

1. Do you think the enactment and implementation of CAA and NRC raise ethical concerns? Critically examine.

Introduction

CAA seeks to grant Indian Citizenship to persons belonging to Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities on ground of religious persecution in Pakistan, Afghanistan and Bangladesh. NRC The National Register of Citizens (NRC) is a register of Indian citizens and was prepared in 1951, following the census of 1951. At present, only Assam has such a register.

Body

Ethical concerns

Arguments against:

- Unreasonable classification: The relaxation criteria for eligibility of illegal migrants to gain citizenship is unreasonable. With no explanation given as to the inclusion of this clause, it is prima facie unconstitutional, failing the test of reasonability contained in Article 14 (Right to Equality) of the Constitution and corrupting the “basic structure doctrine” (Kesavananda Bharati v State of Kerala 1973).
- The most glaring discrepancy in the bill is that it categorically states that religious minorities from Afghanistan, Pakistan and Bangladesh will no longer be treated as illegal immigrants. It specifically names six religions, that is, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians. Muslims and Jews have been deliberately kept out of the ambit of this bill. Even though some of these religions are also religious minorities in India, it is notable that four of these six religions fall under the ambit of Hindu personal law.
- India has several other refugees that include Tamils from Sri Lanka and Hindu Rohingya from Myanmar. They are not covered under the Act. This kind of religious outlook is antithetical to the concept of secularism espoused in the Constitution.
- Moreover, the provision of relaxing of the criteria of 11 years to six years to gain citizenship by naturalisation, for the persons belonging to these religious communities, is on similarly orthodox lines. Such a condition makes it tough for persons of other religions, most notably, Islam and Judaism, to enter the fold of Indian citizenship, making it seem like a targeted ousting practice of these religions.
- As of today, the largest religious minority in India is that of Muslims; it makes little sense to deliberately keep them out of the ambit of this bill. Individuals like Taslima Nasrin, for example, who has been living in exile in India since 2005 have been ousted from the ambit of this Bill. Nasrin asserts that she is an Indian, but the Bill could make it nearly impossible for her to gain Indian citizenship on the basis of her religion.

- The Citizenship Act, 1955 states that the central government may by order cancel the registration granted to the OCI, if such a person has show disaffection towards the Constitution. Raised as an argument in the Lok Sabha, time and again, this is a clause that gives wide powers to the centre, since there are no guidelines as to what counts as “disaffection” towards the Constitution, leaving scope for misuse.
- Despite exemption granted to some regions in the Northeastern states, the prospect of citizenship for massive numbers of illegal Bangladeshi migrants has triggered deep anxieties in the states.
- It will be difficult for the government to differentiate between illegal migrants and those persecuted.

Arguments in favour

- To provide citizenship to persecuted minorities is indeed a humanitarian cause.
- The government has clarified that Pakistan, Afghanistan and Bangladesh are Islamic republics where Muslims are in majority hence they cannot be treated as persecuted minorities. It has assured that the government will examine the application from any other community on a case to case basis.
- This Act comes as a big boon to all those people who have been the victims of Partition and the subsequent conversion of the three countries into theocratic Islamic republics.
 - Citing partition between India and Pakistan on religious lines in 1947, the government has argued that millions of citizens of undivided India belonging to various faiths were staying in Pakistan and Bangladesh from 1947.
 - The constitutions of Pakistan, Afghanistan and Bangladesh provide for a specific state religion. As a result, many persons belonging to Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities have faced persecution on grounds of religion in those countries.
 - Many such persons have fled to India to seek shelter and continued to stay in India even if their travel documents have expired or they have incomplete or no documents.

Conclusion

The Central Government should appoint a National Immigration Commission to frame a National Migration Policy and a National Refugee Policy. The Commission should examine ways of strengthening the Foreigners Act 1946, as well as feasibility of Identity Cards for both citizens and non-citizens and Work Permits for migrants.

The law should not limit to minorities from selected countries but also include refugees from persecuted minorities of all religions who have made India their homes.

2. What is rule of law? How does it help in addressing ethical dilemmas in government? Examine.

Introduction

Rule of law is a legal principle that law should govern a nation, as opposed to being governed by arbitrary decisions of individual government officials. It primarily refers to the influence and authority of law within society, particularly as a constraint upon behavior, including behavior of government officials.

