

Ethics as a Fundamental Construct for Best-Practice Regulation: Advancing the evolution of a Code in Guyana

by

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A Glimpse of Cultural Evolution & the Evolution of Morality

- Biological evolution and cultural evolution are complementary
- Hominization was influenced by cultural development
- Evolution of human social behaviour influences the development of culture and vice versa
- Human social behaviour is shaped by value systems encoded by morality; hence ethics
- Culture is an essential element of development
- Sustainable development & human development embody a social justice construct
- Social justice requires the basic tenets of morality or ethics



Culture-Morality nexus

“...Cultural norms and culturally shaped emotions have a substantial impact on the domain of morality and the process of moral judgement.”

- Haidt, Koller & Dias (1993)

Journal of Personality & Human
Psychology Vol. 65 (4) pg 613



Culture-Morality nexus

“...the core and quintessence of a culture are the human values embodied in it; the motivating forces that impel inquiry, meditation, codification, and rethinking of ideas, experiences and philosophies. It is these values, the higher goods...that determine the outlook and choices or actions of the practitioners of the culture...a central one of values, hierarchy of values, preferences, attitudes – world views”

- Professor Ebenezer Laing (1987) J.B. Danquah Memorial Lectures – University of Ghana & Ghana Academy of Arts & Sciences

Culture-Morality-Ethics nexus

Culture is the embodiment of “...things and events dependent upon symboling which comprise ideas, beliefs, attitudes, sentiments, acts, patterns of behaviour, customs, **codes**, institutions, works and forms of art, language, tools, implements, machines, utensils, ornaments, fetishes, charms, and so on ...”

- Ashley Montagu

Utility regulation & “Regulatory culture”

May I suggest:

- Utility regulation comprises a set of “ideas, beliefs, attitudes, acts, institutions, codes” and the art of regulation.
- We may call this “Regulatory culture”
- If so, it must embody a set of values or code of ethics for best-practice

On the Definition of Values

Of the 15 different definitions provided as commentaries from the *Encyclopedia of World Problems and Human Potential*, these are preferred as our working definitions here:

- “Values are normative standards by which human beings are influenced in their choice among the alternative courses of action which they perceive”
- “A value system is a group of interconnected values that form a system and reinforce each other. They are anchored in religion or in humanist traditions.”

Value systems – The Regulatory value system nexus

- Social value systems are the bases of ethics
- Concept of ethics transcends morality and virtue
- Utilities are economic and social constructs requiring applied ethics = business ethics
- Utility Regulation requires common good, fairness [or justice], utilitarian, and virtue approaches of ethics



Value systems – UK Civil Service Statement of Values example

1. Selflessness
2. Integrity
3. Objectivity
4. Accountability
5. Openness
6. Honesty
7. Leadership

“Bergian Value Systems” in Regulation [Sanford Berg, 2004]

- **Integrity:**
 - Accountability, Equity, Neutrality, openness, transparency
- **Professionalism:**
 - Commitment, Credibility, Discipline, **Ethics**, Expertise
- **Respect for Clients, Community & Staff:**
 - Effectiveness, Efficiency, Responsiveness, Understanding
- **Foresight:**
 - Proactive attitude, anticipation and awareness



“Eversian Core Values” of Ethical Standards

According to Kathinka Evers (2002) “core values” of ethical standards in science are:

- Honesty
- Scepticism
- Fairness
- Collegiality
- Truthfulness
- Accuracy
- Conscientiousness
- Respect and
- Openness

We may wish to merge these with the “Bergian values” and apply them to regulatory values



A Glimpse of the basic fundamentals of Ethics

Ethics in context:

**One of the four major branches of
Philosophy :**

- **Ethics**
- Epistemology & methodology
- Logic & philosophy of language
- Ontology & metaphysics

**We need not get into theoretical and philosophical
polemics here**

Working Definition of Ethics & Code of Ethics

Ethics is the branch of philosophy that studies morals and values

Ethics is a moral principle or a set of moral principles concerning what is good or bad, right or wrong, in character or behaviour

Ethics [Greek roots] and morals [Latin roots] can be used interchangeably

Code of Ethics

A code of ethics is but one example of an ethical standard including:

- Ethos or philosophy
- Pledges
- Oaths
- Appeals
- Principles or Guidelines
- Declarations
- Charters
- Recommendations
- Manifestos
- Statements
- Resolutions
- Laws

Relevance of a Code of Ethics

The relevance of such a code, in the refreshingly succinct words of Mark Frankel (1989), is:

“... a visible pronouncement of a profession's self-proclaimed role and values, a code can function as a basis for the public's expectations and evaluation of professional performance, thus serving as a mechanism for holding the profession and individual professionals accountable.”

[Frankel, M. 1989. Journal of Business Ethics Vol. 8 pp 109-115]

Towards a Generic Definition of Utility Regulation Ethics

Utility regulation ethics we may define as common professional normative values designed to shape the conduct/morality of Utility Regulators for efficient and effective practice and delivery of service of a high standard to all stakeholders.

