.) usually accompanied by a set of shared values held by peers on how to use and apply this knowledge.

That is to say, knowledge and expertise would have to be used with certain standards defining professional ethics such as, for instance, avoiding corruption in the delivery of services. Otherwise, the profession is deprived of an essential precondition of its claim to legitimacy. As Hegel supremely put it:

What the service of the state really requires is that men shall forego the selfish and capricious satisfaction of their subjective ends; by this very sacrifice, they acquire the right to find their satisfaction in, but only in, the dutiful discharge of their public functions. In this fact, so far as public business is concerned, lies the link between universal and particular interests which constitutes both the concept of the state and its inner stability.

In this respect, the profession of government's administration and, to a comparable extent, the more recent profession of public management would be accompanied by a code of ethics consolidating professional virtue and integrity, and increasing morale and self-confidence. This is indeed often the case in many an administrative system in various countries. The imperative for integrity constitutes, 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. We may, therefore, conclude that the professional virtue for civil servants would impose on them certain rather austere standards and would require that they uphold and respect them in their conduct. 'Integer vitae sclerisque pours' (integrity in life and pure from crime), as Horace put it in one of his Odes, would then seem to offer an appropriate definition of the ethical imperative for public servants.

(iv) The imperative of Responsiveness

For Hegel, public functionaries were the servants of the state only, not of civil society, since it was the former that expressed the general will of the people. The latter – *Bürgerliche Gesellschaft* - on the contrary, was seen by Hegel as a conglomerate of particular and inconsistent wishes and interests. This then became the sphere of the particular, of concrete persons with their own private 'systems of needs' and the efforts to satisfy them. Whereas the state served the general interest, civil society was the state of partial interests.

In this somehow dichotomous idea of social construction, individuals actualize themselves while partaking in various activities in civil society and 'in becoming something definite, i.e. something specifically particularized' (Hegel, 1967: 133). The state, however, with its system of governance and law provides the underlying conditions by which individuals and their actions may find their fullest fulfillment. For that reason, the state was for Hegel the 'actuality of the ethical idea', that is the unity of the universal and the particular.

Hegel's thesis could be more readily understood if account is taken of the fact that he lived in a country where

most citizens were simply 'subjects', without participation in the work of government, and where, therefore, a political life and tradition, like the English, was almost wholly lacking. His book was an attempt to educate Germans beyond 'civil' to 'political' life (Hegel, 1967: 376).

Almost 200 years later we are now in a position to know that, unless there is an articulate and independent civil society, no political life and even less democratic polity is likely to grow and flourish. That is why civil society has been declared as one of the most essential preconditions of liberty and democracy (Gelineer, 1996; Argyriades, 1998). The new prevailing idea by the turn of the 21st century is that the state should neither command civil society nor be subservient to it; instead it would cooperate in building social capital to the benefit of the human community concerned. Thus, balancing a responsive state and an active civil society presents as an optimal strategy for enhancing the quality of and prospects for democracy.

In this respect, the 'civic virtue' of ethical reasoning in state action entails that public institutions be 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 even primarily concerns citizens' participation in all levels and layers of government, as well as empowering people in human communities (Bovens, 1998). Responsiveness also entails consultation in governance and the promotion of a kind of 'communicative ethic' (Habermas, 1987) in societal affairs. The transition, however cumbersome it may be, from the command type of authority over people to more communicative types of reasoning and administration of

things seems to emerge as a paradigm shift in societal affairs radicalizing the features of modernity in our times.

In this context, civil society not only furnishes the state with needs and demands of an individual nature, but also with valuable sources of information, feedback criticism and evaluation of performance. Therefore, notions like decentralization, de-bureaucratization, privatization and citizen participation loom large in the repertoire of reform programmes and practices of many contemporary administrative systems, and affect the interface between civil society and the state. It is not only that citizens have increased their voice as taxpayers and customers of public services demanding value for money; citizens and civil societies are also seen to be acting as watchdogs to the state's performance or failure. Society is no longer at the mercy of state authority and control by the bureaucracy, rather the latter is under society's watchful eye (Buchanan, 1985).

In this sense, the imperative for responsiveness to civil society calls for an increased awareness and readiness to adapt to changing values and conditions in society at large, and stresses the need for an overall 'external' or societal accountability of state authorities and administration.

Naturally, 'a country's view of public administration reflects its underlying philosophy of society and of the state' (Chapman, 1959: 309). State officials are affected by the way the public at large regards them. Eventually, civil servants forming a middle-class profession, par excellence, acquire the features that society expects of them. Public administration forms a partial regime in the societal complex; it is part of the state, which is subject to a distinct 'ethic of responsibility' - in the Weberian sense - vis-a-vis society.