Body

The doctrine of rule of law has its origin in England and is given by A.V. Dicey which has 3 fundamental principles:

- Absence of arbitrary power, that is, no man is punished except for a breach of law
- Equality before the law: equal subjection of all citizens (rich or poor, high or low, official or non-official) to the ordinary law of the land administered by the ordinary law courts
- The primacy of the rights of individual, that is, the constitution is the result of the rights of the individual as defined and enforced by courts of law, rather than constitution being the source of the individual rights

Rule of law addressing ethical dilemmas:

Ethical dilemma refers to making choice between competing principles, both being right in their own way. Rule of law helps to make decisions in such situations like

- Rule of law gives a definitive path to follow irrespective of the situations and provide certainty of actions to be followed by the government. E.g. Demolition of a slum/ road side vendors create a dilemma, but is necessary.
- Superior's directive versus Public good: Irrespective of the superior's directive, the official can always follow rule of law which will be later justified in the court/inquiries.
- Political neutrality: being democratically elected, public representatives often give orders to officials which creates ethical dilemmas whether to follow the representative or the public interest. Following rule of law will help in overcoming the same and help civil servants to function without fear or favor.
- Secrecy vs Transparency: For instance, denial of information under RTI. Following rule of law will help the government in proactive disclosure of information vital for the public, but at the same time withholding the information vital for national security.
- Preferential treatment vs Non-discrimination: Equality, though a basic virtue to be followed, equity is necessary. Even the constitution under article 14 provides for differential treatment and upholding it will help in overcoming the sense of discrimination created by differential treatment.

- Overcoming public sentiment and maintaining civil service neutrality: In some situations, it might seem ethically right to circumvent rule of law. E.g. Encountering a child rapist or terrorist and so on. But, Rule of law help in overcoming emotional ambiguities. E.g. Even the terrorist Kasab was prosecuted as per Rule of law.
- Personal allegiance vs public good: For instance, a family member committing crime – the allegiance to family creates an ethical dilemma. However, Rule of law overcomes the biased treatment. E.g. A Sub-inspector in Delhi arresting his own son in drug racket case. The same applies when there is a conflict with cast, race, religion and so on.

Following rule of law is a win-win situation which addresses the situational ambiguities of public servant upholding public interest.

However, in certain situations due to archaic laws and rules, emergency situations etc., - following rule of law will create more issues both ethically and in terms of efficiency. E.g. Denial of ration due to technical error of aadhar led to the death of a tribal girl in chattisgarh due to hunger. Other instances like, following documents thoroughly during disaster relief, emergency treatment, organ donation and so on.

In such situations, there is a need to change the laws rules and regulations matching the changing society and needs progressive towards development to reduce the ethical dilemmas.

Conclusion

Supreme court in its ruling observed that the public officials are answerable to law and law alone. Objectivity, Impartiality, Transparency and so on which are the foundational values of civil services hinges on the implementation of Rule of Law. Thus, Rule of law helps as a directing light to the government and civil servants in fulfilling their duty. But, at the same time, amending laws, rules and regulations as per the changing demands and needs is a sine qua non.

3. Do you think forcing the employees to work beyond stipulated office hours is unethical? Substantiate your views.

Introduction

An unethical act is one that violates someone's right, leads to dereliction of someone's duty, and in general is against the normative ethical standard.

To judge whether an act is ethical or not requires ethical analysis of the act using some ethical standards.

Body

Ethical issue in forcing the employees to work beyond stipulated office hours

- ‘Forcing the employees’ goes against basic human dignity.
- Immanuel Kant has said that every human being must be treated as an end, never as means only. Forcing employees to work beyond stipulated office hours for corporate gain can lead to emotional and psychological distress.
- It can be said to be modern form of slavery.
- Less time to spend with family and friends. Low opportunity to fulfill social responsibility.
- Right of ‘good job’ includes working during standard office hours.
- Forcing employees to work after office hours opens door to corruption and exploitation.
- ‘Forcing the employees’ to work beyond office hour also illegal.
- It reflects poorly on work culture, company’s management of work and man power.
- Demotivation for efficient employees who complete their task on time.

Perspective of employer

- For higher efficiency and competitiveness hard work is needed.
- Success of a company is team effort.
- If employees are given enough incentive to work after office hours, it’s justified.
- If safety and security of employees are taken care of, exploitation of employee is not happening.

However, working beyond stipulated office hours can be considered ethical if –

- It is done with the consent of the employees.
- Adequate compensation and care is given to the employees in line with the principle of trusteeship.
- Enough motivation is provided to keep the efficient of employees beyond working hours.
- Employees are considered as ‘asset’ and not ‘means’ to earn profit.

Conclusion

‘Forcing the employees’ will be unethical as it violates fundamental ability of human being to make decision.

4. A company in India outsources 50% of its activities to a firm in Philippines and fires 50% of its employees to increase profit? Is it ethical? Critically comment.

Introduction

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To judge whether an act is ethical or not requires ethical analysis of the act using some ethical standards.

Body

It is not ethical

a) From the Perspective of fired employees

- Emotional and psychological suffering.
- Profitability over social responsibility. It violates **virtue based ethics**.
- Constant fear of being fired by other employees as well.

b) General perspective

- As per Gandhiji corporates must act as trustees of employees. Firing employees without adequate compensation goes against **trusteeship principle** and **deontological ethics**.

