
Ethics and Governance : Significance and Issues

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Prologue

Ethics can be defined as a set of standards that society places on itself which helps guide behaviour, choices and actions. Governance, or good governance, is the exercise of political authority and the use of institutional resources to manage society's problems and affairs.

The Author has a very wide experience in governance and Public Administration. His Article 'Ethics and Governance' discusses the present scenario in these areas in the country and their considerable significance in the present context. The roadmap for good and ethical governance has also been brought out. The Author reiterates Mahatma Gandhi's words on what needs to be reflected upon when

faced with a dilemma about ethical and governance issues : "I want to give you a talisman. Whenever you are in doubt, or when the self becomes too much with you, apply the following test. Recall the face of the poorest and the weakest man whom you may have seen, and ask yourself if the step contemplated is going to be of any use to him. Will he gain anything by it? Will it restore him to a control over his own life and destiny? In other words, will it lead to swaraj for the hungry and starving millions? Then you will find your doubts and yourself melting away." This just about sums up ethics & good governance.

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Ethics is an area of study which is expanding continuously, and which is of concern all over the world today. Similar is the case with governance. Quite often we use the adjective 'Good' and talk of 'Good Governance'. It is usually done to contrast and compare the systems of governance in two countries. The term governance, by itself, has positive connotations, for nowhere do people want bad administration or bad governance. All those who are a part of governance and intimately connected with it will never admit that it is anything other than good. That is the tone of any form of government. But in a democratic form of government the trend all over the world is that people are now becoming increasingly assertive and articulate in expressing

their demands. The political consciousness of the people gets steadily enhanced wherever free and fair elections are permitted and held periodically. Consequently, there is an insistence from the people that governance must meet their aspirations and demands. It is the public which, in its own way, decides whether and how a particular government has delivered on its assurances.

The public is also sensitive to the manner in which the machinery of governance has been responsive and considerate in its dealings with citizens, both individually and collectively. It may be worthwhile here to understand the meaning and significance of the terms Governance and Ethics and their implications in order to grasp their mutual relationship. For all these years, the word administration has been in vogue. It is only for the last few decades that people have begun to talk of governance, rather than administration. The word governance has been there in the vocabulary of the English language. It finds mention at one or two places in the Constitution of India. The word governance gained currency after the World Bank, OECD and other U.N. agencies, important international aid giving agencies, began to use it. After World War-II, plenty of aid was given from time to time by these agencies to newly-emerging countries in Africa, Asia and South America. But it was seen in evaluation and assessment reports that the expected and desired economic development from such aid did not materialise. While identifying the reasons for their failure, it was realised that the constraints were more than what the traditional administrative machinery could work with. The first lesson learnt was that the conception of development was not just about economic development, but also encompassed social, cultural, institutional and numerous other aspects, which deserved equal, and sometimes more weightage. The second important conclusion arrived at was that a broader view of administration was called for in order to achieve success. That is how the coinage of the term "Good Governance" took place. After all, administration was also supposed to have been good if the intended goals were to be achieved. One can recall the national, international, as well as bilateral and regional schemes, projects and programmes for training in different segments of administration. But even the best of administration could not carry the development process on its shoulders if public support was lacking. After a good deal of research, field studies by academics and experts, it was understood that a wider view of the total administrative system was necessary.

Through this process of research and experience, garnered in different parts of the under-developed and developed countries, certain elements, components, essentials or ingredients were culled out. Without going into variations in the literature of different aid-giving agencies, and intellectual and academic circles, broadly the requisites or principal elements can be summarised as follows : (1) a corruption-free democratic political system; (2) periodical, free and fair constitutionally-mandated elections; (3) a clear-cut legal and constitutional system with an independent judiciary; (4) Rule of Law; (5) public participation in decision making and implementation; (6) Human Rights; (7) efficient, competent, honest as well as motivated administrative system and machinery; (8) honesty and integrity in working; (9) responsiveness and accountability at different levels; & above all (10) ethics and values – ethical behaviour

and attitude. These components of all actions are not independent of each other. They are not exclusive, but mutually supportive. They are considered not only the components of good governance, but they also constitute the criteria or yardstick by which one may judge if a country has good governance or not. This will also determine the extent of success of all developmental efforts. The last component, though not the least, is an overriding and all-encompassing one. This background and context highlights the significance which people in every country attach to good governance.