[Blame me for any deficiencies in this self-generated definition]



The “Clarkian Definitional Model” of the Social Responsibility of Ethics

The two spheres [Clark, 1993]:

Micro-ethical - consideration of actions affecting individuals

Macro-ethical - consideration of social policy – actions affecting all

In Utility regulation we may propose the operation of both Clarkian spheres of ethics



Guyanese Constitutional Right of Access to Utilities?

The Constitutional right of access to utilities, I suggest, is enshrined in Article 26 of the Guyana Constitution:

“Every citizen has the right to proper housing accommodation”

I believe no housing accommodation can be considered to be “proper” if it has no safe drinking water, electricity and telephone - three of the most basic social indices of modern-day human development



Ensuring the Realization of a “Constitutional Promise”

- Establishing enabling economic mechanisms for the existence of utilities and delivery of service
- Improving the quality of life of consumers
- Establishing mechanisms to ensure consumers provide quality service affordable to consumers
- Ensuring utilities are economically viable
- Improving consumer choice through increasing competition & competitiveness in the utility service sector
- Enhancing safety in the utility industry

Oversight of these and others requires a Regulatory
body = PUC

Guyana PUC Act Embodies Ethical Elements

- Commissioners take an Oath of Office (PUC Act 1999 Article 12) before the President:

" I , ... , do hereby solemnly declare that I will faithfully, fully and impartially, and to the best of my ability, discharge the trust and perform the duties devolving upon me ... , without fear or favour, affection or ill-will, according to the best of my judgement and ability, so help me, God."

Our Need for a Code of Ethics

While the PUC Act of 1999 is splashed with reasonable doses of ethical norms, values and conflict of interest statements, these are not cohesive and reasonably amplified for both Commissioners and staff.

I submit the argument of Veatch (1995) to support my contention for a code separate from the Act:
“The modern idea of codes derives from the Renaissance ideal of rationalizing Roman law, putting the diverse parts into some order and stating briefly and clearly the essence of the rule”

[Veatch. R.M. 1995. In: *Encyclopedia of Bioethics* 2nd ed. pp 1419-1435]

Guyana PUC Act Confers Enormous Powers for Utility Regulation

- The PUC Act confers enormous powers on the Commission
- But Utility Licenses/Agreements may have legally curtailed these powers in a number of instances [cf. previous papers/presentations by Justice Prem Persaud]
- By virtue of the powers bestowed, it must be accountable to the “publics”



Humility in Making Ethical Choices

Thomas Welch's (1998) admonition is apt here:

“... ethical choice is vitally important to people in government who are entrusted with power, including utility regulators ... those entrusted with power should respect the source of their power and the limits implied by that source”

Very humbling words needing constant remembrance as we practice our sworn vocation



Our Evolving Strategic Vision & Mission

Vision:

“ To create an environment in which there is universal access to service in the public utilities sector, as well as a high quality of service which is cost effective and beneficial to all stakeholders”



Strategic Mission

“ To ensure that regulated utilities offer efficient service to the consumer at reasonable cost.
To protect the rights of all stakeholders”

[PUC & Castalia. 2004. PUC Strategic Plan]



Realization of Vision & Mission

My Thesis:

The realization of the vision and mission of the PUC requires the utilization of best-practice principles buttressed by a code of ethics adhered to by all – Commissioners, Secretary and Staff.



Rapid Overview of Best-Practice Principles

1. Communication [timely & accessible information]
2. Consultation [participation of stakeholders]
3. Consistency [fair rules across service sectors]
4. Predictability [clear decision-making criteria]
5. Flexibility [adaptability, evolutionary & amendment]
6. Independence [autonomy – free from undue political influence]
7. Effectiveness & Efficiency [timeliness, cost-effectiveness]
8. Accountability [clear processes, responsibility]
9. Transparency [openness, honesty, above-board]

Interdependence of Best-Practice Principles and Utility Regulation Ethics

To successfully achieve best-practice regulation:

- we must affirm our beliefs and enamour our character, conduct, discipline and integrity in an acceptable, enforceable code of ethics adhered to by all;
- we must hold ourselves, individually and collectively, accountable to the public through the morality benchmark of a code of ethics



Strategies for Implementing a Successful Code of Ethics

- Must have the support of all stakeholders
- Must be fastidiously observed by top hierarchy
- Must be clear and simple to follow & remember
- Must be practical and realistic
- Must be monitored – “ethics oversight committee”
- Must have penalties for infringement

[Barry, V.E. & Belmont, C.A. 1986. *Moral Issues in Business*;
Behrman, J.N. 1988. *Essays on Ethics in Business and the Professions*]

Suggested Instruments

- A simple one page, brief code for easy referral
- A more detailed multi-page code for reference



Suggested Elements of a Code

A clone of the Code of Ethics for Utility regulators in the Republic of Latvia and the NARUC model discussed at this conference.

Elements of the Latvia Model:

- **Independence & Neutrality**
- **Objectivity**
- **Openness & Loyalty**
- **Honesty & Impartiality**
- **Equality & Proportionality**
- **Rights, duties & responsibility of employees**
- **Rules of behaviour for resolving conflicts of interest**
- **Implementation of the Code**

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Thank You

