Ethics and Governance Reforms in Public Sectors- A Commentary

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If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you first enable the government to control the governed; and in the next place to oblige it to control itself. A dependence on people is, no doubt, the primary control on the government; but the experience has taught the mankind the necessity of auxiliary precautions.

James Madison, Federalist (1787)

Abstract:
Ethics, as a concept from the viewpoint of the public sector, is undoubtedly difficult to comprehend. Ethics, in the public sector context generally refers to the moral values, culture and righteousness of public officials (political and civil service). As rightly observed at the OECD conference on public sector leadership for the 21st century, there exists a gap between public service culture and value, and the public interest of the citizens served. In post 1990s, there has been a genuine concern and shift of attention to the issue of ethics and good governance due to global pressure from various nations and worldwide social and economic trends, which are challenging the identity and value of the state. Further, citizens across the globe demand increased accountability and responsiveness from governments. Governance reforms, which are being introduced in various countries, in order to achieve the desired outcomes, should underpin ethics as the key focal theme. Our contention is that globalisation has indeed caused greater pressures on public servants to behave with high morals, that is, ethically, but there still exists a wide gap between actions and aspirations. Here we argue that ethics in the public sector is the fundamental ingredient for good public governance. Governments have to strive further to achieve this. It is therefore important that not only should political and bureaucratic leadership be committed, but public sector institutions also have to reorganize their roles in recognising an ethical dimension to their activities. To complete this circle, an educated, vigilant and responsive civil society is highly essential.

Keywords: Ethics, Governance, and Public Sector

Introduction

The epistemology of ethics is undoubtedly all-pervasive. The term ethics is so prodigious that it is being used as the suffix to many fields e.g. business ethics, corporate ethics, engineering ethics, medical ethics, legal ethics, puritan ethics and it continues. In a more traditional sense ethics is the science of moral correctness. In this article, the basic purpose is to link ethics with governance in the public sector context. The generic meaning of governance in this context is to rule, control or direct the public affairs of a country. The concept governance, which used to be
associated with governments, has passed through massive transformation since early 80s. Like ethics, governance is a buzzword in the world arena. The public sector embraces all formal and informal institutions where public resources and interests of citizenry are involved directly or indirectly. The authors argue that public sector institutions can function well provided good governance through governance reforms is enforced. We argue that governance reform is possible and can yield desired result provided ethical values are instilled in the category of people who govern. This article is subjected to the limitation of focussing on one of the elements of governance reforms i.e. public administration – which is most vital and important.

“If the state is strong, it will crush us: if it is weak, we will perish” said the French poet, Paul Valery (cited in Bardhan, 1996). Ideally, good governance is provided by power resting somewhere in between the two. The state has normative and positive roles to play. The normative role determines guidelines, principles and norms for sustainable welfare of the citizenry thus enhancing public sector intervention in the economy. As part of the normative role governments should be involved directly to correct market imperfections besides complementing the market to promote and maximise social welfare. The positive role analyses and measures what the government actually does.

In an ideal world, the normative and positive role would converge and merge, that is, the state would do exactly what it is expected to do and all the reforms needed to maximise social welfare would be carried out. In reality, these roles diverge and sometimes, to a great extent imply that much needed reforms have not been implemented. This divergence has several reasons, varying from differences between the interests of those who govern and those who are governed, policy planners’ wrong ideologies and misconceptions, inadequate control by policy makers over the policy instruments – which can be summed up as poor governance. Thus, the genesis of the distortion of state’s roles and functions i.e. poor governance can be attributed to the policy planners and implementers (Fukasaku and De Mello Jr, 1999).

**Ethics:** There are innumerable writings on the definition and subject of ethics but the title of this paper and the theme of this conference do demand some elaboration on ethics from our viewpoint. While commenting on the nature, characteristics or various aspects of ethics the orientation, here, is toward public sector functioning and providing good governance.