Let us look at these components in brief though each one is a vast subject by itself. It is expected that the country will have a democratic form of government. No one way is stipulated. All that it means is that people will have the right to vote and that it is guaranteed by a Constitution. Most newly emerging countries have written Constitutions, though quite often, powerful individuals or political groups have vitiated their actual working. Honesty is considered a prime value. Corruption is anti-poor and anti-development. A fair amount of literature on corruption in India and its causes and remedies has become available. Corruption and sleaze assume many subtle forms and shapes. Kautilya speaks of 40 ways of pilferage and leakage in his Arthashastra. It has given rise to another phenomenon called criminalisation of politics though it really has become the politicisation of crime. Legislatures have a number of persons with criminal background. Some also contest elections from jails. This emphasises the need for reforms in the political system and of electoral reforms. Criminalisation and politicisation virtually lead to commercialisation of crime. This undermines faith in the democratic system as politics cease to be for public service and becomes a path to influence, power, pelf and protection against the law. Sometimes, there is outright plunder of public money but pilferage and leakage otherwise render developmental efforts almost nugatory in many cases. In some cases, it is alleged that politicians and others are themselves active participants and benefit through deviant ways and escape the law owing to widespread corruption in high places. The public has to guard democracy from becoming a criminalocracy.

Periodic, free and fair elections, along with peaceful change of power as prescribed constitutionally are also important. There has invariably been peaceful transfer of power in the country. The Election Commission, over the years, has done commendable work to ensure free and fair elections in a country as vast as India, despite all difficulties and pressures. Public opinion and judiciary have also been of great help at times.

In India we have a Constitution with a legal system in place, with the Supreme Court at the apex. High Courts and the Supreme Court have the power to interpret laws and declare unconstitutional any law which is found to violate any provision of the Constitution. It provides confidence for international trade and commerce. The Judiciary is held in high regard, though it is also under stress. There have been allegations of corruption in a few cases and that causes public concern. There is an insistent demand for judicial reforms, particularly to look into the question of appointment of judges and disciplinary action if warranted. Sometimes, the power of judicial review is criticised as an encroachment on the authority of the Legislature and the Executive. On the whole, higher judiciary commands public confidence. It is considered as the

Guardian of the Constitution and the custodian of citizen's rights against any excesses by the Executive.

The rule of law is at the core of democracy. Here, the people have a grievance that it is the big fish which escape the net and influential people in different walks of life who rule the roost. Economic offences continue. That equality before the law is more in theory than in practice is a strong feeling which persists. In India, only one minister from the original Vindhya Pradesh went to jail on being convicted for corruption. In USA, a Vice-President and a President were compelled to resign. In Italy, Japan, England and other countries, ministers have been convicted and sent to prison. In India, children of influential politicians, ministers and senior bureaucrats, we find from the media, escape with impunity after transgressing the laws of the land. The procedural aspects of the criminal justice system have to be made foolproof. The need for serious reforms is now being recognised. The component of Human Rights is being well taken care of, by and large, by the Constitution, Judiciary and the Human Rights Commission. The Constitution has specific provisions in this regard and their scope is getting enlarged. Of course, much more is to be done. The weaker sections of our people, especially women and children, scheduled castes and tribes are not receiving adequate consideration. Poverty and dishonesty largely stands in the way of people getting their genuine entitlements. But the country is quite conscious of the problem and this holds promise of a better deal.

The question of integrity and efficiency in public services is a continuing problem. The Second Administrative Reforms Commission has made its recommendations from different perspectives. Academic circles, through research, have made their contribution. But this is a problem which requires continuing attention. At times it faces difficulties in the context of the relationship of the Union with States as well as between the politicians and civil servants. The delivery system is the Achilles Heel of Indian administration. Because of widespread dissatisfaction with the inefficiency and lack of integrity of the system, these two loom large whenever we discuss the problems of governance. Ethics, to the public mind, becomes synonymous with these two major issues. The culture of efficiency and integrity has yet to develop fully as required in a large democracy like India.

