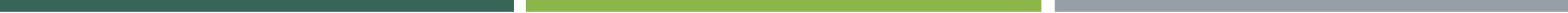




PROFESSIONAL ETHICS AND THE FIGHT AGAINST CORRUPTION

OECD CLASS
7TH NOVEMBER 2021
Presented by
Dr Purity Gitonga



PART ONE: INTRODUCTION

Situational Analysis:

Overview of the state of corruption

OBJECTIVES

- Situational Analysis: Overview of the state of corruption
- Definition of terms – Ethics, Professionalism
- Ethical Theories
- Key attributes of Professional Ethics
- Resolving Ethical Dilemma

Conclusion

RECAP

In the course of the week, we have had discussions touching on:

- Economic crimes
- Corruption and bribery
- Fraud
- Tax crimes -Tax Evasion
- Unregulated currencies
- Cryptocurrency
- Financial crimes. Fraudulent receipting and many other ills that affect our growing economies.
- Terror financing
- Unethical behaviours

SITUATIONAL ANALYSIS

- Global governance indices suggest that the public sector in sub-Saharan Africa is the most corrupt of any region in the world as much as non African actors play a significant role in fuelling corruption in Africa through foreign bribery and money laundering.
- The African Union points out that corruption has ‘stolen futures; in Africa with atleast 25million primary school children as its victims.
- Scandals involving public officials have captured world attention. Precipitated by shady privatization deals, the diversion of aid, widespread public sector patronage, crony capitalism, and campaign financing abuses, money laundering, fraud, outright corruption and unprofessional behaviour in government.
- Yet, Government officials have been and are seen as stewards of public resources and guardians of a special trust that citizens have placed in them. In return for this confidence, they are expected to put public interest above self interest.

EFFORTS IN THE FIGHT AGAINST CORRUPTION

The fight against corruption is informed by the guidelines and instruments put in place by the United Nations Convention against Corruption (UNCAC) that provides for **both preventive and punitive measures**.

1. **Criminalizes corruption**
2. **Addresses the cross-border nature of corruption** with provisions on international cooperation .-MLA and on the return of the proceeds of corruption
3. Provides for the **Preventive anti-corruption policies** and practices (Article 5).
4. Provides for **Codes of conduct** for public officials (Article 8).
5. **Education and training programmes** to enhance public bodies awareness of the risks of corruption (Article 7

APPROACHES

Punitive

- Punitive approaches seem to be the choice for the public.
- Sends very strong signal.
- De-barring companies that are said to be corrupt