Ethics owes its roots to morals or values of humanity in general. Ethics, in broader sense, is synonymous with what is right living, how to behave in society and what sort of persons we should strive to be. In the public sector context, ethics should be central: hence it should be called as applied or practical ethics. Thus for the public sector (which can also be termed as public service) ethics aim at applying abstract and basic norms, morals and values such as honesty and integrity, impartiality, beneficence, nonmaleficence, respect for the law, respect for citizenry, neutrality, freedom, justice, loyalty, truthfulness, diligence, economy, responsiveness, accountability, and many more. This listing is illustrative not exhaustive or mutually exclusive.

Before we progress further let us briefly discuss what the proponents of state theories say about the roles and functions of public service/ sector. Proponents who
increasingly consider the public sector as an utterly loyal instrument of the state or government of the day assign greater emphasis to the values and norms of responsiveness, economy and efficiency. There is another school of thought that argues that the public sector has a more fundamental role than simply to serve the government of the day. Their contention is that public officials both bureaucratic and political executives are holders and guarantors of a public trust and ethical values have to be considered in the context of the officials’ ultimate objective to serve the public interest – hence they assign more importance to morals and values such as honesty, integrity and impartiality. In the Weberian conception of public service, public servants should apply the rules *sine irae ac studio* to produce equitable outcomes for all clients hence impartiality and justice is assigned priorities (Thompson, 1975). Neither further elaboration of these views nor alternative views are possible in this paper. However, the fact remains that ethics is a wider and complex area.

**Value Based ethics vs. Rule Based Ethics:** The term value embraces moral norms and righteousness in its ambit. Since this paper aims at analysing how ethics is embedded in public sector governance, it is pertinent to throw light on ethics that is value based and rule based. Governments do not govern with free will nor are they free to start with a *tabula rasa*, so to say, unaffected by the past. Thus governments are bound by ongoing set procedures, policies and rules. Where there are no explicit or implicit rules, values should be the basis for public policies or governmental decisions. Public service providers’ i.e. public servants are subjected to continuous scrutiny and oversight mechanism but it does not mean that governments can do no wrong. Rather, it will be well within the context to claim that most wrongs, scandals or breaching of public trusts are due to unethical behaviour of public servants who violate both rules and values e.g. the death sentence for a high-ranking bureaucrat in China, the shady funding of political parties in Europe and North America, plundering of national wealth in Russia, the Bofors’ scandal in India, the Watergate scandal, and so on.

Ethics management in public sector must comprise tools for (a) discouraging conduct that is perceived as wrong, (b) encouraging conduct that is perceived as right, and (c) ascertaining issues of moral uncertainty. Discouraging conduct that is perceived as wrong has to do with rules, regulations, control and enforcement through threats of negative sanctions; punitive actions and of course social stigma – these can be termed as rule based (compliance – oriented) ethical management. The (b) and (c) refers to incentives, by the use of positive sanctions and can be viewed as value-based management (management by objective).

When rule based management is not clearly stated it is argued that value based management is preferable because it stimulates moral creativity, belongingness and responsibility, whereas rule based management tends to lead to moral dullness as a result of heavy reliance on an infinite number in a labyrinth of rules. In a public sector, where corruption of different forms and magnitude can be a real problem, there are and ought to be a greater need for rule based management with controls and sanctions to ensure public servants do not escape their responsibilities, either by staying passive or by actively doing the wrong things.
To sum up value-based and rule-based ethics, the following example is an apt one. In Norway there is a clear rule that government servants while travelling by air on government jobs have to surrender the mileage points earned due to the travel to the government pool but in India there is no such clear rule. But the values or morals of the public service across the globe demand that if the government is the payer directly or indirectly (i.e. that the public sector enterprises bear the travel cost of government servants who are their board members) then the benefit accrued due to the travel should be credited to the government pool account. In reality what happens is that, in India, most of the civil servants including employees of the government owned enterprises use these benefits for their personal travel. These sorts of open, still subdued unethical practices can be found in many other countries including most developed ones. This supports the contention that it is better to adhere to the rule-based ethics than value-based ethics in public sectors.