It is ethical

a) Perspective of the company

- Right to make the company profitable.
- If there is no contract for tenure then its company is not bound to not fire the employees.
- Firing also helps to keep employees efficient and competitive. From **teleological perspective**, with telos (end) of efficiency, firing of employees can be justified.

b) General perspective

- Outsourcing helps to keep economy efficient which is a **common good**.
- Efficient economy is helpful for everyone, especially for the poor. It helps in growth and development of a nation. Hence firing employees and outsourcing can be justified by **utilitarian principle**.
- Job loss of employees also means new jobs elsewhere.

Aristotle said there cannot be any absolute ethical standard. Buddha also said that intention of an action is more important than the action itself. Hence if firing is done with the consideration to maximize benefit to the society and minimise loss to the effected people then it can be considered ethical.

Points to consider while firing employees

- Any decision of firing of the employees must be announced well in advance to avoid emotional and psychological shock.
- Adequate compensation to fired employees – may be salary of three months.

- c) Employees must be given skill training and updated market information to feel more confident to look for new job.

Conclusion

Ethics is contextual. Ground reality must be taken into ground for ethical analysis. The manner in which employees are fired will decide if action can be considered ethical or not.

5. What are some of the most ethical concerns in government institutions? Explain with the help of suitable examples.

Introduction

Ethics are the rules that define moral conduct according to the ideology of a specific group. Moreover, ethics in public administration are important for good conduct based on the needs of a specific area, region or state. Ethics provide accountability between the public and the administration. Adhering to a code of ethics ensures that the public receives what it needs in a fair manner while tackling the ethical concerns raised in the process. It also gives the administration guidelines for integrity in their operations.

Body

- For a public officials who try to function as a professional, the demands of law, his duty, impartiality, due process, provides a productive ground in which ethical concerns arise. Whistle blowers face this problem because their disclosure may institute a crime when the on-going misbehaviour is severe.
- Ethical standards are not organized, so there are always chances that concerns arise and discrepancies always occur about appropriate behaviour. It can be shown that an ethical concern arises in a situation when the choices or behaviour is undesirable and presents harmful ethical consequences. Right or wrong is not clearly recognizable.
- Public bureaucrats are not just facilitators of public policy. They make decisions relating to the lives of citizens, for example, about taxes, survival and the dismissal of people. In doing so they exercise discretion. In other words, the promotion of general welfare depends on the use or exploitation of administrative discretion.
- When faced with alternatives the choice of the public official poses an ethical problem, the choice may be acceptable to only a small section of society. The problem is that the selection of one path of action from among several alternatives is often made on the basis of personal preference, political or other associations, or even personal embellishment, thus ignoring identified facts and thus the possibility of rational decision making. It could well be that all the prescribed rules, regulations and procedures are adhered to but that the discretionary choice may be regarded as unprincipled or even fraudulent.

- In government offices, another major ethical concern is the secret conduct of public business. This is especially so because confidentiality can provide an opportunity to cover up unethical behaviour. Secrecy is an ally of corruption and corruption is always practiced in secret way. It is generally recognized that in a democracy, the people have a right to discern the working of the government and it would be in the interest of the public for the administration of public affairs to be conducted openly.
- It has been seen that government officials are so careless that there are cases of information leak. Official information is often a sensitive nature such a pending tax increases, rezoning land, cost-cutting of staff that disclosure of the information can lead to turmoil, corrupt practices or, for some individuals, improper financial gains. Leaking official information at a date prior to the public announcement thereof is a defilement of procedural prescriptions and can result in an ethical concern.
- Public officials have great responsibility to implement key public policies. They ought to be accountable for their official actions to their superiors, the courts and the public. It is however, possible for them to hide behind prescribed procedures, the cloak of competence and even political office-bearers.
- Policy makers in government bodies are often challenged by conflicting responsibilities. They have definite loyalties to their bosses, but also to society. They have liberty to act on behalf and in the interest of others, but they must be answerable to others, their superiors and society for their actions. The official's obligation to respect the political process may conflict with his view on how the objects of policy making are treated. It can be understood that the dilemma of the public official is the clash between his opinion of the public interest and the requirements of law.

In this regard, the following measures can be considered to tackle ethical concerns in the government :

- Anticipating specific threats to ethics standards and integrity in the public sector - attention needs to be paid to systemic threats that could weaken adherence to core public sector ethics values, and commitment to good governance, and to preparing the necessary political and management responses.
- Strengthening the ethical competence of civil servants, and strengthening mechanisms to support "professional ethics" - new techniques need to be undertaken to institutionalise ethically competent decision making, disinterested advice to Government, and, ultimately, an 'ethical culture' which supports professional responsibility, self-discipline, and support for the rule of law.
- Developing administrative practices and processes which promote ethical values and integrity - new and proposed proethics laws require effective implementation through, for example, effective performance management techniques which support the entrenchment of the ethical values set out in Civil Service Codes of Ethics.

Conclusion

Successful ethics management generally requires a balanced package that combines elements of compliance as well as integrity-based approaches and their adaptation to the cultural, political and administrative traditions of the particular region. Adopting new laws including code of conduct by itself does not go very far without implementing the spirit and the word as well as political will which overall help in tackling ethical concerns in the government institutions.