Allied to this is the great problem of accountability. Accountability has many facets. The feeling persists that administration, neither at the political level nor at the executive level, is accountable for its acts of omission and commission, its indifference and callousness. It is felt that India has formal but not actual accountability. The problems gets compounded when the public services are not, in general, motivated for actual public service. They are moved more by casteist, regional and other narrow and parochial considerations. The poor and the rural areas suffer most. Accountability is of many types and needs to be discussed separately. This is one of the aspects to which the Administrative Reforms Commission has given its attention. Recommendations made by the Commission ought to improve substantially the State if implemented in the right spirit and not ritualistically. Recommendations of the Commission take note of the system as well as the individual. Good governance is, otherwise, an illusion. The Right to Information Act is making a dent. But that is not

enough. More comprehensive action, as recommended by the Commission, is called for to make administration really responsive and accountable. Ethics is the compendium of all these requisites and elements, but goes beyond it. It will vitalise the other measures, procedures, and institutions intended to bring about good governance. That is why public participation and involvement in decision-making and implementation is most essential. Through decentralisation and Panchayati Raj institutions, administration can be brought closer to the people. But it should not be merely ritualistic. It should enable people to realise that they are also stakeholders in the society and administration. Bureaucracy and public services must work in a way that there is no feeling of hostility between the 'governors and the governed'. It has also to be ensured that access to entitlements is made easier so far as weaker sections are concerned and not monopolized by the powerful and the better placed. Formal legal structures alone will not serve the purpose. They must develop a clear ethos of their own. This requires increasing public consciousness besides institutional reforms. For, delegation of authority to different public services or from politicians to public services can be deceptive.

Moreover, when we look realistically at the international scenario, it is evident that approaches to democracy, electoral system, constitutional, legal and judicial system or their working vary and there is no unanimity. This may not matter much when we look at the issues in the national perspective. The question of values and ethics also, one finds, assumes prominence at different times when scandals and scams such as Lockheed or Watergate occur. Some have international repercussions as in the first case or national as in Watergate. Because of the influence of the country or actors involved in such cases, many questions arise which agitate intellectuals and the public in general. This gives rise to studies and researches and efforts are made not only to discover what historically transpired and the guilty actors, but also how it happened, with an eye to draw lessons for the future. This is why it was mentioned in the beginning that both ethics and governance have become an expanding area of concern, and people speak of ethical governance. In India, lack of ethical governance has been a lament for the last two decades, specially after the submission of the Santhanam Committee Report on Corruption and later on, a brief report about criminalisation of politics and nexus between politicians, bureaucracy and criminals, known as the N. N. Vora Committee Report.

We will discuss not only the concept of ethics, but also a few other elements of good governance as all of them derive virtually from ethics. If civic, administrative and political culture are suffused with some modicum of ethical awareness, we move towards not only good governance but also good society. In every part of the world, people are discussing the need and relevance of ethics in public affairs and a vast amount of literature from different perspectives continues to appear. It is not sermonistic in nature, but philosophically analytical, sociologically realistic, economically necessary and politically of great import. The Fourth Report of the Second Administrative Reforms Commission is titled *Ethics In Governance*. Submitted to the Prime Minister in 2007, it attempts to explore the theme, diagnose maladies and make recommendations as an agenda for action.

The Oxford English Concise Dictionary defines ethics as the science of morals or moral principles. It is often used as a synonym or an interchangeable expression for terms like values, norms, standards, morality etc. Values are the set of beliefs or influences which condition a person's behaviour and conduct. The set of values are articulated through ethics of a person, a group or profession. As man is a social being, personal values have implications in social dealings and relationships. We talk of professional ethics for different professional groups, say that of a chartered accountant. The ethics of doctors and physicians is a very old one. Ethics need not be looked at as being sectarian, religious or merely philosophical. Ethics may have several attributes, some universalistic in nature such as honesty and integrity, others may be bound by time and place or be specific to a situation, a group or area of responsibility. Ethics is not something vague or amorphous. It is something like current or power in electric wires, which is seen only when the switch is on and the light is visible. Similarly, the impact of ethical behaviour is felt by individuals and society.