Absolute vs. Relative Ethics:- Let us consider an example

X pays Y for some favour by Y
Y is an employee of G
X does not deserve the favour
Y to favour X has to disfavour Z who is the genuine benefactor.
Y favours X
Thus Y betrays the trust of Z and G
Hence Y is corrupt, disloyal, and lacks integrity. In the terminology of absolute ethics, Y is unethical. Now, the question is about X – what is he? Is he unethical? Some will argue ‘Yes’ and some ‘No’. This becomes relative ethics. X’s participation in the unethical process should make him guilty but some may argue otherwise. This is a live problem. However, some authors argue that relativity of ethics can be subject to culture, time, situation and other extraneous factors. In this world of asymmetric information there will always be some people who can guise the unethical acts under the façade of pseudo ethics. Public Servants have the leverage and immense scope to be evasive on ethical issues. Under the rubric of age-old inflexible rules and laws, absolute unethical acts can also get eclipsed. The public service should have zero tolerance for absolute unethical behaviour and persons committing relative unethical practice(s) should also be equally guilty. Good governance will remain a far cry till both relative and absolute unethical practices are despised and treated with similar stigma. Let us consider the recent case of bribing government officials in India by Xerox Company to obtain orders in its favour, which is under investigation by the Indian government. We argue that both the payer and receiver should be subjected to scrutiny and awarded similar punishment. This kind of ethical enforcement can make the citizenry feel the existence of good governance.

Governance: The concept of governance in the public sector is about the institutional environment in which citizens interact among themselves and with government agencies/officials (ADB 1995). Improving governance, i.e. governance reforms or good governance is a vital concern for all governments (ADB 2001). Governance encompasses the functioning and capability of the public sector as well as the rules and institutions that create the framework for the conduct of both public and private business, including accountability for economic and financial performance and regulatory frameworks relating to companies, corporations and partnerships. ‘Governance encompasses the state but it transcends the state by including the private sector and civil society organisations’ (UNDP 1997 p 3).
**Good Governance:** Good Governance among other things is participatory, transparent and accountable, effective, equitable and promotes the rule of law. Good governance ensures that political, social and economic priorities are based on broad consensus in society and that the voices of the poorest and the most vulnerable are heard in decision making over the allocation of development resources (UNDP 1997). In essence it concerns norms of behaviour that help to ensure that governments actually deliver to their citizens what they say they will deliver (ADB 2001).

UNDP (2000) defines the following as core characteristics of good governance: participation, rule of law, transparency, responsiveness, consensus orientation, equity, effectiveness and efficiency, accountability, strategic vision, legitimacy, resource prudence, ecological soundness, empowering and enabling, partnership and being spatially grounded in communities. Governance reforms which aim at achieving good governance ensure that state institutions make all out efforts to empower people they are meant to serve – providing equal opportunities and ensuring social, economic and political inclusion (decentralisation), access to resources and transparency (UNDP 2000).

**Public Servants and Good Governance:-** As it can be observed from the characteristics and the above description, success of governance reforms or good governance in any country is primarily dependant on the people who are responsible to govern i.e. public servants. At the outset it should be clear enough that administration or public service or public servants embrace political executives and professional bureaucrats in its/their ambit. Bureaucrats are the vital lifeline of the public service system due to its permanency, and access to information and experience too. The term bureaucrats has come from the term ‘bureaucracy’ coined by a young French nobleman, Alexis de Tocqueville who was comparing the French and American newly democratised system of government. The main purpose of bureaucracy, hence bureaucrats, was to minimise corruption and maximise democracy by dividing responsibilities so that no one person could make a final decision. It is also true that these systems were viewed as mechanisms for greater efficiency and responsiveness with impartiality and justice – something especially ironic today (Gilman 1996). Public servants can make or unmake the state or any policy proposal(s). Thus, realisation of good governance in any society primarily and essentially depends on public servants’ ethical dealings.

