

UNIT 92- UPSC - Laws, rules, regulations and conscience as sources of ethical guidance

Laws:

Laws are similar to the legal form of rules. The term law is defined as a rule (for want of a better word) that has been legally made to apply to everyone in a civilisation. In a democratic system, a law is phrase that has been passed by a legislature. It can be said that a law is much more formal than a rule. Laws are prescribed by a higher governmental office, usually the police and the prosecutor's office. Laws are written in specific code so that they can be interpreted as required. Laws must go through certain processes to become laws, including a voting process. Based on society's beliefs, laws are created and enforced by governments to mediate in our relationships with each other. Laws are made by governments in order to protect its inhabitants. The judiciary, legislature, and public officials are the three main bodies in a government that are assigned to the task of the creation of laws.



Laws have to be approved and written by these three branches of government before they are implemented and enforced by the police and the military, with the help of the legal system comprising of lawyers and other government servants. Nevertheless, the enactment of a law varies based on the government. In dictatorship system, the leader has the power to pass any law he wishes. In an egalitarianism, the bill to pass a law must be voted on by the different parts of the government. Laws must be followed by all, including private citizens, groups and companies as well as public figures, organizations and institutions. Laws set out standards, procedures and principles that must be followed. A law is enforceable by the judicial system, i.e. those responsible for breaking them can be prosecuted in court. There are various types of laws framed like criminal laws, civil laws, and international laws. Breaking a law is a punishable crime and has drastic consequences such as hefty fines, jail time and community service time.

Rules:

Rules are made by firms and individuals. Rules are codes of conduct that are designed for specific situations, similar to customs but have immense importance because there is usually a punishment related with them. Rules are more flexible and has less consequences. Rules are strategies that are provided to maintain smooth functioning of an organization and to maintain peace and harmony among its people. Rules are personal in nature, and they are often attuned as the conditions of the home change. Rules assist people learn to prepare for living in society. Fundamentally, Rules are judicial legal findings as in a judge's ruling on a case. It is the legal principle or principles established in a legal dispute. Rules are a less formal set of guidelines which has little or no consequences depending on the person that is imposing them. Rules are also applied by the person that is making the rule.

Difference between Laws and Rules:

There is significant difference between rules and laws. Main difference is the consequences related with breaking them. While each is developed to invoke a sense of order, fair play, and safety, law is more powerful as compared to a rule. Laws are like the legal form of rules. Laws are written in specific code so that they can be interpreted as needed. Rules are supple. Laws must be passed through due process in order to take effect. Rules are merely set and adjusted as the need arises. In order to establish a society it must follow specific rules and laws that help govern its smooth running. The laws and rules are established to guarantee that everyone is treated as the same. The laws and rules ensure that each individual must follow a set of guidelines and if/she ends up breaking any of those rules they must accept the consequences no matter their social standing or position. The laws and rules used to retain smooth and efficient functioning of the society.

Regulation:

A regulation is a legal standard that has intention to shape conduct that is a by-product of imperfection (Orbach, Barak, 2012). A regulation may be used to recommend or ban conduct, to standardise incentives or to change preferences (Orbach, Barak, 2012). Regulations comprises of two factors that include a process of monitoring and enforcing legislations and a written instrument containing rules that have law on them. The art of regulating is to fix, establish or to adjust by rule, method or established mode, subject to governing Laws or ideologies. Regulations are made by the executive branch usually through the various departments such as departments of state, agriculture, treasury, etc. Regulations are similar to rules in that they provide more specificity to a particular law passed by a legislative body.

Regulation creates, limits, constrains a right, creates or limits a duty, or allocates a responsibility. Regulation are of various types such as legal restrictions promulgated by a government authority, contractual obligations that bind many parties (Marcos Antonio Mendoza, 2014).

Regulations are generally set by the executive for smooth functioning of the laws. Laws usually provide framework for addressing a subject. Regulations are intended for providing a detailed and intricate framework for making the laws work.

Conscience:

Conscience is a capacity, intuition or decision that help to distinguish right from wrong. In psychological terms, conscience is defined as leading to feelings of remorse when a human commits actions that go against his moral values and feelings of pleasure and well-being when our actions, thoughts and words are in conformity to value systems of people.

The phrase 'conscience' originates from the Latin *conscientia*, meaning 'with-knowledge'. In the Greek word translation, "conscience" means "moral awareness". Commonly used metaphors for conscience include the "voice within" and the "inner light". It indicates 'a person's moral sense of right and wrong' as well as consciousness of one's own actions. Expressions such as 'gut feeling' and 'guilt' are often applied in conjunction with conscience. In this sense, the conscience is not essentially a product of a rational deduction but is something that can be influenced by the indoctrination of one's parentage, social class, religion or culture.

The extent to which conscience informs moral judgment before an action and whether such moral judgments are or should be based in reason has caused discussion through much of the history of philosophy.

John Locke debated that the conscience was proof for the thought of innate principles but reflected whether these principles provide moral absolutes, whether they are objective or subjective "if conscience be a proof of innate principles, contraries may be innate principles; since some men with the same bent of conscience prosecute what others avoid." Similarly, Thomas Hobbes practically noted that the conscience can be possibly mistaken therefore opinions formed on the basis of conscience, even with full honest belief should not always be trusted.