People expect ethical behaviour from public servants, elected or appointed, in view of the power and authority they exercise or command since they are required to give disinterested public service. But unfortunately that does not often happen and this creates dissatisfaction and discontent among people. Another aspect which is to be kept in view is that ethical standards may transcend narrow stipulations of law and the rulebook and compendium of regulation. Many acts of omission and commission may not run counter to legality, but come into conflict with norms of prosperity, fairness or intellectual integrity. In one of the books on J.R.D. Tata, by his biographer R.M. Lala, a case finds mention. It relates to doubts about some dues payable to the government. The legal and financial advisers expressed the opinion that the law permitted nonpayment as it was legally permissible. But JRD clinched the issue in a meeting the following day by asking a question: though it is legally permissible, do you think it is ethical? It is known that oaths are prescribed for many constitutional functionaries and elected representatives. Many public representatives do not take their oaths seriously. Questions have sometimes been raised even as regards actions or non-actions in respect of high functionaries in the media and other knowledgeable quarters. The faith of people in the ethical behaviour of public officials, political masters and public servants helps to narrow, and bridge the chasm that exists between the "governors and the governed", while in any form of democratic dispensation, people are supposedly the masters. Chester Barnard, a well-known management expert, remarks that ethical conduct or behaviour is "governed by beliefs of feelings of what is right or wrong regardless of self-interest or immediate consequences of a decision to do or not to do specific things under particular conditions." Ethics thus becomes a psychological dimension, a state of mind, a way of looking at one's action and responsibilities and how it impacts his conduct.

Ethics also obliterates the distinction between corporate governance or public governance. The scarce resources in society are public resources. All resources, financial or others, belong to the people.

Investments in the corporate sector come from the people. They have to be maximized for public good. When things go wrong, it is the public which suffers. The

growing inventory of non-performing assets of banks is one example. This is really an euphuism for bad loans and advances. There have been many discussions on this in Parliament. The government had been reluctant to disclose the names of the defaulters with the plea of need for confidentiality. In the Securities Scam associated with the name of Harshad Mehta, the Joint Parliamentary Report revealed to a great degree the wheeling-dealing by various players, including foreign banks. It also came out how a few could play havoc with the Stock Exchange operations.

In a way, many connected with the corporate sector, as is well-known, took advantage of the sheltered economy and planning process. The same set of players have not been averse to taking advantage of the liberalised regime. Previously, all ills were laid at the door of the increasing functions of the administrative state. But after economic liberalization, it is private business and industry which has an increasing role to play. It does not mean that with the diminishing functions of administration, the bureaucracy and public services will fade away. The administration will assume new functions, especially in the social sector or by way of a facilitating, promotional or mediating role. Moreover, the government cannot shake off its regulatory agencies which are now coming up. This is all in the public interest; it is here that the private industry and business have a positive and constructive role chalked out. The initiative and adequate response must come from their hearts and minds.

In the 1960s, there was a good deal of interest in "social responsibility of business and industry". A number of conferences and seminars were organized all over the country by the representative organisations of business and industry. Social activists, scholars, politicians and other knowledgeable persons were also involved. Articles, books, group reports, monographs, etc. appeared. Some welfare activities were taken up by some individuals and groups. Some concessions and facilities were also given by the government. It is not known if any research study of this move was made. But the impression of perceptive observers is that, with a few honourable exceptions, the movement did not gain much ground. In recent years, after some scams and scandals, the need for "good corporate governance" came to be lauded. A committee with former civil servant, Naresh Chandra, as Chairman, gave its recommendations after a detailed study of the problems and constraints. Another notable committee was setup by the corporate sector itself, under the Chairmanship of Narayan Murthy, a celebrated figure in the industrial field and a consistent advocate of ethical business practices. Comprehensive information about the implementation of the suggestions and recommendations of these committees is not accessible. Of course, many academic and research studies of the situation in other advanced as well as developing countries have been published. Numerous management institutions and business schools have introduced the subject of corporate or business ethics in their curriculum.