**Ethics and Governance:-** Governance here implies good governance and ethics refers to “Public Service Ethics”, “Civil Service Ethics”, “Administrative Ethics” or “Government Ethics” – all these terminologies are more or less the same phenomenon. Drawing from the above discussion, it can be said that bureaucrats are seasoned flexible professionals and can adapt to any situation, however much diversified it might be. In a democratic set up, even though it may be unethical, both from the rule and value point of view, bureaucrats still try to accommodate their political masters’ wishes for the fear of losing their jobs. The best example is the removal of the Secretary of the Defence Department in Australia in 1999 at the behest of the Minister on the grounds of loss of faith. The displaced chief executive embarrassed the Government by challenging his removal in the court but he lost the case. Hence the political domain’s dominance in the public service was reaffirmed. It is hard to state who acted unethically. There are innumerable examples like this across
the globe but further discussion will be out of context. Therefore, there is no denying that public servants as a whole shape a country. The rapidly changing socio-economic environment, and especially the growing demand for transparency and accountability, requires that governments have to review and adjust mechanisms to ensure high standards of conduct in public offices to earn the confidence and trust of the citizenry.

There has to be unambiguous and clear goals and mission for a public service while safeguarding its values but adapting to changes in its governance practices. Ethics will remain at arms length in governance if clear and known procedures are not in place such as those that facilitate the reporting of wrongdoing and provide protection for whistleblowers to assist the detection of individual cases of misfeasance. Ethics and governance are inextricably interwoven into each other.

**Why and how ethics play a critical role in good governance:-** Let us talk about the issues and problems of governance. The current psyche and dominant assumption is that government cannot do anything well, therefore it should do as little as possible. The concern over governance, however, has been a universal phenomenon and indeed has been seen as approaching a populist uprising in some countries (Peters, 1966). The administration and specifically the bureaucracies are attacked as insensitive, inefficient, lacking commitment and often as hostile to the very clients they are intended to serve (Light, 1995). In extreme versions of the argument, government is conceptualised as “regulating the poor” rather than actually serving them through social programmes (Piven and Cloward, 1993). The other major issue of governance is that the economies and societies that governments are meant to control and regulate have become less governable due to (1) increasing social and political heterogeneity among population, (2) the role of the welfare state in rectifying market based inequalities has been reduced, (3) income inequalities have been widening in most industrialised nations and developing nations too and (4) the ethnic and racial heterogeneity of these societies have also been increasing through immigration with a related escalation of social tension (Mayntz 1993). The authors claim that administration or the public servants have the choice of creating public and private goods through budget planning and allocation. Given the indivisibility, non-excludability and non-rivalry nature of public goods, they are not usually perceived as conferring benefits on any particular individual or groups in society. Private goods on the other hand, do benefit particular individual(s) or group(s) and thus have much higher political pay off for the bureaucrats and their political masters. Therefore, administration, assuming they have the available latitude will under supply public goods and over supply private goods to the citizenry. All these problems will be of no substance if the stakeholders in the government who govern or administer adhere to basic ethics both value based and rule based.

