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## Mains Practice Questions

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**Q.** Examine the following, along with relevant examples:

(A) An action can be legally wrong but ethically correct and vice versa.

(B) Under what situations, a person cannot be held as unethical despite his actions looking seemingly unethical or illegal. (250 words)

07 Oct, 2021 GS Paper 4 Theoretical Questions

### **Approach**

- Explain the difference between law and ethics with examples. Give the importance of ethical interpretation of laws for civil servants.
- In the second part, explain the conditions of ethical scrutiny of any action giving relevant examples.

**A:**

It is not necessary that something legal is obviously moral. Legal means allowed by the state. For eg.: capital punishment, abortion, etc. Hence, ethics and law are not always the same.

Action can be legally wrong but ethically correct. For example:

- In 20<sup>th</sup> century India, social reformers urged citizens to disobey laws in order to protest what they regarded as immoral or unjust laws. Peaceful civil disobedience was an ethical way of expressing political viewpoints.
- Abortion may be regarded as legally wrong, but for a rape victim, it may be allowed on ethical grounds.

Similarly, actions can be ethically wrong but legally correct. For example:

- Slave trade was legal in America earlier. But it is an unethical act.
- While slum settlements are required to be cleared legally, the human right to housing and shelter makes it unethical to do without creating proper alternative arrangements first.

In a mixed-cultured society like ours, public servants need to take a balanced stand involving both legal and ethical factors so as to discharge his/her duties effectively and for the common good.

A bureaucrat's duty is dynamic, which needs interpretation of laws. Thus, there is a need to inculcate 'ethical sensitivity' that is the identification of salient aspects of a situation that involves the "good" and the "bad" of public or society.

**B:**

A person may act in a different way in different situations. However, any action can be ethically scrutinized only if it meets certain preconditions like:

- **If it is done by free will:** If a person has multiple choices, and freedom to pick one within those choices, only then we can debate it on ethical grounds. For eg:  
Elephants destroying crops in the fields resulting in man-animal conflict. Nature has designed elephants to act that way. Hence elephant's action can't be judged as ethical or immoral. He can't/shouldn't be punished for that.
- **Knowledge of consequences:** We cannot exercise 'free will' in an ethical/unethical manner, unless and until we have 'knowledge' of its consequences. For eg:  
The train driver's action of not stopping the train in 2018 Punjab accident which killed more than 60 people who were trespassing the railway tracks during Dussehra, cannot be ethically scrutinized as he was given a green signal and was not aware of people standing on the track.
- **Voluntary action:** An action can only be scrutinized if it is done voluntarily without any external pressure or force. For eg:  
Children's action of begging on the streets forcefully should not be considered immoral as they are not voluntarily doing it. Although the practice of begging is unethical.
- **Fear/Violence:** Any action done under fear or injury to self cannot be ethically scrutinized. If someone tries to kill/loot you and you kill/injure him in self-defence, you're acting under fear for your life. So, it's subject to legal scrutiny but not ethical scrutiny.
- **Habit/temperament:** Actions which are done as a consequence of one's own habit may or may not be ethical. For eg:  
Since childhood, Japanese are trained to apologize profusely even for the slightest mistake or discomfort caused to another human. If an American executive working in Japan doesn't behave in a similar fashion, it can't be termed as 'unethical'. Because it is not in American habits.

Hence, a person may not always be held as unethical despite his actions appearing to be unethical or illegal.