After the recent Satyam scam many questions were raised and fingers pointed at some politicians and the failure of regulatory authorities found mention in the media and Parliament. It was also debated as to whether Satyam was an isolated case or similar maladies prevailed elsewhere too. Of course, the corporate world brushed such misgivings aside and asserted that it was only an aberration. An inquiry committee

was setup. The Prime Minister has given an assurance that none found guilty would be spared.

In another case, a keen observer once rather sarcastically but truthfully stated; this unseen, often used but more often abused term 'system', holds the country in its paralytic grip. It is the favourite alibi for sloth, indolence and non-performance. It is the table at which the buck of corruption, non-accountability, negligence and inefficiency stops. What is egregious is not just the word 'system' as a convenient alibi, but in fact that its widespread usage has elevated it to a status of its passive acceptance on the part of one and all – it is almost as if everyone waits with bated breath for the result of many inquiries at the door of the system. It is universal appeasement for everyone, and then nothing is heard of the issue till another crisis occurs leading to the reopening of old cupboards to pull out nostalgic skeletons.

Ethics is hopefully expected to act as an antidote or countervailing force to such indifference, passivity or outright callousness in such circumstances. The professionals also by their actions affect the situation positively or negatively. It is society which provides facilities for acquiring the influence and power which impacts it. Besides, we cannot forget that we have a dual capacity, first as citizens from cradle to grave, and secondly, as professionals, which capacity is bound by time and space. Many professional groups have been authorised or mandated to regulate the professions in the wider social perspective. Self-regulation is healthy. But they have not always come upto societal expectations. Take, for instance, two such autonomous regulatory organisations, viz., the Institute of Chartered Accountants of India and the Medical Council of India. The Institute invited a good deal of flak for lenient dealing with some of their trained members in the Securities scam. The Medical Council of India has been the subject of repeated strictures by the highest of judicial authorities for want of transparency and probity. Allegations abound despite the existence of such strictures. No remedial prospect seems to be in sight. As laws cannot alone mandate morality, so also ethics alone may not always ensure ethical conduct. Both need a supportive environment. The need for mobilisation, activation and assertion of public opinion and enlightened citizenship is the life-breath of any vibrant democratic system. Public apathy leads to moral decay. Public vigilance and awareness of its role and responsibilities provides a safeguard to the sustenance of ethical conduct of public affairs.

There is a point for citizens to think of in what Harold Ickes, the then Secretary of Interior in the US said after the Second World War during hearings of the Senate Ethics Committee: "within my knowledge, no public officer has bribed himself", and he went on to emphasise the fact that official morality is more than a political problem. "By all means let us consider how to assist in the establishment of higher moral standards in the official conduct of the Government, but at the same time let us realise that we cannot hope to assist the Government in this regard unless we are willing to assist ourselves and each other in the establishment of higher moral standards as between man and man in private life. Politics is an important part, but only a part of the whole pattern of life." This means that we can not excuse the government and political masters for their misdemeanours but the responsibility of each one of us as citizens is also to be emphasised. This is what Mahatma Gandhi all along and especially on the eve of Independence, would remind his audience in his prayer

speeches. It is unfortunate that while we remember our rights as citizens, we are apt to forget our duties as citizens.