Now let us talk of another issue, which is prevalent in most of the countries. The problem of indifference – that is public servants not failing to comply with explicit rules but rather of situations in which they might be able to do a little more than just observe the rules. This is the case in situations where actions have to be taken on the basis of principles, goal statements, guidelines, precedents etc – often nebulous and not demanding that any specific course of action be chosen. In this circumstance, value based ethics should gain priority over rule based ethics. The reality of modern
public service is that the only truly (if at all) punishable offence is malfeasance i.e. violation of rules and doing something which contravenes the written codes and standards glaringly. The problem of misfeasance – personal failure is actually dissipated to the entire organisation with no one person held responsible. It is evident that the best civil service system has more or less failed to deal with the problems of lack of performance. One author who has worked almost 17 years in the public sector has the experience of a situation where he had received a lot of complaints against a manager in charge at a specific location. When he called for an explanation and admonished the manager concerned to improve upon his performance, the manager wrote in response, “According to your contention and letter, I am an inefficient manager, let me agree with that, but that is no crime. I am not making money nor am I violating any laid down procedures”. This sort of situation is a looming integrity disaster and a violation of all ethical norms. There is undoubtedly an ethical dimension to gross incompetence. Failure due to changed condition or circumstance is acceptable but failure due to lack of technical expertise and appropriate level of skill or desire to perform a task is a manifestation of dereliction of duty. Exercising such incompetence at the public expense is definitely a violation of public trust, and abuse of office and ultimately breach of ethical norms.

Further, in spite of administrative reforms across the globe, there exists top down administrative structures, which have serious shortcomings. This structure demands compliance and uniformity when flexibility and diversity are called for. It focuses on inputs and neglects results and creates a bureaucratic class who have a job to get done within a time frame. Hence, a natural desire emerges to subvert or evade rules. Beneath the veneer of rule-based administration an informal managerial ethic blooms, softening the rules and loosening the rigidities. Entrepreneurial public servants devise means of outwitting the controls while paying lip service to values and ethics. They manage to travel even when the travel budget is depleted, fill positions when a hiring freeze is in place, procure IT without going through proper procedures and so on. The end result is that public servants spend their quality time evading onerous controls then serving the citizenry and moving the country to higher level. We have talked enough on the ethical problems arising out of problems in governance. The question that arises next is what should we do?

Injecting Ethics into Governance:- At the outset, it is important to obtain recognition at all political and administrative levels that not only is ethics important – it is difficult too. The simplistic impression must be fought that ethics is a new kind of rule-based management, a fact that necessitates some sort of institutionalisation of ethics commitment. The only institutionalisation should consist of an ongoing ethics programme that contains two main parts, namely character development and reasoning ability development.

Besides the characteristics and fundamentals to good governance discussed above, the single most important factor is the perception of the citizenry that government is operating honestly, fairly and is committed to providing good governance. In contemporary society, cynicism about government performance has also reached high levels, which, therefore, often requires an openness on the part of the administrators that appears to violate their right to privacy. Courts have generally upheld transparency programs, finding that the people’s right to know enjoys precedence over the individual rights to privacy of public officials. There are many systems for
enforcing transparency, the most important one being financial disclosures. In a
definite and systematic way, proactive public financial disclosure systems, with the
rule to ensure that decision makers rid themselves of interests that would conflict with
their public duties is one of the easiest ways to diffuse cynicism about the behaviour
of public servants. These systems can be compliance or integrity based.

Let us take the example of Australia. Prime Minister Howard’s guide on Key
Elements of Ministerial Responsibility (April 1996) represents an evolution of a
practice, which commenced in 1983 in Australia. These guidelines produced a sting
immediately. In October 1996, two members of Howard Ministry resigned because of
breaches of the guidelines relating to the holding of shares in companies in respect of
which they had made favourable ministerial decisions. Subsequently, several others
have followed suit for a variety of reasons. Thus, strict guidelines and stringent
enforcement of disclosure of assets and conflict of interest on part of the public
servants, with actions against erring ones, can ensure that rule-based ethics are in
place in the public service.

