



Codes of Ethics and Codes of Conduct

INTRODUCTION

We begin our discussion with codes of ethics. After outlining this concept, we explain the difference between codes of ethics and codes of conduct. We then examine two types of ethics: (i) ethics of professions and (ii) ethics of civil services. We outline the general principles of professional ethics and illustrate them with examples of codes of nursing and accounting professions. Thereafter, we consider general principles and approaches to public service ethics. We discuss civil service ethics using codes of conduct which govern All India Service officers. Finally, we consider the ethical codes recommended for government servants.

Ethical codes have been in existence since ancient times. They underpinned ancient religion and society. Ten Commandments, for example, belong to the religious code of Jews. Buddhism has ethical codes for householders, monks and nuns. The ancient Greek city state, Athens, had its code covering culture and politics. Ethical codes are systems of morals which cover many aspects of life. They usually consist of general obligations and admonitions, or what one should do and refrain from doing.

CODES OF ETHICS AND CODES OF CONDUCT

The Distinction between the Above

We need to examine the idea of an ethical code in a little detail, and differentiate it from a code of conduct. There is a tendency to use the two terms interchangeably. Codes of ethics usually contain general values while codes of conduct clearly spell out the principles which are derived from values. In the words of Jeremy Bentham, a principle is “a general law or rule that guides behaviour or decisions,” whereas values articulate “an aspiration of an ideal moral state.”

On the connection between values and principles in the domain of public administration, Terry Cooper says:

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An ethical principle is a statement concerning the conduct or state of being that is required for the fulfilment of a value; it explicitly links a value with a general mode of action. For example, justice may be considered a significant value, but the term itself does not tell us what rule for conduct or state of society would follow if we include justice in our value system. We would need a principle of justice to show us what pattern of action would reflect justice as a value. A common form of the justice principle is “Treat equals equally and unequals unequally”.

We might interpret this principle as meaning that all adult citizens have to be treated alike with the same political rights and obligations. If one is allowed to vote, then all must be allowed to vote.

Nowadays many companies post ethical codes on their websites. They do not often distinguish between a code of ethics and a code of conduct. A code of ethics will first specify values that underlie the code and will describe a company's obligations to its stakeholders. It will describe how the company conducts its business. It will describe the manner in which the company proposes to implement its values and vision. It will guide the staff about the company's ethical standards and on how to achieve them. In contrast, a code of conduct is generally addressed to and meant for the use of employees alone. It usually lists unacceptable behaviours or actions; employees have to obey the code; and it may be silent on values.

Values are general moral obligations; principles are the expected ethical conditions or behaviours which follow from values. Values refer to political and social visions and exalted goals which societies seek to achieve. In contrast, codes of conduct have a narrow focus. Codes of conduct are particular rules of conduct either imposed from higher levels of an organization or voluntarily accepted as the requirements of a profession or occupation.

A code of ethics differs from a code of conduct in another way. A code of ethics or a code of morality has a wide canvas. It may virtually cover all aspects of a man's life. It will contain prescriptions and prohibitions which cover one's personal, social, economic, political and religious life. Codes of ethics apply to the culture, education, and religion of a whole society. Codes of conduct generally cover an individual's official or professional conduct.

CODES AND LAWS

The term 'code' is sometimes used to signify a law. Thus we can speak of the Indian Penal Code, the Code of Criminal Procedure, or the Bombay Land Revenue Code. These are examples of laws. They are distinct from ethical codes and codes of conduct. In the ancient times, there was a famous Hammurabi Code. It was a collection of laws and edicts of the ancient Babylonian king Hammurabi. It contained legal procedure and penalties covering unjust accusations, false testimony, miscarriage of justice and other rules which sought to establish “stable government and good rule,” so that “the strong may not oppress the weak”. However, neither codes of ethics nor codes of conduct are laws.

To pursue the matter a little further, violation of a code of ethics involves no legal penalties. Of course, some acts (such as theft) are forbidden both by law and ethical codes. In that case one is liable to punishment. Further, violation of an official code of conduct is not a legal offence except in so far as it also violates a law. Violations of code of conduct constitute breaches of officially prescribed rules. In those cases, the concerned individual can be punished only under the provisions of conduct rules. In other words, he can be penalized by his employer, that is government in this case. Such offences are not criminal offences but are administrative lapses.

Codes of conduct broadly cover two areas: (i) public service and (ii) professions and occupations. Before examining these, let us note an ancient example of code of ethics. This is from the ancient city state of Athens, and its great ruler Pericles proclaimed it. Incidentally, Pericles created the first system of merit based public service with salary payments.

The Athenian Code

The Athenian Oath reads as follows:

- ❑ We will never bring disgrace on this our City by an act of dishonesty or cowardice.
- ❑ We will fight for the ideals and Sacred Things of the City both individually and collectively.
- ❑ We will revere and obey the City's laws, and will do our best to promote a like reverence and respect in those above us who are prone to annul them or set them at naught.
- ❑ We will strive increasingly to quicken the public's sense of civic duty.
- ❑ Thus in all these ways we will transmit this City, not only not less, but greater and more beautiful than it was transmitted to us.

This oath is a value system. It sets out a general vision and differs from a code of conduct. Thinking of Indian polity, we can regard the provisions included in the Directive Principles of the Constitution as forming an ethical political code.

Professional Codes of Conduct

Now, we will look at professional codes in general. These are often regulations which are voluntarily adopted by members of various professions and occupations. They define the standard practices which all members follow to ensure uniformity and acceptable quality of service which maintain their reputation and credibility. For example, various professionals such as nurses, doctors, engineers, accountants, auditors and lawyers have professional codes. Such standards, also known as professional standards, are sometimes prescribed by regulatory agencies for some professions.