The Fourth Report of the Second Administrative Reforms Commission on Ethics in Government has dealt with it in a holistic and practical manner. The Commission has defined Ethics as “a set of standards that society places on itself and which helps guide behaviour, choices and actions”. The Commission goes on to add that it “is painfully aware that standards do not by themselves ensure ethical behaviour, that requires a culture of integrity. The crux of ethical behaviour does not lie in bold words and expressions enshrined as standards, but in their adoption in action, in sanctions against their violations, in putting in place competent disciplinary bodies to investigate allegations of violations and impose sanctions quickly in promoting a culture of integrity”. Integrity, apart from financial integrity, means intellectual integrity which does not permit the chasm or dichotomy between words and action, between profession and practice. All this, we believe, emphasise the role of individuals and citizens and institutions meant to tackle these issues. It is unfortunate that many institutions, as provided under our Constitution, to facilitate the working of democracy, have been either neglected or denigrated, and hence have lost their vigour. They have to be enabled to regain their resilience and vitality to cope with tasks entrusted to them creatively and without fear of favour. We can make reference to the approach of the Commission in the context of the Indian experience so far. The Commission lays down the ethical framework in politics, in public life, for ministers, legislators, for civil servants, for regulators, and also for judiciary. In the next chapter, issues relating to corruption, it lays down the legal framework for fighting corruption, including in the private sector. The aim is to strengthen the anti-corruption laws and measures. It makes suggestions for confiscation of illegally acquired wealth and prohibition of ‘benami transactions’, and protection of whistle blowers. All this necessitates fresh legislation which depends on the willpower of the political masters. It clarifies that immunity enjoyed by legislators is not in respect of criminal acts. Serious economic offences have received attention, besides the streamlining of many procedural matters. In the next chapter the discussion relates to institution framework, the need for strengthening institutions at different levels and establishing Lok Pal and strengthening of investigation and prosecution agencies. The Commission’s chapter on social infrastructure is important, as it deals with citizens’ initiatives, role of media, social audit and building of consensus. Then, the various aspects of systemic reforms which comprise many aspects including reducing of discretion simplification, accessibility, monitoring, audit, practical vigilance on corruption, intelligence gathering are discussed. Recommendations about some specific sector have been made. The other chapters deal with protection of honest civil servants, need for international cooperation in tackling corruption and the vexed problem of relationship between the political executive and permanent civil service.

The political and civil service relationship when it gets distorted can wreak havoc on public interest. It is not possible within the compass of an article to comment in detail or analyse the recommendations of the Commission. As regards some recommendations, there can be a different viewpoint. Many facets will continue to be discussed and improved upon. But substantial work has been accomplished by the Commission. It is for the government now to initiate effective steps, by building consensus across the political spectrum or take a bold plunge in the matter which does not brook any delay as the faith of the public is fast eroding, and this is dangerous

for democracy itself. The political mandate given by people in the recent General Election augurs well for expeditious, effective and imaginative first steps.

While the strengthening of laws and institutions, political and electoral reforms, putting in place fresh innovations and stress on honest and sincere enforcement of the rule of law are important, it is the ethical ambience in society and moral fabric which are the ultimate determinants. It is this which will provide the glue of cohesion to any society and moral legitimacy to government of men which passing aberrations cannot shake. As Senator Paul H. Douglas said in his well-known lectures on ethical dimensions and considerations in governance in Harvard University with reference to the US at that time: "Since the state is but the individual writ large, perhaps the disclosures of the past years may reawaken within us a sense of our individual failure to live upto standards we inwardly cherish. The faults we see in the government are often the reflection of our moral failures. All this may dawn upon us, so that we will not only reform government but also ourselves. If it does, the regenerative power of democracy and of human spirit will have another great victory in the continual moral struggle which goes on within each of us and within society". This also rings true of contemporary India.

Conclusion

To conclude, institutions and laws are not self-operating. They depend on the individuals who operate them. It is they who have to take a decision or make a choice. This discretion, this power to take a decision, is a trust placed in public officials, political and elected, or appointed. They may be faced with doubts and misgivings. Mahatma Gandhi gave a mantra or talisman for decision-making in our day-to-day work. It is well-known but bears repetition as it is equally relevant in the most tricky of situations. Ethics does not remain ambivalent or amorphous but a guiding star. Gandhi said: "I want to give you a talisman. Whenever you are in doubt, or when the self becomes too much with you, apply the following test. Recall the face of the poorest and the weakest man whom you may have seen, and ask yourself if the step contemplated is going to be of any use to him. Will he gain anything by it? Will it restore him to a control over his own life and destiny? In other words, will it lead to swaraj for the hungry and starving millions? Then you will find your doubts and yourself melting away."

Most scriptures, emphasise the moral imperative. Do unto others what you want to be done to you. Is it not a safe guide? US President, Thomas Jefferson also provide a guideline for men concerned with public affairs: Whenever you are to do a thing, though it can never be known but to yourself, ask yourself how you would act were all the world looking at you, and act accordingly. Another writer has added: "And if similar circumstances are there I shall publicly say that I would do it again".

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