Theorizing Ethics: The Need for a Debate in the Changing Context of the Public Space in India

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Abstract

This paper has two parts. In the first part, this paper deals with definition of ethics, its deeper understanding and the multiple interpretations of ethics. It attempts to briefly look into some of the attempts made by western thinkers and scholars to theorize ethics. In the second part, the paper critically views ethics in the Indian context and the ethical dimensions of public life. An attempt is made to touch upon the dilemmas that the country faces if it were to invoke the moral contours of any particular religion. This paper also tries to look into the challenges that a scholars may face when they venture out to theorize ethics in countries like India.

Key words: ethics, public, private, moral dilemmas

I. Introduction

It would be useful to begin this narrative on Ethics and the Public/ Public Policy domain by citing a recent example. In the early half of 2015, an intense debate has been seen in India over the banning of the sale and consumption of beef. The issue caught the imagination of the public after state two governments headed by Bharatiya Janata Party (the party also leads the coalition in power at the Centre), in Maharashtra and Haryana banned the sale and consumption of beef in public. Both the governments got the relevant legislations passed under powers vested in them by the Constitution. Prohibition of cow slaughter is a Directive Principle of State Policy outlined in Article 48 of the Indian Constitution . The logic of the two state governments in initiating the measure is linked to the cow enjoying the status of a sacred animal, among large segments of the society in India. However, a section

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of the society that is opposed to the ban say that beef is part of their diet and banning beef will reduce their choice of food. Further, the question whether the said move is a violation of the freedom of choice of citizens, is also frequently heard in this debate.

The two governments in question, claim that they have only exercised the powers vested under the Indian Constitution. In this context, a question that begs attention is: how does one view such a situation? What are its implications from an ethical perspective? Is it appropriate (morally and ethically) for a government to ban a consumption item which a segment of the society claims is a part of their dietary choices? On the face of it, the issue of the ban on the sale and consumption of beef, seems to expose the limitations of the democratic processes when vied from the prism of ethical considerations: belief over choice or vice versa? The debate on beef (like the debate on abortion in a different context and society) raises the vexed question that many democratic decisions pose complicated ethical challenges and dilemmas. It is therefore imperative to revisit ethics and collective morality not in connection with beef ban alone but in the wider context of its role and presence in the public space.

II. Ethics: Western and Non-western perspectives

Since time immemorial, ethics and morality have caught the imagination of philosophers and thinkers across the world. Today, more than the philosophers, experts in the field of business studies, public policy and biology have been examining ethics and morality with greater intensity. The reason seems to be simple: these fields throw up moral dilemmas much more than ever before.

Over these years, many have tried to give precisely define 'ethics'. The recourse to the good old Dictionary will not be out of place here. The Oxford Advanced Learners' English Dictionary suggests that 'ethic' means a system of moral principles or rules of behaviour. Explaining the usage of this word, it further says, 'draw up a code of ethics'. Based on the dictionary definition, one can argue that ethics is something which is surely related to morality and virtue that one can practice in his/her work. "Ethics is a branch of Philosophy that explores the nature of moral virtue and evaluates human actions" (White 1993).

One can trace broadly two traditions in the `ethics debate` emanating from the West. One is Teleological approach and the other is Deontological. As has been rightly asserted:

> simply put, teleological thinkers (like John Stuart Mill and Jeremy Bentham) claim that the moral character of the actions depend on the simple, practical matter of the extent to which actions actually help or hurt people. (White 1993)

The second school of thought, propounded by thinkers including Immanuel Kant, have argued that actions always have intrinsic moral value. It is opined by this School that:

> Telling truths, keeping promises and respecting the rights of others are acts that have intrinsic moral value. Others like dishonesty, theft, manipulation are bad. No matter how much good

comes from lying, the action will never be right.

(White 1993)

In the West, the Greeks seem to be the first ones to come out with explanations on ethics, morality and the like. Between ethics and morality, there is no evidence which one is appropriate. "In ancient Greek history, the Greek term for ethics is ethos and that (translates itself into)… character" (Gordon 2015). Though the philosophical schools – being at odds with each other- are still united by the fact that they are deeply concerned with the two most important ethical questions of how to live a good life and how to achieve happiness (Gordon 2015).