One of the earliest professional codes is the Hippocratic Oath which physicians follow to this day. Hippocrates was a physician of ancient Greece, and prescribed rules which cover a physician's responsibilities towards patients and patient confidentiality. One part of the Oath says: *"Into whatever houses I enter, I will go into them for the benefit of the sick, and will abstain from every voluntary act of mischief and corruption"*.

PROFESSIONAL ETHICS

Introduction

Professional ethics cover the personal and job-related standards of behaviour expected of professionals. Professionals possess and use specialized knowledge and skill. The manner of using such knowledge while providing a service to the public is considered a moral issue and is termed professional ethics. Professionals can make informed judgments in various situations based on their skills. The general public is unable to make such decisions for want of relevant training.

Many professional organizations define their ethical approach in terms of the following principles:

- ❑ Honesty
- ❑ Integrity

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- ❑ Transparency
- ❑ Accountability
- ❑ Confidentiality
- ❑ Objectivity
- ❑ Respectfulness
- ❑ Obedience to the law

The International Federation of Accountants, in *International Good Practice Guidance, Defining and Developing an Effective Code of Conduct for Organizations*, defines a professional code as: “Principles, values, standards, or rules of behaviour that guide the decisions, procedures and systems of an organization in a way that (a) contributes to the welfare of its key stakeholders, and (b) respects the rights of all constituents affected by its operations.”

Implementation and Regulation

Implementation of Professional Ethics

Professional associations devise codes of practice which their members must follow. The purpose of the codes is to prevent exploitation of clients and to safeguard the integrity of the profession. The codes protect both the clients and the practitioners of the profession. Disciplinary codes enable the profession to prescribe standards of conduct and ensure that individual practitioners meet these standards. If individual practitioners fail to observe the standards, they face disciplinary action. Professionals who act conscientiously will feel reassured that they will not be undercut by less scrupulous colleagues. And the public will retain its faith in the profession and will continue to engage the professional practitioners.

Internal Regulation

There is a danger that self regulation in a profession can lead to self serving behaviour. The bodies can become lax in enforcing the codes. This can happen in professions where a small number of practitioners hold scarce knowledge. In such cases, government has to create non partisan public regulators. Many countries have provided for some statutory regulation of professional ethical standards in such areas like nursing and midwifery in England and Wales. Failure to comply with standards can invite prosecution.

Two Examples of Professional Codes

We will now look briefly at two professional codes. It is pointless to get into details which are relevant only to the practitioners with relevant knowledge. The idea is to get a feel for what a professional code covers. The codes open with a preamble which sets out the values, mission and vision of the professional body. It is followed by sections which state the items of the code or the individual prescriptions and prohibitions. First, we briefly consider the international code of ethics for nurses.

An international code of ethics for nurses was first adopted by the International Council of Nurses (ICN) in 1953. It has been revised from time to time, the last being in 2012.

(i) Preamble of Nurses' Code

Nurses have four fundamental responsibilities: to promote health, to prevent illness, to restore health and to alleviate suffering. The need for nursing is universal. Inherent in nursing is a respect

for human rights, including cultural rights, the right to life and choice, to dignity and to be treated with respect. Nursing care is respectful of and unrestricted by considerations of age, colour, creed, culture, disability or illness, gender, sexual orientation, nationality, politics, race or social status. Nurses render health services to the individual, the family and the community and coordinate their services with those of related groups.

The Code of Ethics for Nurses has four principal elements that outline the standards of ethical conduct. One deals with nurses and people. The second part deals with nurses and practice. The third deals with nurses and their professional knowledge. The final part deals with nurses and co-workers.

(ii) US Code of Accountants

Next, we look at the code of conduct which covers the profession of accountants in US. It requires members to comply with the following fundamental principles:

(a) Integrity

A member shall be straightforward and honest in all professional and business relationships.

(b) Objectivity

A member shall not allow bias, conflict of interest or undue influence of others to override professional or business judgments.

(c) Professional Competence and Due Care

A member shall maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional service based on current developments in practice, legislation and techniques. A member shall act diligently and in accordance with applicable technical and professional standards when providing professional services.

(d) Confidentiality

A member shall respect the confidentiality of information acquired as a result of professional and business relationships and shall not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose. Confidential information acquired as a result of professional and business relationships shall not be used for the personal advantage of the member or third parties.

(e) Professional Behaviour

A member shall comply with relevant laws and regulations and shall avoid any action that discredits the profession.

The Code recognises that circumstances may arise in which members face difficulties in complying with the fundamental principles. It is impossible to define every situation that creates difficulties for compliance with the fundamental principles and specify the necessary corrective measures. Further, as work assignments and the nature of difficulties vary, different safeguards may be needed. Therefore, the Code establishes a conceptual framework that requires a member to identify, evaluate, and address threats to compliance with the fundamental principles. The conceptual framework approach assists members in complying with the ethical requirements of the Code and in meeting

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their responsibility to act in the public interest. It accommodates many variations in circumstances that create threats to compliance with the fundamental principles and can deter a member from concluding that a situation is permitted if it is not specifically prohibited.

As we saw, a code of practice is adopted by a profession to regulate that profession. A code of practice can also be called a code of professional responsibility. It may discuss knotty questions and dilemmas that the professionals can face and throw light or give guidance on such matters. It can make clear what behaviour is considered 'ethical' or 'correct' or 'right' in the circumstances.