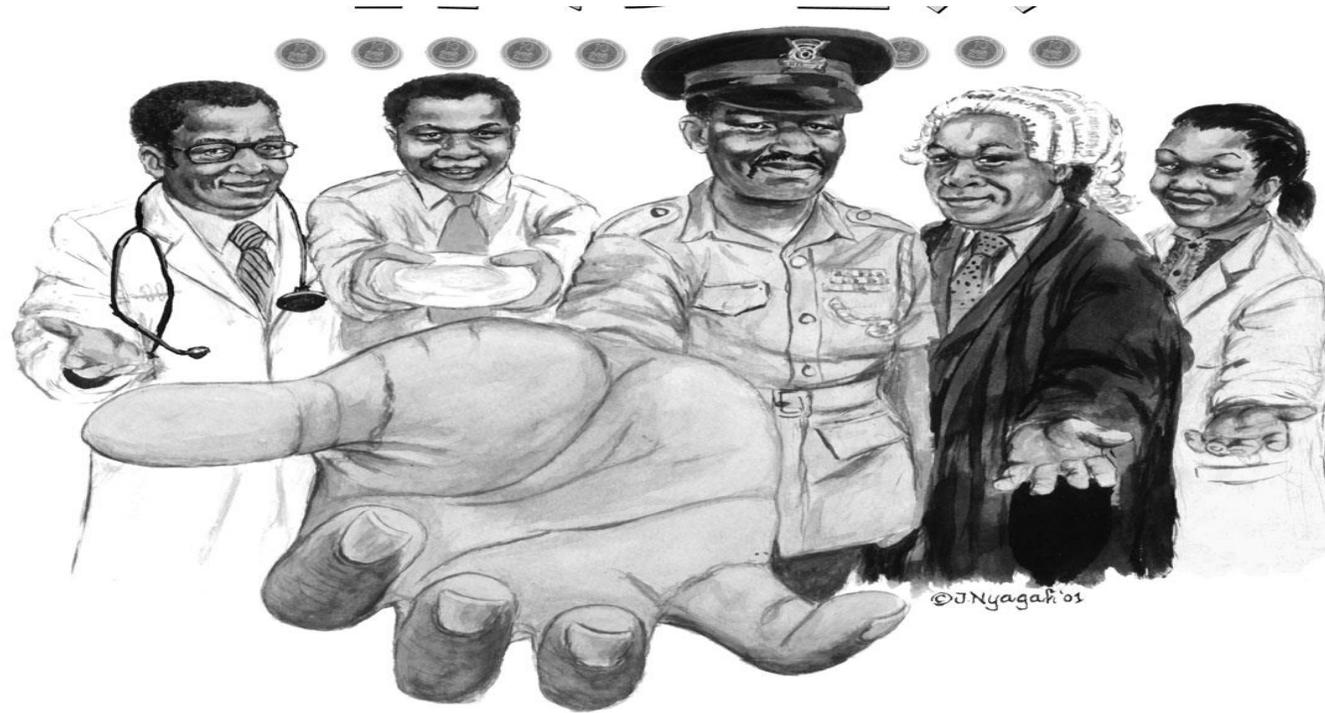
Preventive

- Preventive measures are hard sell to the public, yet it could have better results.

Experience has shown that the costs of poor performance and corruption in the public service are too great to bear. The public service must work with the highest standards of integrity and conduct to ensure that the trust and confidence of citizens is maintained.

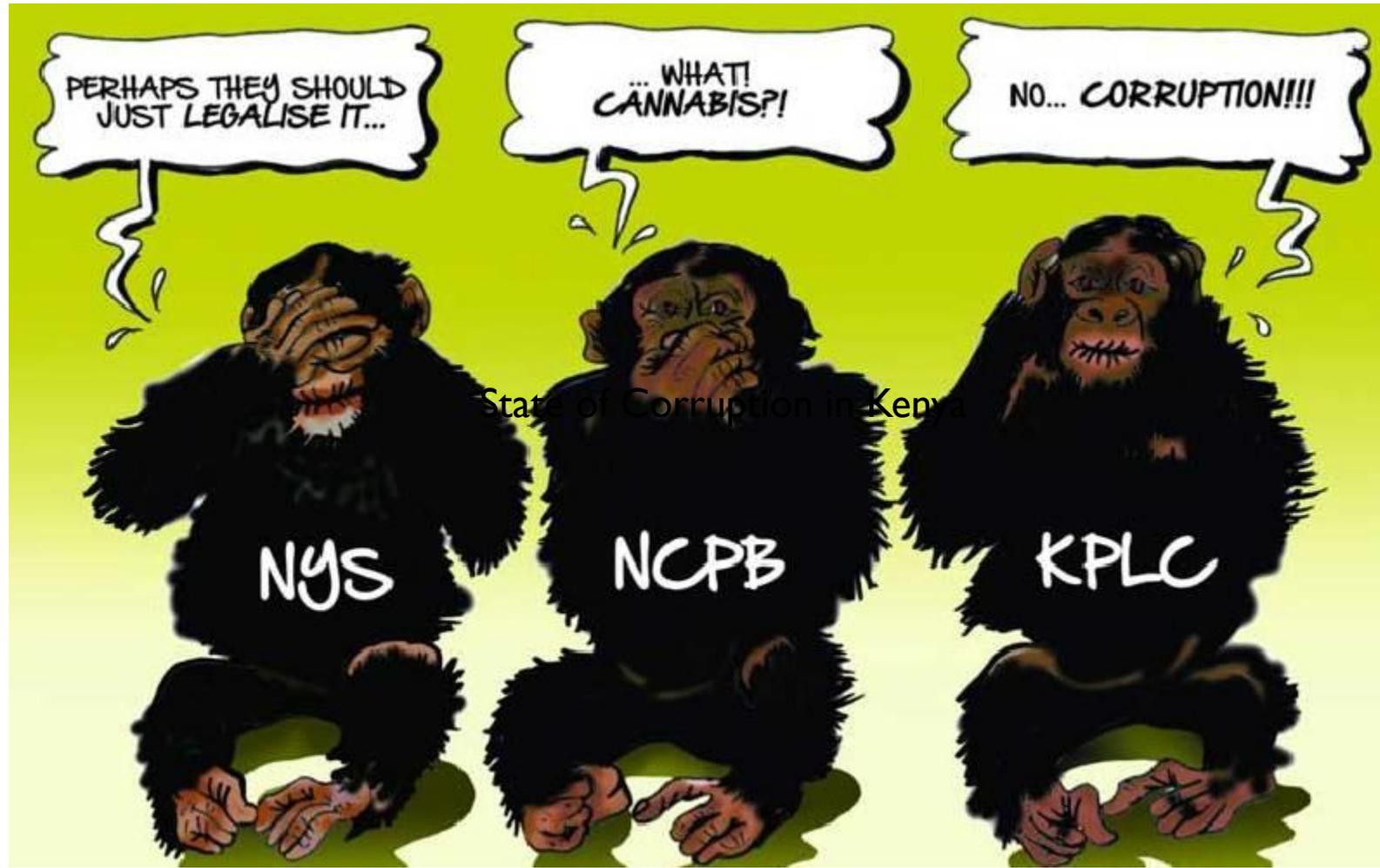
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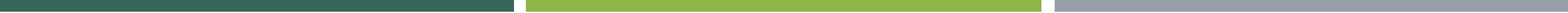
- **The question that comes to mind is what is being done in our different jurisdictions to combat these ills? What strategies has your country put in place? How successful have these strategies been?**
- **Are public officials held to higher standards of performance and conduct than others? If so, why?**
- **What about the professionals dealing with such cases, what is their grounding?**