According to Fromm, it is 'a reaction of ourselves to ourselves; the voice of our true selves' that guides us to achieve our full potential'. Sigmund Freud supposed that conscience was attained through experience and that it was the part of the human mind that seeks to make sense of disorder and to deal with the internal conflicts caused by guilt. He believed that the conscience was influenced by both early and later life principles.

Immanuel Kant expressed the idea of the critical conscience which was rather like a court of law in our minds where the prosecutors or conscience excuse or accuse thoughts and actions. He also claimed that although moral people feel contentment within the soul after following the instruction of one's conscience, they should not do good deeds for the sake of experiencing this inner peace, rather they should do it as part of their duty. Rousseau expressed an analogous opinion that conscience somehow connected man to a greater metaphysical unity.

Psychological studies have revealed that a conscience aims to make moral decisions in 'overwhelming forces of inescapable situations' despite the risk of adverse consequences. If conscience goes, then everything collapses, conscience is central to our identity and it is as component in the moral decisions making process, however, failure to acknowledge and accept that conscientious judgements can be seriously mistaken on account of their relativistic nature, may only promote situations where one's conscience is manipulated by others to provide unwarranted justifications for non-virtuous and self-centred acts. Without adequate constraint of external, altruistic, normative justification, conscience may be considered morally blind and dangerous both to the individual concerned and humanity as a whole.

Philosophical theories of conscience might be categorized under three headings. These are moral knowledge theories, motivation theory and reflection theories. People speak of their conscience telling them to do. Such talk might imply that conscience is a source of moral knowledge about what to do. Moral knowledge theories tries to explain how conscience affords us such knowledge. Some religious theories of conscience interpret the voice of conscience as the voice of God within us. Kant's notion of conscience is a motivation theory set in the context of reflection theory. Kant regarded conscience as distinct both from our awareness of moral principles and from the faculty of moral judgement which are the source of moral knowledge that is to be implemented in the process of self-examination (Allen W. Wood, 2007).

Conscience is consistent guide to ethical decision making:

It is arguable topic whether or not the conscience is the most reliable form of decision making or not. However, there are many different opinions on conscience when it comes to decision making. The idea of the conscience has developed from early christian views, however it has now developed through the psychological views of it being linked or part of the mind. The notion of the conscience was also later developed by Freud who advocated that the conscience could be explained best by using scientific knowledge instead of using religious views and opinions on the conscience.

Secular perspectives of the conscience advocate the statement that the conscience is not a reliable guide to ethical decision making as it determines that there is subjectivity within moral values due to individual experiences and nurture. Ethical decision-making help people to make the correct decisions when it comes to moral judgement. However, the secular approaches do not provide a precise method of understanding what the right path is.

St Paul thought the conscience was a moral guide, which is within and does not need any rules or theories to be followed. St Paul's idea of the conscience is widespread to everyone. Butler believed that the conscience was a God given ability to reason. Due to the fact that they were both christians St Paul and Butler established on many of their ideas. Butler thought that the conscience should be understood as a judge within everybody, a judge that makes moral decisions for people. He recommended that as it is within people and appears to have a higher authority we therefore must listen to it, and take on board the decision in which our conscience makes. One of the main weaknesses is the idea that not everyone can have the same type of conscience as young children and people with mental illnesses will not have the same.

Saint Augustine visualized the conscience as the voice of God speaking to people from within. It is the law of God in the hearts of people that they use to understand right and wrong actions. For him, the conscience must always be in every circumstance turned towards the good and away from all that is evil.

With religious viewpoint, the conscience is a reliable guide to ethical decision-making as it relies on our innate ability to determine what is good and bad.

Conscience can act as source of ethical guidance for bureaucrats, politicians and citizens in a democratic system:

Conscience is the intrinsic intuitive capacity to discriminate between right and wrong. "Inner Voice" is important especially in democracy as it has various participants such as citizens, NGOs, corporates to be administered by the politicians who are elected by them only.

But at individual level, every person has conscience which assists them to take important decision. Thus it can act as strong tool to evade away the individual self-centred thinking.

Political Level: Conscience can help to lesson corruption, nepotism and profit seeking behaviour. Thus provoke them to act in benevolence of society at large and uphold the constitution principles. At each and every decision they should keep in mind that they were elected to serve the citizens and not to serve their own needs and greed. Bureaucratic Level: The crisis of conscience is important whether to just mere follow the orders from superior's v/s to follow the right path of judgement. The intrinsic voice of serving the nation maintaining highest standards of honesty and probity is important as they are link between citizens and political figures.

Citizen Level: Collective and individual conscience of inhabitants is very important because it describes the existing society conditions such as keeping surrounding clean, actively contributing in elections, dissent to undemocratic principles. Therefore adhering to it will also control mass prejudice such as riots and lynching of offenders.

Furthermore, it is important to dynamically excel and improve at individual and institution level. Thus if everyone acts and adhere to their principles values, the moral degradation can be controlled and faith in governing institutions can be reinstated.