PROFESSIONAL RESPONSIBILITY

We will consider two examples to show how professional responsibilities far exceed those of lay men or general public. After a car accident, a passing pedestrian cannot be held responsible for saving the accident victim. He will be expected to call or inform the emergency service providers. An ordinary person has no medical knowledge to provide emergency treatment. But a trained doctor with necessary equipment is expected to correctly diagnose the victim's condition and carry out appropriate procedures. If a doctor fails to help in that situation, he would generally be regarded as negligent and unethical. An untrained person would not incur any blame for not acting. It is only the person with knowledge of professional skills who has to take responsibility.

Many technically qualified persons have to certify the quality and safety of equipment used in industry. Thus an environmental engineer has to certify that pollution control equipment installed in a plant will treat effluents to the standards prescribed by the pollution control board. If an environmental engineer falsely certifies that the equipment treats effluents to the required standards, he will be guilty of breach of professional code and worse. He has colluded with the owner of the industry.

Uptil now, we have looked at professional codes of conduct. They are the ground rules on which professions operate. They are the principles by which any profession swears. Code of conduct, together with possession of specific domain knowledge, is the basis of claims to professionalism. A professional code of conduct consists of both ethical principles and the best perceived ways of performing professional tasks.

CODES OF CONDUCT FOR CIVIL SERVANTS

General Principles and Approach

We will now consider codes of conduct in the sphere of public service. In recent times, with changing theoretical approaches to public administration and higher expectations from public servants, codes of conduct in public sphere assumed greater importance. Codes of conduct have existed in Indian administrative system since long. They serve the following purposes:

- ❑ Codes of Conduct increase the possibility that government servants will act in public interest and will avoid improper forms of behaviour.
- ❑ By continuously comparing their conduct against prescribed norms, civil servants get into the habit of doing the right things.
- ❑ Codes of conduct express the commitment of civil servants to certain moral standards.

- ❑ The codes set standards for public servants and express their special responsibility as members of civil administrative system.
- ❑ Codes of conduct can prove effective by appealing to one's pride and moral sense or by creating a sense of remorse for wrong doing.

International organizations have recognised the usefulness of codes of conduct in international anti-corruption agreements. The U.N. Convention against Corruption (2003) recognised a public service code as necessary for prevention of corruption:

States must endeavour to ensure that their public services are subject to safeguards that promote efficiency, transparency, and recruitment based on merit. Once recruited, public servants should be subject to codes of conduct, requirements for financial and other disclosures, and appropriate disciplinary measures. Transparency and accountability in matters of public finance must also be promoted, and specific requirements are established for the prevention of corruption, in the particularly critical areas of the public sector, such as the judiciary and public procurement. Those, who use public services, must expect a high standard of conduct from their public servants.

The motto that “public service is a public trust” recognises that compared to ordinary citizens, public servants enjoy many powers and privileges. Hence, codes of conduct for civil servants impose special obligations and restrictions on exercise of public power and authority. Codes of conduct are normally written documents. Besides the explicit codes, there are implicit unwritten norms too. Service or regimental traditions in the army fall in this category. They are found in expressions like ‘not done’ or ‘not cricket’.

Seven Principles of Public life

The commonly stated principles of public service include: avoiding use of public office for private gain (integrity), displaying impartiality in performing duties (objectivity), and the concept of public service being a public trust (probity and effectiveness). Together these define a common mission for public servants. One famous example of an Ethics Code comprises the Seven Principles of Public Life which the Committee on Standards in Public Life in Great Britain formulated. Prime Minister John Major created the committee in 1994 with wide terms of reference: “To examine current concerns about standards of conduct of all office holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life.” It defined office holders widely as including all elected officials and civil servants at the national and local levels.

The ‘Seven Principles of Public Life’ which the Committee recommended should apply to all in the public service consist of the following.

Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

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Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

Differences in Codes of Conduct

The purpose of codes of conduct is mainly to forestall undesirable conduct such as conflict of interest, self-dealing, bribery, and abuse of public office. Codes can be either short or long; but they tend to be quite detailed. Their emphasis is normally on prohibiting various types of undesirable conduct.

The types of civil service misconduct can change over time. The following “Duties of Public officials” which the US postmaster General Amos Kendall issued in 1829 (following major scandals) cover mainly office discipline. In contrast, modern codes of conduct are longer and contain many generic rules. Generic rules are general principles each of which covers many individual instances.

- I *Every clerk will be in his room, ready to commence business, at nine o'clock A.M., and will apply himself with diligence to the public service until Three o'clock P.M.*
- II *Every clerk will hold himself in readiness to discharge any duty which may be required of him in office hours or out, in no case where by labouring a short time after office hours an account can be closed or a citizen released from attendance at this city, must be refrain from continuing his labours after three o'clock.*
- III *Newspapers or books must not be read in the office unless connected directly with the business in hand, nor must conversation be held with visitors or loungers except upon business which they may have with the office.*

- IV. *Gambling, drunkenness, and irregular and immoral habits will subject any clerk to instant removal.*
- V. *The acceptance of any present or gratuity by any clerk from any person who has business with the office, or suffering such acceptance by any member of his family, will subject any clerk to instant removal.*
- VI. *The disclosure to any person out of the office of any investigation going on, or any facts ascertained in the office, affecting the reputation of any citizen, is strictly prohibited without leave of the Auditor.*
- VII. *No person will be employed as a clerk in this office who is engaged in other business. Except the attention which the families of clerks require, it is expected that all their time, thoughts, and energies will be devoted to the public service.*
- VIII. *Strict economy will be required in the use of the public stationery or other property. No clerk will take paper, quills, or anything else belonging to the government from the office for use of himself, family, or friends.*

The points of this code of conduct are still valid today. Codes of conduct may range over a wide spectrum. At one extreme, are integrity based codes; at the other are compliance based codes. The integrity based codes merely outline the desired values. The civil servants are expected to imbibe the values and convert them into suitable behavioural principles of conduct. Some OECD nations and Australia follow this pattern.