What do you make of this?

Corruption Scandals in Kenya



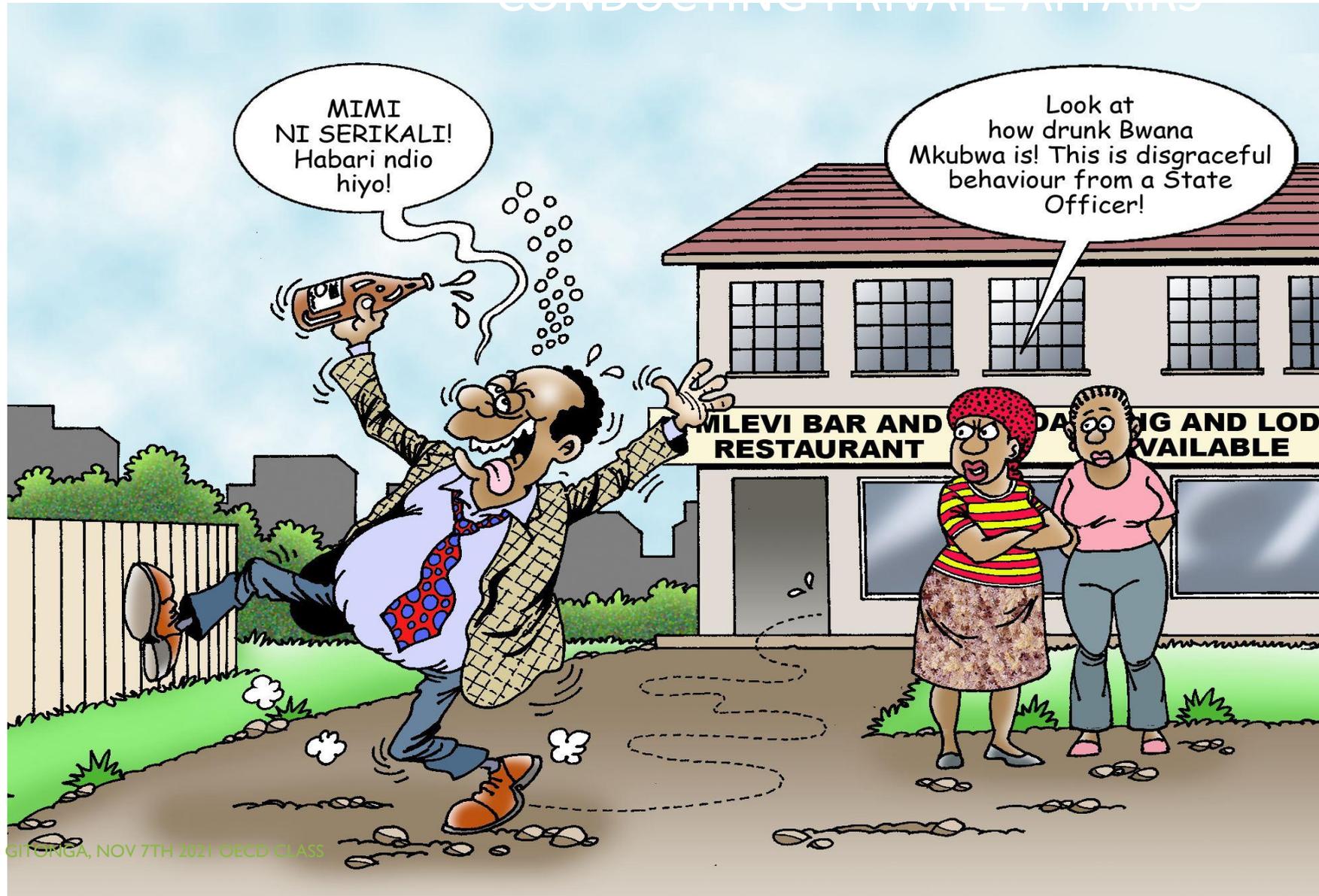


PART TWO:
DEFINITION OF TERMS –
Ethics
Principles of Professional ethics

IS THIS FAMILIAR?



CONDUCTING PRIVATE AFFAIRS



ETHICS DEFINED

Ethics is “**moral principles that govern a person’s behavior or the conducting of an activity**”. It deals with what is good and bad or right and proper and just versus what is bad, wrong and unjust.