Before delving deeper into interrogating the concept of ethics, another facet needs to be introduced to the discussion. Whenever there is a dialogue on ethics, questions that keep coming to one's mind are, "Why ethics? And "Is ethics still an issue in the public domain?" While the response is invariably in the affirmative, the issue requires to be problematized. Ethics is no longer the domain of philosophers alone. Across the world, biologists are examining the action of governments and agencies through the prism of bio ethics. Similarly, conflicts among people are being studied through the prism of ethics. The issues involved are succinctly summarized by Gillet:

> As one watches the kaleidoscope of reactions passing across the face of a mother whose child is pronounced brain dead, a man in the prime of his life who has an incurable malignancy, or a young woman who realises that

the operation she must have will mean that she is destined to be infertile, one can't treat ethics as an abstract study of concepts informing practical reasoning or a dutiful following of certain commandments which stand somehow aloof from the ills that flesh is heir to. Ethics in general is for creatures who sweat, bleed, love and die and who live life in the presence of uncertainty about who they are and what if anything is the point of it all. Ethical challenges make us confront these things armed with our vulnerabilities, needs, skills of living and commitments to one another and aware that there are a number of paths any life could take constrained but not determined by the natural endowments of the traveler (Gillet 2013:10-11).

Just like the western philosophers, thinkers from China, India and Japan too debated the issue from different perspectives. The Chinese philosophical inquiry of ethics starts with Confucius and has travelled a long way:

> Arguably, the central theoretical concept in early Chinese ethics is that of dao (way, path, course, channel). The focus of dao distinguishes early Chinese ethics from ethical discourse centred on acts, rules or character suggesting again an interest in patterns of activity rather than particular actions or general moral principles. It also hints at conception of moral perception and action as forms of competence and of morality as akin to harmonious response to natural

structures or patterns. Yet, the nature of dao and its implication for ethical theory and practice remain under-examined (Robins et.al. 2011:2).

It would be appropriate at this stage to record that experts have already established that many western countries including the United States of America have evolved their notions of ethics through socio-theological laws. These countries tend to base ethics 'on a foundation of traditional Judeo-Christian and western socio-theological laws and principles. This belief is central to the biblical system of ethics and morality,' (Pitta et.al. 1999:240-56) . The Chinese approach on the other hand, looks at the issue from a different perspective:

The Chinese believe that everything should be in harmony, and they take a long term view of things. Change can be viewed as disruptive, 0

in particular, if the change is sudden and substantial. As a result, non-action will be better than action. This line of thinking is derived from the teaching of Confucius and Taoism, which over a long period of time have profound impact on the Chinese people (Pitta et.al. 1999:240).

The Japanese appear to have internalised the concepts of Chinese ethics in the early part of the seventeenth and eighteenth centuries and later the western model of democracy has been transplanted into the understanding of ethics in the Japanese society:

Japanese core ethics were an amalgam of the doctrine of virtuous life with cordiality derived from Neo-

Confucianism, the transcendency thought of Kamakura Zen Buddhism and the traditional Japanese religion of Shinto. The doctrine of virtuous life with cordiality is described in the Chinese classic, Great Learning as follows: Their thoughts being sincere, their hearts were then rectified. Their hearts being rectified, their persons were cultivated. Their persons being cultivated, their families were regulated (Nagao and Murata 2006).

The brief discussion of ethics in different geographical zones can certainly lead to a question: If 'ethics' has a greater role in life in general then, has it ever influenced any particular areas more significantly?. Business and biology are the two areas which seem to have benefited and in both the fields, ethics and ethical concerns appear to have assumed and important independent identity:

The three classic ethical principles of justice, sufficiency and solidarity can be traced back to many different sources: Greek philosophy, religious teachings and reflection on human experience. In the face of any decision involving environmental ethics, we should ask how each of these ethical principles also known as ethical norms, can be applied to the situation at hand (Warner and DeCosse 2009).

Generally in environment ethics (which is also connected with bio-ethics) three basic principles are at play and these include: (a) justice and sustainability; (b) sufficiency and

compassion; and (c) solidarity and participation. The fulcrum of bio-ethics is the protection of diversity. Naturally, one is tempted to ask, why. "Recent advances in biology have shown that the differences between humans and other animals are much less than many of us think" (Warner and DeCosse 2009). This principle underpins the argument that human being should act/live in harmony with the environment and by extension of this logic, the principle is amply clear that one has to have utmost respect for the living organisms around oneself. This seems to be in contrast with the utilitarian approach. Considering the serious nature of issues like global warming, environmental concerns and/or bio-ethics is very important and relevant for all.