Compliance based systems contain detailed rules of conduct, listing mainly the impermissible types of conduct. Those who infringe the rules invite disciplinary action. One criticism made against such rules is that they secure compliance at a minimal level. They generally do not inspire government servants to aim at higher standards.

Official codes of conduct in India have a long history. Without going too far back into it, we may note that in 1930s, a compendium of instructions containing 'do's and don'ts' was issued and collectively called 'Conduct Rules'. The compendium was given the shape of distinct rules in 1955. The Santhanam Committee recommended considerable enlargement of such rules. The Central Civil Services (Conduct) Rules (1964) and similar rules applicable to members of the All India Services and employees of various State Governments are based on them. These rules have been updated to include additional norms of behaviour which cover: the requirement of observing courtesy, prohibiting demanding and accepting dowry, prohibiting sexual harassment of women employees, and, recently, prohibition on employing children below 14 years of age as domestic help. These reflect the changing, often increasing expectations of society, from the civil services.

Specific Content of Codes of Conduct

Central Government has prescribed conduct rules for its officers and staff. Different conduct rules apply to different categories of officers belonging to All India Services (IAS/IFS/IPS/Indian Forest Service), Central Services (such as Indian Revenue Service and Indian Information Service) and to Central Secretariat Service. State governments have made conduct rules for those serving under them. However, the conduct rules for different services under the Centre and the States are similar.

The conduct rules are usually written in semi-legalistic bureaucratic language. They are laced with many explanations and clarifications. Many rules have been reformulated. We need not, however, concern ourselves with these minutiae. It is sufficient for our purpose to follow the nature

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of the conduct rules. For this purpose, we will consider the All India Services conduct rules. As mentioned earlier, conduct rules for other services are broadly similar.

Using the Best Judgement

While performing their official duties and exercising their powers, officers have to act in their best judgment. In other words, they have to do what they think is true and correct in any particular matter (or case in official parlance). They should act independently according to applicable rules and regulations, unmindful of any external influences. But if higher officers give them oral or written directions, they have to follow such orders.

Governments are hierarchical organizations. No government official acts singly – except when he/she is hearing matters in a quasi-judicial capacity. In many situations, administrative decision-making mimics (partly) judicial procedures. For example, while hearing an appeal from the order of an Income tax officer, Deputy Income tax commissioner decides on his own without inputs from others in his office. But many matters are processed from the lower levels of hierarchy and are decided at a higher level. Such decisions and the underlying reasons are recorded in writing in files.

Case Studies

CASE 1

Babu Rao is an officer on special duty in the project analysis wing of the Finance department. His job is to look at the financial and economic viability of projects. Given the available budget, the projects with higher returns are picked up for funding or seeking aid from external donors. Although the procedure is involved, its principles are simple. The analysts calculate for each year of the project's useful life, the expected expenditures and revenues. As these flows occur in different years, they have to be made comparable. For this purpose, the revenue and expenditure flows are discounted using a particular interest rate. Discounting means that their magnitudes are reduced by using a factor based on the interest rate. Due to discounting, the actual numbers of future streams of expenditure and income become smaller. The same numbers of expenditure and income of say year 5 will become smaller than those of year 3. The present values of future income and expenditure depend on two factors: interest rate and the future year in which they occur. In this process, the present value of the numbers of later years in future becomes less than that of earlier years in future. These income (benefit) and expenditure (cost) streams, which are reduced to their present values, are added and compared. In short, the projects which have higher benefit-cost ratios in terms of present values are selected for funding.

In this process, a pet project of a powerful minister is dropped. The incensed minister calls Babu Rao for discussion. Babu Rao tries to explain things. But the minister berates him for slashing the solid Rs 100 crore revenue of seventh year to almost Rs 15 crore. After some discussion, the minister realises that if the interest rate used for discounting expenditure and revenue flows is reduced, the project will become viable. He asks Babu Rao to cut that rate. Babu Rao refuses saying that the rate is prescribed by the Department of Economic Affairs.

Question

What should Babu Rao do in the above circumstances?

1. Follow minister's orders.
2. Babu Rao should give up his narrow accounting perspective and adopt a wider social point of view.
3. He should politely express his inability to follow the minister's instructions.
4. He should tell the minister that he would write to the Department of Economic Affairs seeking a lowering of the rate of interest.

Discussion

Babu Rao is a professional in finance area. He has to follow the prescribed procedures of project analysis. Professionals like doctors and engineers have to follow the relevant technical codes in their work area. Babu Rao cannot be guided by the minister's unprofessional advice in this matter. So this option is wrong.

The second alternative confuses two distinct matters. Babu Rao, while discharging his functions as a finance professional, has to go by his professional training in accounting and related subjects. As a citizen, he can of course adopt whatever social philosophy appeals to him. His role as a finance specialist should not be confused with his role as a citizen. Hence this choice is inappropriate.

The third option is the correct one. Babu Rao has to provide professional inputs into decision making based on his knowledge and best judgement. He cannot substitute the minister's judgement in place of his judgement. The Department of Economic Affairs gave the discount rate which Babu Rao used. Incidentally, the rate measures the relative scarcity of capital in Indian economy and is a measure of the value or cost of capital. While evaluating projects, this uniform rate has to be used. It cannot be changed at the minister's bidding. But Babu Rao should not quarrel with the minister, but simply indicate that he is bound to use that rate.

The last alternative is also inappropriate. He cannot write to the Department of Economic Affairs to change the rate. It is decided after detailed consultations with monetary and fiscal authorities and expert agencies. In addition, it is not within his province to make such proposals.