Since the market model of governance i.e. governments diffusing (or devolving/
transferring) responsibilities to private sectors either by privatising or contracting, is
in vogue and prominent, it is mandatory that at some threshold governments must
hold those entities to ethical standards. This needs some elaboration. While moving
from a traditional governance to a market model or entrepreneurial model there is a
strong possibility that an administration can become self-indulgent, since employees
adopt practices which are common in private operation or business but are considered
unethical in government. Under the rubric of new public management, there remains
enough scope for impartiality and a sense of public duty to be de-emphasised.
Enforcing rule-based ethics to retain public confidence in government can contain this
kind of situation. The Hong Kong model for eradication of corruption would serve as
an example of best practice. The Independent Commission Against Corruption
(ICAC) of Hong Kong type of an organisation should be formed and put in place to
aid, advise, guide and watch both government and private entities. These bodies
should be absolutely independent, have inherent power and members should be of
high repute and integrity. In many governments there exists an Icarus Principle for
integrity of officials i.e. one cannot tell the truth to higher level employees – this has
to be shunned at all cost. The body or commission should provide clear, timely and
apt ethical advices to facilitate governmental responsiveness not retard it. Ideally, the
system should ensure enforcement of integrity without overly restricting flexibility.

As discussed before, since in many instances public servants have latitude to decide
cases on their own judgment and choice and there does not exist oversight
mechanisms to review the discrepancies in decisions, it is important that public
officials exercise their discretion in a moral, sound and most ethical manner. It is
equally important that public servants should have moral uprightness to reverse their
bad decisions even when these decisions are according to rules but to the detriment of
the public – who should benefit out of these decisions.

Sound policy management adequately combining enforcement and prevention
measures can also enforce ethics. It should be recognised that increased attention to
prevention reduces the need for enforcement and has a positive impact on the public
service culture and on the relationship between the public service and civil society.
Finally, to infuse ethics into the public sector to ensure good governance requires continuous training, education, counselling by authentic expert groups and individuals. Debate based on concrete and real cases should be in place to (a) sensitise participants to moral problems i.e. to develop their ability to perceive that a situation or a case is morally problematic and what it is that makes it morally problematic, (b) to improve their analytical ability and skill, i.e. their ability to identify and interpret the relevant norms and values, to perceive the relevant aspects of the situation and reasons logically and (c) to develop their ethical perception, imagination or creativity, i.e. their ability to rise above the routine and mundane affairs and find new, innovative and situational solutions to difficult moral problems. While all these above steps are being taken, there should also exist stringent punitive measures for erring public servants. The OECD policy brief on the fight against bribery and corruption states, “Public ethics are a prerequisite to, and underpin, public trust and are keystone of good governance” (OECD 2000 P.6).

While all the measures mentioned above intended to instil ethics among public servants and to reduce the possibility of conflicts arising between public duties and private interest should be in place, Governments should also ensure the continuous dissemination of information to public. The civil society should be aware of its rights, responsibilities and duties for the proper functioning of the state. Civil society organisations should function like watchdogs with the goal of zero tolerance for rule–based unethical behaviour by public servants. Ethics in public service has both a demand side and a supply side too. The supply side is represented by an educated, vigilant and responsive civil society, which can come into existence, provided governments are serious about it. After the collapse of major business houses in the USA and subsequent developments from where innumerable writings and theories on ethics have emanated, future work in ethics will be focussed on critical issues in relation to governance, including ethical issues at the interface between the changing public/ private sectors, government and civil society organisations and between politicians and administrations, as well as methods to institutionalise transparency, accountability and responsibility in public service with more arduous rules.

**To conclude:** - The standard of public servants at the highest level should be “purer than Caesar’s wife”, both in terms of the reality and the appearance of inappropriate behaviour. Good governance will remain a far cry until administrators understand that they are on oath to preserve, protect and progress the interests of the citizenry and they are on a social contract to serve with certain amount of income from secure employment. Public servants have to get one fundamental issue clear “they are, because of the citizenry and because of citizenry, they are’.

Ethics and good governance are interwoven whereas good governance and ethical public servants are like object and shadow. To carry out governance reforms, governments should start with parliaments and legislatures, ensuring political engagement in enforcing values, norms, morals and basic standards of conduct both in personal and public life. There is no instant solution or off the shelf reforms derived from a particular set of assumptions, rather it is culture and place specific, but one thing, which acts, as catalyst is the ethics. Hence, enforcement of ethical values should be the starting point for good governance.
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