The above narrative draws attention to four critical issues:

1.   Ethics, since Socrates' time, was about attaining and living a 'good life'. The concept of good life underwent change as time passed. While one school of thought felt the process of having a good life was as important as the end result of a 'good life', the other felt that an exclusive focus on the end-result was of greater significance.

2.   Many societies could be seen borrowing the moral framework of theology to evolve 'ethics'. Later, it was altered or reinvented in the context of the different moral dilemmas that society confronted.

3.   It is no longer a secret that many societies did reconfigure their stand on ethics in the context of changes in the society. It clearly establishes that the space of ethics is closely intertwined with the socio-

cultural realities that confront a society. It has been demonstrated in the case of Japan, that society accepted the fact that critical socio-political considerations influenced the approach to and stand on ethical questions.

4.   Ethics has grown beyond the realms of philosophical inquiry and has become an independent field. The emergence of bio-ethics, green ethics and business ethics are a case in point.

III The Indian Context

The different perspective on ethics and its characteristics around the world persuades any researcher to critically asses the same in the Indian context. Unlike some of the western or non-western concept, the journey of morality and ethics traverses through multiple pathways in India. It is apt to have a look at some of the ethical and moral concepts present in the Indian mythological texts like the Ramayana and Mahabharata. Many frequently refer to the concept of `Raja dharma` as enunciated in the Bhagavad Gita as capturing the quintessence of public ethics and morality in the Ancient Indian context. Also, the famous story of Yudhisthira's dialogue with Yaksha which is also a part of the epic Mahabharata catches the imagination of those who debate dharma (a term that is much wider in its sweep and implications than the English word ethics) in an individual's context. Faced with Yaksha's questions on righteousness, piousness and empathy, Yudhisthira response merit attention. Yudhisthira does not want to enter heaven unless he is allowed to bring a dog that has been following him. "The dog is following me.

That means it trusts me and it is dependent on me. So, I can't leave her and enter the heaven alone," says Yudhisthira. After a long debate, he was allowed to enter heaven. He proved that he was an honest, genuine man when the dog shows its real form.

Vyasa the poet, conceived the character Yudhisthira, also known as Dharmaraja, (raja=king and dharma=one who follows very high morals and code of ethics) perhaps to drive home the point that it is possible to practice morals and ethics in the `worldly` life. A believer's ultimate goal according to the Hindu religion, is to attain salvation. Entering heaven signifies that he enters the abode of god. This particular episode of Yudhisthira's entry into the heaven gives an uncomplicated message: Reward is guaranteed to those who relentlessly pursue very high morals and ethics. From the Mahabharata to the other religion-philosophical schools like the Advaita philosophy propounded by Shankaracharya, one could see the debate or propagation of dharma and nyaaya principles.

The above discussion poses an interesting question: If West could derive its ethical concepts from Judaism and Christianity; many would forcefully argue that India can and should derive the same from Hinduism? The Japanese history of ethics as discussed above shows that people there internalised the external influences over a period of time and tried to build their own socio-ethical architecture for their society. Compared to the Japanese model, does India possibly lack an ethical and moral conceptualization, rooted in its experience? If one studies the United States' model of ethics which is based on Judai-

Christian theological principles (of course, later it developed independently out of theological influence), one is tempted to conclude that India too requires to evolve an ethical standard for the public/public policy domain.

India's challenge in terms of ethical norms and standards for the public domain is, in many ways more complex as compared to issued faced by other countries/ societies. Unlike other countries, it is difficult to draw inspiration from any one religious text and build ethics for democratic public institutions. As long as one chronicles Mahabharata as a religious epic or Bhagavad Gita is accepted as a scripture of the Hindus, the debate would not receive any dissent. Any attempt to portray them as part of the Indian ethical history, will attract criticism. In a sense, this criticism appears fair too. Given our composite culture, rich historical traditions and the influence of diverse religious practices one needs to construct a theory of public ethics that is `inclusive` and free from the exclusive prism of religious morality.