Written Orders

There is a rule which prescribes that when oral orders are given, they should soon thereafter be authenticated by the officer who issued them. This rule is a fall out of the Emergency period under Shrimati Indira Gandhi. Justice Shah Commission inquired into various controversial happenings during Emergency. Many officers then took the plea that they followed the orders of higher officers. The higher officials, as it usually happens in such contingencies, washed their hands of the matters. To avoid this problem and fix accountability, Shah Commission recommended that officers who issue oral orders should confirm them later in writing. There is another rider to this rule which says that it should not be used to toss up matters which lie within one's assigned powers. The point here is that a civil servant should not evade responsibility.

CASE 2

The State Civil Supplies Corporation has been entrusted with the task of moving kerosene needed for PDS system from district to tehsil and sub-tehsil towns. For this purpose, it had to finalize transport tenders for each district. In one of the districts, the tender rates received were very high and the managing director of the corporation decides to call fresh tenders. However, in tenders received initially which the managing director (MD) decides to reject as too high, the lowest rate is from the supporter of the cabinet minister for civil supplies. Citing the need of rushing supplies urgently to rural areas, the minister asks the managing director to accept the lowest tender. The minister further argues that it would be procedurally correct. Fearing likely audit objections and their fallout, the managing director refuses to do so. When the minister insists, the managing director asks him to send him written orders. The minister accuses the officer of being bureaucratic and sticky.

What can we say about the reaction of the MD in this case?

1. The MD's behaviour is bureaucratic and rule bound.
2. The MD's stand is justified.
3. The MD is ignoring the inconvenience his action will cause to public.
4. The MD has first delayed procurement, and is then creating further difficulties.

Discussion

The first view is unjustified. It just uses adjectives to criticise the MD's action without looking at all the circumstances. Many public systems are bureaucratic organisations, and there is no point in using the term in an abusive sense. It is also true that public systems are bound by rules. But they are necessary in order to secure financial propriety and to ensure equity.

The MD is justified in asking the minister for written orders. The minister is not supposed to interfere in the internal working of the corporation which is regulated by the Companies Act. Further, it is not necessary to accept the lowest rate if all the rates are high, and if the lowest rate is also above the market rate. The MD has to ascertain whether the rates received in response to the tender are reasonable. Acceptable rates have to be in line with market rates. In the absence of written orders from the minister, the MD will be held responsible for losses caused due to payment of higher than market rates. He will be left holding the can.

The third view is also unacceptable. The MD is not deliberately causing inconvenience to people. Because of the high rates received, he is forced by rules to retender. The decision was forced upon him. He cannot flout the prescribed rules.

The last view is irrelevant to the point at issue. The simple point is whether or not to accept the tenders which are above market rates. This view obfuscates the issue. Incidentally, it is a common weakness of our countrymen to ignore main issues in any debate and chase irrelevant or peripheral points. There is nothing in the narration to suggest that the MD delayed matters.

Integrity and Devotion

Officers have to ensure the integrity and devotion to duty of Government servants under their administrative control. Integrity mainly connotes honesty in a wide sense. A civil servant should not only refuse bribes (or illegal gratification in official parlance) but also display intellectual honesty.

'Lack of devotion to duty' has many manifestations. The conduct rules mention habitual failure to complete work with expected quality within prescribed time as one such manifestation. Here, the conduct rules indirectly refer to commitment to duty expected of a civil servant. There is also a reference to the high work standard and diligence expected from civil servants.

Reporting Details of Properties and Transactions

The conduct rules contain provisions which track the property and financial dealings of civil servants. Their purpose is to ensure that civil servants do not amass wealth (or acquire properties disproportionate to their known sources of income) by misusing their official position. A government servant cannot acquire any immovable property by any means (such as purchase, lease or gift) in his name or in that of any of his family members without government approval. Nor can he sell or dispose of any immovable property without similar approval. Civil servants are prohibited from speculating on stock markets and from undertaking investment and lending and similar financial operations. They are also prohibited from undertaking any private trade or business. They have to submit every year an annual property statement showing all their properties.

These are important provisions for ensuring the honesty of civil servants. These rules are like disclosure norms. Civil servants are under an obligation to intimate government of their property transactions and property holdings. This procedure also ensures transparency. It also acts as a deterrent to wrongdoing. For, under the Prevention of Corruption Act, civil servants are liable to prosecution if they own assets disproportionate to their known sources of income.

Bar on Influence Peddling

The conduct rules prohibit civil servants from using their influence to secure jobs for their family members in companies, firms or non government organizations. By doing so, a government servant places himself under an obligation to private persons or companies. This will jeopardize his independence and neutrality. Such practices can lead to 'crony capitalism' in which elites in government and individual entrepreneurs share cosy relationships. As a result, losses are caused to public exchequer through 'sweetheart deals' between government and industries it favours.

Avoiding Conflict of Interest

To avoid such perils, the conduct rules provide that civil servants should avoid getting into 'conflict of interest' situations. These are situations in which a civil servant dealing with a matter has a personal interest or stake in it. Thus, a civil servant should avoid dealing with any matter (including award of contract) relating to a private undertaking or non government organization in which a member of his family is employed or in which he has a financial interest. Similar situations arise when judges have to hear cases of individuals or firms whom they represented while practising at bar. Judges recuse themselves from such cases i.e. will not hear them.

CASE 3

Joginder served as DM in Amarpur district for quite a few years. He was an avid bridge player. He used to play bridge regularly in the Advocates' club. Many of his bridge partners were lawyers and became his close friends. Joginder later moved away from Amarpur, eventually joining the

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Board of Revenue as a member. As a member of the board, Joginder had to hear appeals in land matters. It so happened that the sleepy Amarpur suddenly became an industrial hub. Its land values shot up. Joginder found to his discomfiture that his close lawyer friends from the bridge circle were appearing in the cases.