There are three aspects to ethics

1. Ability to discern:-

-Right from wrong, Good from evil, Proprie

2. Commitment to do what is right

3. Doing what is right.



ETHICS

**ETHICS is
concerned with:**

Conduct

Decision making

Relationships

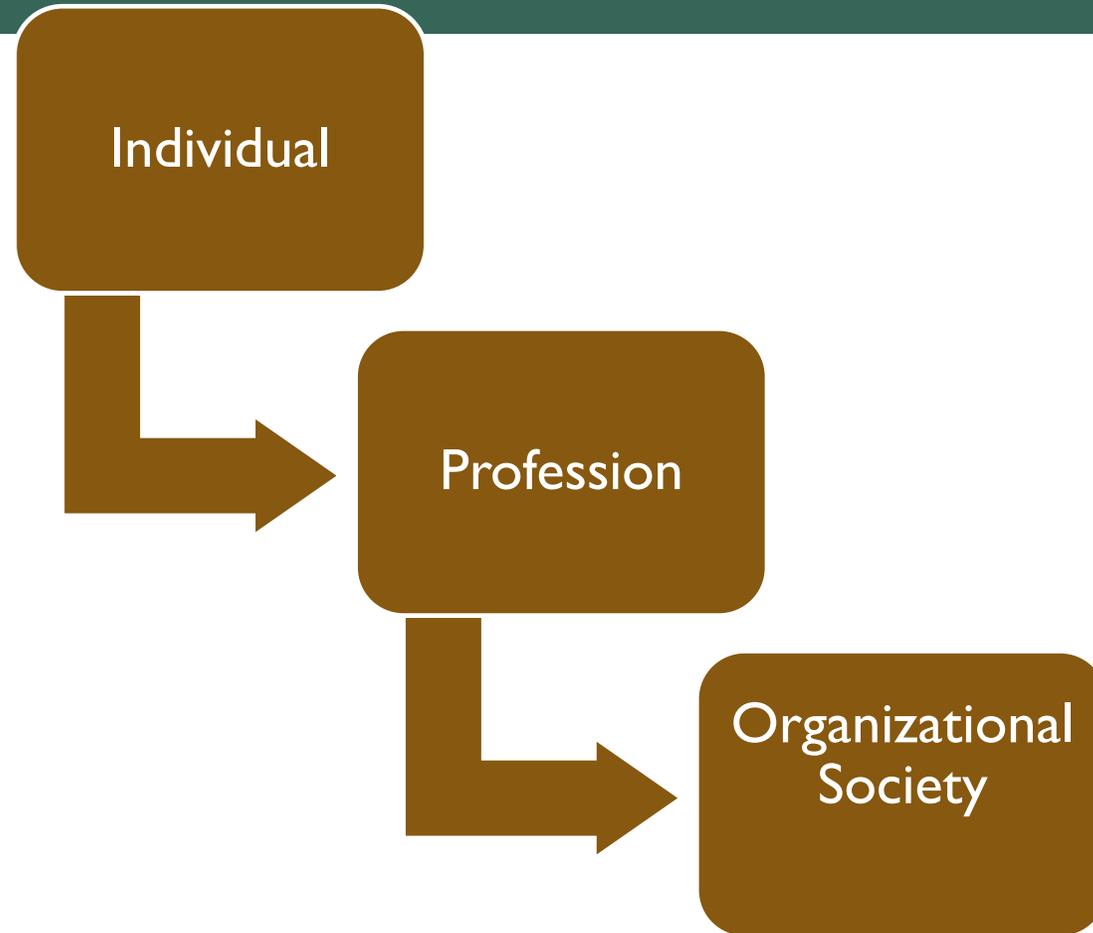
Problem solving

The overriding question in ethics is – **Will my decision and action injure someone else?**

Remember the injury may be physical, emotional psychological or even spiritual.

LEVELS OF ETHICAL REFLECTION

Ethics defines acceptable behavior; create a framework for determining “right” versus “wrong”; assist in decision making and in problem solving.



▪ **Ethics is about feeling for others**

- At the heart of ethics is a concern about something or someone other than us and our own desires and self-interest.
- Ethics is concerned with other people's interests, with the interests of society.
- So when a person 'thinks ethically' they are giving at least some thought to something beyond themselves.

NOTE

- Research suggests that ethical or unethical behavior in organizations is a function of both individual characteristics and con-textual factors i.e factors external to the individual (Meyers, 2004).

To promote ethical behavior: focus MUST BE on the individual and organizational factors.

What are the internal drives and needs of the individual?

Professionalism



Who is a professional?

12/7/2021

PROFESSION: WHAT SEPARATES A PROFESSION FROM ANY OTHER TRADE?

- A profession is an occupation or vocation which requires a **high degree of knowledge** and **expertise in the specific field**.
- It calls for special skills and qualification,
 - ❖ Long and specialized preparation in academic and practical training;
 - ❖ Is governed by a code of ethics, and performs essential service in society;
 - ❖ Has procedure for certification and validation of membership
 - ❖ The skill has intellectual base.
- A professional is one who has acquired a learned skill and conforms to ethical standards of the profession while **displaying knowledge, skill** and **values** required of the profession.
- Professional ethics encompasses a code governing the conduct of professionals

LEGAL AND MEDICAL

- **Confidentiality** - Lawyers must maintain their clients' confidence at all times.
- **Competence** - Legal professionals must represent their clients with a high level of competence.
- **Professional Courtesy** - Lawyers must treat their colleagues with fairness and courtesy.
- **Professional Judgement:** A lawyer should exercise independent professional judgement on behalf of a client. Also, a lawyer is to refrain from acquiring a financial interest in the legal cases.
- **Doctors**
 - **Trust** - Doctors must instill a sense of trust between themselves and their patients.
 - **Do No Harm** - Doctors cannot engage in any activity that would cause harm to their patients.
 - **Privacy** - Doctors cannot share the details of their patients' medical treatments or histories without permission

DOCTORS

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- **TEACHERS**
- **Consideration** - Teachers should put the needs of their students first.
- **Growth** - Educators need to pursue professional growth.
- **Communication** - Teachers work with parents as a support team for each student.

PROFESSIONALISM

Professionalism is a powerful quality.

- It allows you to fulfill your role to the best of your ability. It helps you to impress and inspire others. And it gives you a deep sense of satisfaction and self-worth.
- Enables one to consistently achieve high standards, both in the work you do and the way you behave.
- Being professional helps you to achieve high-quality results,— and feeling good about yourself.
- It is the contribution of **Skill and Will** that elevates people in any industry or career to the top
- Enables you to develop three habits : Humility, Patience and Confidence in one's ability.
- Professionalism is not just participating in the right actions at the right time but rather has more to do with the fibre of an individual person.