It would be relevant at this stage to dilate on an important and seminal Indian text, which lays the foundation for ethical and moral considerations especially in the public domain – Kautilya's Arthashastra. It would be appropriate to begin with the title of this magnum opus. Works earlier to Kautilya's Arthashastra were referred to as Dharmashastras or Neeitshastras. These earlier works, often did not make a distinction between the public and private space. Secondly, they spoke of a Science of Knowledge at the intersection of Religion, Philosophy and Materialism. The Arthashastra can be counted as the first work which makes a categorical

distinction between the public and the private. Secondly, as the name itself indicates it paved the way for a Science of Knowledge that was grounded in `materialistic` considerations. Today, the Arthashastra is loosely translated as being the Science of Economics and most specifically Artha is equated with money. A reading of the Arthashastra would persuade one to draw a different conclusion (Rangarajan 1987). Ideally, Arthashastra started a new tradition of knowledge. It focused on a Science of Knowledge grounded in `non-materialistic` considerations (see for details Shastri 1994; Shastri 1997b; Shastri 2002). Kautilya's advise to the King and his Principles of Statecraft reflect the true essence of ethics in the public domain. When dealing with a revolt by those in the royal family, Kautilya warns the King, `Kingship knows no kinship`. For a king, morality and ethics in the public sphere was defined in terms of what contributed to the welfare of the people. The principles of Dharma as extolled to a King, by Kautilya represented `practical lessons in statecraft` (Rangarajan 1987:36). The furtherance of national interest was of paramount importance when defining ethics and moral codes in the public sphere. Possibly, the correct interpretation of the Arthashtara provides a window of opportunity to define the ethical code for the public domain. This ethical code would first, make a categorical distinction between what constitutes the `public` and `private`. Secondly, when one talks of the `public`, the ethical standards are defined on the basis of national goals which include promoting development, justice, welfare and equality and preventing exploitation, discrimination and oppression.

If one closely examines the Indian freedom movement and post Independence history, one can find answer to this. Many social reformers did play a role during the freedom movement to fight the maladies within the Indian society. Be it the fight against Sati or caste based discrimination, these social ills had grown out of religious undertones but had assumed wider social implications and needed to be dealt with based on a robust `public ethic`:

> One of the major political tasks facing the leadership was to further develop the democratic consciousness among the people initiated during the time of freedom struggle. ...The leadership completely rejected the different version of the 'rice-bowl theory' that the poor in an underdeveloped country was more interested in a bowl of rice than in democracy (Chandra et.al. 2008:3)

To build a robust democracy with civil libertarian political order, national integration was paramount. To achieve this integration, there was no doubt, people of different cultures, languages, religious faiths, caste and tribal groups had to live/work together. The `ethical code` for public life needed an `inclusive approach`. How would people from different cultures/faiths find solutions to problems such as the need to check population growth? If people could take decades to negotiate one problem, how could the country `dream big`? What was needed was putting in place workable models to fight the present challenges which at times throw the society with moral dilemmas due to apparent cultural differences. In this context, the debate of developing a history of

ethics and a model of ethics for the present seems so very critical.

Kautilya's Arthashatra is a treatise of sorts wherein one will find how a king should rule. The work reflects the concept of justice, morality prevalent in society during the Mauryan period. As mentioned earlier in this narrative, the work offers an important theoretical basis for the construction of a robust `ethical and more fabric` in the public domain. During the British rule, the Indian National Congress attempted to create the basis of such a construct. This is particularly visible in its activities between 1915 and 1935. At the famous Karachi session in 1931, the Congress included the list of 'Fundamental Rights and Economic Programmes' (FREP). FREP had five vital elements, a) Substantial reduction in economic rent; b) relief of agricultural indebtedness; c) labour to be freed for serfdom; d) peasants and workers enjoying the power to forms Unions; and e) A progressive tax regime. "In the meantime a Kisan Conference in Allahabad in 1935 presided over by Sardar Patel passed a resolution which in an unequivocal terms called for abolition of zamindari" (Chandra et.al. 2008:515-6). These events shows that all through, the leaders, on realising the inequality and exploitation entrenched in society sought to enforce/educate people on democratic principles of justice and equality. In other words, the freedom movement, without explicitly saying so, was trying to put an ethical framework for the society as a whole. This was to help the large section of uneducated masses to lead a better life without hurting or depriving the chances of fellow Indians. The nature of ethics put forth during the freedom movement

was applicable to society as a whole and it was less applicable to individual's personal conflicts.