Question

What are Joginder's options in this case?

1. He should recuse himself from cases in which his close friends appear as pleaders.
2. He should simply hear the cases.
3. He should hear the cases and lean towards his friends if their cases and those of their opponents are on par in terms of merits.
4. He should seek a transfer to another job because of the conflict of interest situation.

The first approach will be the correct one. This case involves a situation of conflict of interest. Officials have to act and decide matters in an objective manner. However, personal feelings of officers may come into play in matters in which their relatives or friends appear as parties. The concerned officials are said to have a conflict of interest in such cases. They should avoid taking decisions in such cases.

As discussed above, the second option is impermissible.

The third alternative is worse than the second one. A judicial or quasi-judicial decision should be based on objective considerations i.e. facts of the case and applicable law. No personal factors or any ideas of veering to one side---except on the basis of facts and law---are admissible. This option will count as favouritism.

It is not necessary for Joginder to seek a transfer. Cases involving conflict will not be many. He can stay out of such cases.

Financial Propriety

Conduct rules seek to ensure that civil servants observe other norms of financial propriety in their personal conduct. They are not allowed to organize subscriptions or donations in any manner for any cause or purpose. They can, however, seek contributions to official funds (e.g. CM's Relief Fund) and for assisting people hit by natural calamities or affected by other circumstances.

To prevent conflict of interest situations and to avoid possibilities of money-making through indirect means, conduct rules prohibit civil servants from accepting lavish gifts or availing hospitality from private groups. There are some exceptions which allow civil servants to accept gifts up to certain limits from near relatives on religious or social events like marriages.

Civil servants have to arrange their private finances prudently. They should not get into a state of habitual indebtedness. They can take car loans or house loans if the Equated Monthly Instalments (EMIs) are affordable. The rationale of this rule is to ensure that difficult personal finances do not tempt civil servants into improprieties.

CASE 4

Badri Prasad is a young outgoing officer. He has a naturally care free temperament. He lived in the present, enjoyed himself with little thought of future. His wife Sarojini shared his temperament and life style. They were keen on owning a plush apartment and a glitzy car. Unmindful of the financial commitments, they borrow heavily and get into large EMI payments. Then, suddenly Sarojini loses her job because of industrial recession. They find it hard to handle their personal finances. Some of their business acquaintances offer to take care of the EMI payments temporarily till the young couple get out of their financial problems. Badri and Sarojini mull over things. They decide to sell the car and slash household expenditure at least till Sarojini can get another job.

Question

What will be your advice to them?

1. They should accept the offer to temporarily tide over the difficulties.
2. Officers should not feel that when business friends help them, they will always take advantage of them later in some way.
3. They should sell the car and slash household expenditure till Sarojini gets another job.
4. They should accept the offer but keep it completely secret.

Discussion

The first option is ill advised. This will place them under obligation to their business friends. Officials are expected to keep their finances in reasonable order, and relying on others to make their EMI payments means that their household finances are in a mess.

The second formulation can be accepted as a general statement. Rich businessmen can also be generous and may want to help their young friends in financial difficulty. This general principle has to give way before specific official codes of conduct which prohibit government servants from taking monetary assistance from private persons.

The third option is the most appropriate one. Badri should not become dependent on others in this way. His friends may be well intentioned. But by accepting such help, Badri will be placing himself in a false position. In any case, if he takes such help, he will be violating his official rules of conduct. It is incumbent upon Badri and Sarojini to immediately set their financial house in order.

In the last choice, Badri and Sarojini will be violating the official code of conduct and keep it under wraps. They are in any case violating the code of conduct. Experience shows that such attempts at secrecy often fail. People have a tendency to talk, and somehow or the other matters will leak out.

Political Neutrality

Conduct rules expressly prohibit civil servants from taking part in political activities. The purpose of such rules is to ensure the political neutrality of civil servants. No government servant can join or otherwise associate himself with any political party or any political organization. Nor can he participate, aid or support any political movement or political activity. She cannot also canvass, interfere with, or use her influence in elections at central, state or local level. Civil servants should

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also try to prevent their family members from joining movements which directly or indirectly try to subvert lawfully constituted governments. Naxal or Maoist movement is a case in point.

CASE 5

Rajesh Chaudhary and Vaidehi Chauhan were university friends. After Rajesh Chaudhary got into the civil service, they got married. Vaidehi's father was a prominent politician who lived in the State capital. But the young couple did not publicise the fact and kept a low profile. Vaidehi's father did not want to entangle Rajesh Chaudhary in any political matters. After a few field postings, Rajesh was transferred to the State capital. The young couple moved into Vaidehi's parental home.

Being a politician's home, it had a stream of political visitors. Rajesh initially kept himself away from the political crowd. But then he slowly became interested in the political gossip. He began mixing with the more prominent and interesting politicians. He began telling some juicy bits of political news to his service colleagues in their tea club—the time civil servants take off for official gossip. He also helped out a few politicians in some minor cases. Some of them made frivolous comments about the 'synergy' which marriage ties between families of bureaucrats and politicians can create. Vaidehi was none too pleased. Being a politician's daughter, she had sharp antenna and did not want Rajesh to be identified with any political formation. She did not want him to land in any trouble. Her father was also wary of Rajesh getting mixed up with his political pals for many of them were dubious characters. But he was hesitant to say anything to his son-in-law.