Post independence India has seen several engaging debates on what constitutes the minimal ethical norms to define conduct in the public domain. Given the religious diversity, social complexity and cultural identities across the nations, making the constitution, law and legally binding norms as the sole basis for adjudicating the parameters of the `ethical` have been fraught with controversies. More often than not, different social/religious/cultural groups have sought to assert their right to infuse norms to define the `ethical` in public affairs. The political process has also adopted a `soft` response to such attempts resulting in them often acting with brazen impunity in apportioning for themselves the right to define norms of ethical conduct in the public domain. Part of the challenge lies in being unable to operationalize the Kautilya doctrine of making a conscious distinction between what constitutes the ethical when it comes to the public and private domain.

The mixed economy model introduced after Independence propagated the same principles. The phase of liberalization and privatization adds a new dimension to the narrative. This new narrative has important implications for the debate on ethics and morality in the public domain.

A recent example of attempts by social groups to define what constitutes ethical conduct in the public domain has been the Khap Panchayat system (hereafter this will be called as the Khaps). It exists among certain social

groups in Haryana and western Uttar Pradesh. Before the introduction of the formal legal system, the Khaps would play the role of courts. "Lately they have emerged as quasi-judicial bodies that pronounce judgements based on age-old traditions." (Yadav, 2009). The resurgence of Khaps has an impact on the abysmal sex ratio and abortion of female foeticide in the society wherever this system is prevalent. The Supreme Court has pronounced that Khaps are illegal. However, the system continues to hold sway. The interesting factor one has to note is that concerned citizens   outside Haryana particularly those from intellectual class has voiced their protest against the Khaps through the media and other public forums. Those who oppose the Khaps want those social groups who still accept the role and power of the Khaps, to reform themselves. In spite of The Courts declaring the Khap system as patently unconstitutional, they do continue to have local support. The example of the Khap panchayats could be extrapolated to other caste/religious/ sectarian groups/associations/organizations across the country who seeks to define norms of ethical conduct in the public domain.

The public domain itself is being redefined. In the changed circumstances, just like the government, companies and industries too have become large employers. The eco-systems developed outside the shadow of governments need to be sensitized to public morality and business ethics. As days progress, the government's space in public is shrinking and that of private players is expanding and therefore in this context, it is all the more important now to reinvent ethics. Kautilya's Arthashastra appears to provide the framework.

IV In Lieu of a Conclusion

In the light of the discussion above, one can come to a view that ethics is a subject which is under constant scrutiny whenever societies face moral dilemmas. Any attempt to restrict the definition of ethics to a particular context may not necessarily suit all emergent situations. The global history of ethics cannot be applied to India which has a different concept of ethics in the form of dharma and nyaaya.

Though the concepts of dharma and nyaaya were generic in nature they were specifically relevant to the public domain and the public roles of citizens. Unlike in the west, where efforts were made to put in place a moral architecture keeping an individual citizen's life, India seems to have tried to evolve a moral code for the entire society. This was visible during the freedom movement. The national leaders made attempts to provide an ethical framework which was applicable both to those involved in the public domain and to the masses.

Post Independent India has seen the emergence of several challenges in defining and deciding what constitutes the `ethical norms and standards` in the public domain. Kautilya's dictum of making a conscious distinction between what constitutes the public and the private assumes relevance today. A constitutional, legal framework that provides no legitimacy to religious/social norms to define ethical norms of public conduct, needs to be accepted. For a pluralistic society with a composite culture, the public space requires the defining of what constitutes the `ethical` being based on considerations of justice, equality and human rights with a focus on fighting exploitation, discrimination and oppression.

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Many have argued that the Directive Principles of State Policy were the byproduct of a compromise arrived at among competing ideological perspectives within both the Congress and the Constituent Assembly. Key concepts considered to be `Gandhian` in their tone and tenor find mention in the Constitution principally in the Directive Principles of State Policy. Besides Ban of Cow slaughter the other Gandhian principles include, Promotion of Cottage and Village Industries, Uniform Civil Code and Panchayati Raj Institutions as Instruments of Self Government. It is important to record that the Directive Principles are non-justiciable. While defending the provisions in the Constituent Assembly, Ambedkar asserted that the Directive Principles were fundamental to State Policy and no government could afford to ignore them (for details see Shastri 1997a). It is also relevant to note that the Supreme Court in the Unnikrishnan case (AIR 1993 SC 2178) has observed that the Directive Principles constitute the `Conscience of the Constitution`.