Fortunately, the matter got naturally resolved. Rajesh Chadhary's younger sister got admission in a well known business school in the city. Vaidehi persuades Rajesh to move to their small official flat which is close to the school. She tells him that his sister can study peacefully in the flat. Her father also heaves a sigh of relief.

Question

What in your view can be an appropriate response to the situation depicted in the case?

1. Vaidehi is making a mountain of a molehill.
2. The couple should not have, in the first instance, moved into Vaidehi's parental home.
3. Vaidehi's concerns are valid.
4. Civil servants cannot avoid involvement in some measure with politicians and their activities.

Discussion

The first alternative is unacceptable. There is a problem since Rajesh is developing excessive proximity with political leaders. This can create problems for him in his career in future.

The second alternative is not relevant to the issue. The problem is not that they moved into the residence of Vaidehi's parents. It is that Rajesh is getting very close to politicians whereas civil servants need to maintain some distance from them.

The whole matter may seem innocuous. But the catch is that Rajesh is getting sucked into the political arena. We are fond of listening to political gossip as the popularity ratings of political news channels attest. But civil servants have to stay away from political matters. Rajesh is young and can be led astray by political operators. Though a politician, his father-in-law was aware of the danger.

Vaidehi shrewdly realised that her husband's excessive political interests may undermine his neutral image. Her anxieties are well-founded.

The last alternative makes a misleading statement. It is true that politicians and civil servants interact constantly with one another. But this should not be seen as involvement of civil servants in political affairs. Their role is different from that of political leaders. In their interactions with political leaders, officials should be politically neutral and avoid getting into political matters of any sort.

Observing Social Laws and Cultural Norms

Civil servants should meticulously follow certain social laws which people seldom observe. They should neither accept nor offer dowry. Nor should they contract a bigamous marriage, even when permissible under a religious personal law, except with government's prior sanction. They should not engage persons below 14 years of age for household work.

Civil servants have to observe certain cultural norms in their personal capacity. These cover the existing policies regarding age of marriage; preservation of the environment, wild life and cultural heritage; prevention of crimes against women; and the two children family norm.

Civil servants should never be under influence of alcohol while on duty; nor should they allow or permit an addiction to drink and drugs to affect their work. They have to scrupulously observe prohibition laws that may be in force in any State.

CASE 6

Mallikarjunam was from Kurnool district in Andhra Pradesh. His father-in-law was a large farmer. Mallikarjunam's wife was used to having household workers around her. She found it hard to manage things at their home in Bengaluru without domestic help. Her father sends ten year old Balram to assist her at home. Balram's father is a farm-worker who has been living on their land for long. She treated Balram kindly, and also sent him to school. The boy helped her in small domestic chores. As it happened, Mallikarjunam had to discipline some employees in his office for neglecting their work and trying to fleece applicants visiting the office. The disgruntled employees made a complaint that Mallikarjunam was employing and exploiting child labour.

Question

How would you respond to the situation in this case?

1. Mallikarjunam should ignore the complaints as motivated.
2. Mallikarjunam should not have employed Balram.
3. Balram is much better off in Bengaluru than in his village.
4. Mallikarjunam should inflate Balram's age in school register to avoid any legal problems.

Discussion

The first alternative is not relevant because it is not for Mallikarjunam to ignore the complaints. They have been made by disgruntled staff. Nevertheless, the facts of the matter may come for investigation. This will embarrass Mallikarjunam.

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This second option is the correct one. Government officials have to carefully follow the laws and social norms. Balram is clearly under aged. He cannot be employed for any kind of work in the household of Mallikarjunam. Government officers are constantly in public gaze. Interested persons will try to exploit even minor weaknesses and lapses of government servants. They should have no chinks in their armour. They need to, in their own interest, scrupulously follow all the rules and regulations.

The third point is irrelevant. The point is not whether Balram is more comfortable in Bengaluru or in his village. The issue revolves around whether he is being employed in child labour which is prohibited by law.

The fourth alternative contains an absolutely unacceptable suggestion. If that suggestion is followed, Mallikarjunam will be compounding his original error by trying to tinker with school records.

Other Norms

There are a few more conduct rules which have to do with the civil servants' official conduct in certain spheres. They should not try to use political influence to further their career or secure 'plum' jobs. At times, some civil servants with a view to self-publicity or self-promotion get functions organized in which they are praised sky high or conferred various 'awards'. The conduct rules frown upon such ego trips or scarcely disguised self-publicity. But it seems that after the recent spate of scams, government servants have become somewhat withdrawn and are trying to fly below the radar.

As is to be expected, no government servant should criticize government policies in public. However, they can use official channels to express and share their experiences in implementing policies and programmes. Further, government servants are prohibited from divulging information which they come to know from official documents. They can do so only in court proceedings or before official committees.

Even when government servants are subjected to defamatory attacks for any of their official acts, they cannot, without government's prior approval, take recourse to court proceedings or counterattacks in press.

There are a few aspects which find no mention in conduct rules. Civil servants have to conduct themselves with decency, decorum and dignity. They should be polite and courteous to Members of Parliament, Members of Legislative Assembly and to general public. They should always be cool and composed. They have to avoid boorish conduct, especially with women. They have to be soberly dressed and well groomed (should not look like hippies!).

Readers would have noticed that the code of conduct for officials consists mainly of prohibitions than prescriptions. The code is usually a list of inappropriate behaviours or of what officials should not do. It is understood (or goes without saying) that they should perform their duties faithfully, diligently and expeditiously in public interest, uninfluenced by extraneous considerations.

CODE OF ETHICS FOR CIVIL SERVANTS

The Santhanam Committee on Prevention of Corruption (1964) remarked:

"For a country like India, development of her material resources and raising the standards of life of all classes are indeed imperative. At the same time, the deterioration in the standards of public

life has to be arrested. Ways and means have to be found to ensure that idealism and patriotism have the proper place in the ambition of our youth. The lack of moral earnestness, which has been a conspicuous feature of recent years, is perhaps the greatest single factor which hampers the growth of strong traditions of integrity and efficiency.”

Values like altruism and empathy for poor are hard to imbibe after joining the civil services. They need to be instilled in childhood in family and school. The Indian Public Services have many established traditions. Many of these are in the form of conventions of propriety and acceptable behaviour without formal sanctions. However, there is also a need for a higher code of ethics. For the codes of conduct, while containing some general norms like ‘maintaining integrity and absolute devotion to duty’ and not indulging in ‘conduct unbecoming of a government servant’, are generally directed towards cataloguing specific activities deemed undesirable for government servants. There is no Code of Ethics prescribed for civil servants in India although such codes exist in other countries. What we have in India are several Conduct Rules, which prohibit a set of common activities. There is, of late, a concern that more ‘generic norms’ are needed in addition to the conduct rules.

Public Service Bill

A draft ‘Public Service Bill’, now under consideration of the Ministry of Personnel, Public Grievances and Pensions seeks to lay down a number of generic expectations from civil servants, which are referred to as “values”. The salient ‘values’ envisaged in the Bill are:

- ❑ Allegiance to the various ideals enshrined in the preamble to the Constitution
- ❑ Apolitical functioning
- ❑ Good governance for betterment of the people to be the primary goal of civil service
- ❑ Duty to act objectively and impartially
- ❑ Accountability and transparency in decision-making
- ❑ Maintenance of the highest ethical standards
- ❑ Merit to be the criteria in selection of civil servants consistent, however, with the cultural, ethnic and other diversities of the nation
- ❑ Ensuring economy and avoidance of wastage in expenditure
- ❑ Provision of healthy and congenial work environment
- ❑ Communication, consultation and cooperation in performance of functions i.e. participation of all levels of personnel in management.

The draft Bill also envisages a Public Service Code and a Public Service Management Code laying down more specific duties and responsibilities. Violation of the Code would invite punishments akin to the current major and minor penalties. A ‘Public Service Authority’ is also envisaged to oversee implementation of the Code and values indicated above and to tender advice in the matter of the values and the Code. The Second Administrative Refound Commission (SARC) has recommended that there should be a set of Public Service Values which should be stipulated by law. There should be a mechanism to ensure that civil servants constantly aspire towards these values.

Summary

- ❑ Codes of ethics apply to the culture, education, and religion of a whole society. The Athenian code is an example of an ancient ethical code.
- ❑ Thinking of Indian polity, we can regard the provisions included in the Directive Principles of the Constitution as forming an ethical political code.
- ❑ Codes of conduct generally cover an individual's official or professional conduct.
- ❑ Violation of a code of ethics involves no penalties; violations of code of conduct constitute breaches of officially prescribed rules.
- ❑ Official codes of conduct are not laws: their violations are not criminal offences but are administrative lapses. But some violations may be grave enough to amount to criminal offences.
- ❑ A professional code can be defined as a set of: "Principles, values, standards, or rules of behaviour that guide the decisions, procedures and systems of an organization in a way that (a) contributes to the welfare of its key stakeholders, and (b) respects the rights of all constituents affected by its operations."
- ❑ Professional ethics cover the personal and job-related standards of behaviour expected of professionals.
- ❑ The standards commonly mentioned in professional codes include: *honesty, integrity, transparency, accountability, confidentiality, objectivity, respectfulness and obedience to the law.*
- ❑ Because of their specialized knowledge and training, professionals have to bear higher responsibility in their work areas.
- ❑ The 'Seven Principles of Public Life' enunciated by the Nolan committee are – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- ❑ Codes of conduct for officials vary in length and content. They can also be compliance-based or integrity-based.
- ❑ Compliance-based systems contain detailed rules of conduct listing mainly the impermissible types of conduct.
- ❑ The integrity based codes merely outline the desired values. The civil servants are expected to imbibe the values and convert them into suitable behavioural principles of conduct.
- ❑ Official codes of conduct covering officers of Central services, All India services and State services are similar. They are all compliance based.
- ❑ The aspects they cover include: using one's best judgement in official matters; reliance on written orders; integrity and devotion to duty; reporting details of properties and transactions; avoiding conflict of interest; financial propriety; political neutrality; observing social laws and cultural norms; and other miscellaneous provisions.
- ❑ There have been demands in recent past for including more 'generic norms' in the codes of conduct.
- ❑ Government is mulling over a draft 'Public Service Bill'.

- Its main ingredients are – commitment to ideals of the Preamble of the constitution; apolitical functioning; good governance; objectivity and impartiality; accountability and transparency in decision-making; following high ethical standards; observing economy in expenditure; creating healthy and congenial work environment; and participatory management.

PRACTICE QUESTIONS

1. How does a code of ethics differ from a code of conduct?
2. What are the financial norms which government servants have to observe? What is the rationale of the norms?
3. “Codes of conduct for civil servants which largely consist of prohibitions on undesirable actions represent the ‘low road’ to ethics”. Discuss.
4. What are the purposes of professional codes? How do they differ from codes for government servants?
5. “An ethical code for government servants will be no more than an expression of pious intentions”. Comment.
6. “Because of spiralling levels of corruption, the codes of conduct for civil servants have to be made very stringent.” Examine critically.
7. What are the main ingredients which go into civil service codes of conduct?
8. What are the principal ethical norms which should guide public life?
9. Australia and many European countries have prescribed ethical codes for public servants whereas India has prescribed codes of conduct for them. What reasons can account for this difference of approach?

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