FUNDAMENTAL TENETS

- • **Acting in the client's interests:** members offer professional judgement, objective advice or guidance and act in the best interests of the client;
- • **Code of practice:** members observe a code of practice or conduct that describes the desired standards of behaviour;
- • **High entry standards:** in the form of examinations that are not easy to pass and require an initial lengthy period of study;
- • **Ongoing competence:** maintaining a high degree of competence and expertise involving training and continual professional development;
- • **Regulation by an independent body:** effective regulation increasingly in the form of an independent body responsible for setting disciplinary procedures and monitoring behaviour;
- • **Member accountability:** members are subject to an objective form of censure and are accountable to the profession for a breach of expected technical and ethical standards; and
- • **Enforcement and discipline:** the nature of censure is sufficiently punitive to encourage members to maintain standards in line with requirements. This typically includes being named and shamed and potentially barred from the profession and thereby being unable to practice.- Deloitte and Touche's research, 2007

PRINCIPLES OF PROFESSIONAL ETHICS

These include:

- **Principle of non-maleficence** – DO NO HARM obligation. Omit acts that may cause harm to others
- **Principle of Beneficence** – Duty to do good - what is advantageous to your clients, customers
- **Principle of Autonomy** – Respect for others, for their self-determination and making of decisions. sense of self reliance, self rule
- **Principle of Justice** – commitment to dispense fairness, equity.

IMPORTANCE OF PROFESSIONAL ETHICS

- Ethics guide us like a map- Ethics guide our lives
- Professional Ethics help build confidence
- Ethics is about our feelings for others; At the heart of ethics is a concern about something or someone other than us and our self interest.
- Ethical values create integrity- A high sense of ethics makes a person trustworthy.
- A combination of hard work, legal, ethical behaviours and perseverance leads to success
- Ethic codes are based on the same principles of valuing others' opinions, treating others in the workforce with kindness and respect and abiding by personal ethics of honesty, integrity and hard work.

SCANDALS

- The last two decades saw some of the worst accounting and unethical scandals in history.

EXAMPLES FROM ACROSS THE GLOBE

- **Sexual harassment:** Mark Hurd CEO Hewlett Packard had to resign for his relationship with a contractor. Pressured a female contractor for sex and bragged about his popularity with "many" women, including Sheryl Crow. *"I realized there were instances in which I did not live up to the standards and principles of trust, respect and integrity that I have espoused at HP," Hurd said in a statement when he resigned.*
- **Extramarital affair:** John Ensign US Senator resigned after covering up an extramarital affair with monetary payoffs.
- **Bank Fraud:** Lees B, Farkes largest bank fraud involving largest mortgage lender
- **Sexual assault:** Dominique Strauss- Kahn former head of the IMF and a leading French politician was arraigned in court on charges of sexual assault.
- **Conflict of interest:** David Sokol- possible successor of Warren Buffet forced to resign because of trading in Lubrizol stock prior to recommending that Berkshire Hathaway Purchase the company
- In 2010 a New Zealand Minister resigned over bottles of wine. He was embroiled in an expense scandal that turned on his purchase of two bottles of wine. He resigned saying "I have absolutely no desire to become the focus of a distraction for this government."
- **Declaration of gifts:** An Australian NSW leader resigned over wine gift in April 2014. The leader of Australia's most populous state announced his resignation after failing to declare a gift of A\$3,000.

■ **What is the story in your country?**
DR PURITY K. GITONGA, NOV 7TH 2021 OECD CLASS

ENRON'S CASE 2001

- Enron Corporation was a US energy, commodities, and services company based out of Houston, Texas. In one of the most controversial accounting scandals in the past decade, it was discovered in 2001 that the company had been using accounting loopholes to hide billions of dollars of bad debt, while simultaneously inflating the company's earnings. The scandal resulted in shareholders losing over \$74 billion as Enron's share price collapsed from around \$90 to under \$1 within a year.
- An SEC investigation revealed that the company's CEO, Jeff Skillings, and former CEO, Ken Lay, had kept billions of dollars of debt off the company's balance sheet. In addition, they had pressured the company's auditing firm, Arthur Andersen, to ignore the issue.
- The two were convicted, largely based on the **testimony of former Enron employee**, Sherron Watkins. However, Lay died before serving time in prison. Jeff Skillings was sentenced to 24 years in prison. The scandal led to the bankruptcy of Enron and dissolution of Arthur Andersen.

WORLD COM

- WorldCom was an American telecommunications company based out of Ashburn, Virginia. In 2002, just a year after the Enron scandal, it was discovered that WorldCom had inflated its assets by almost \$11 billion, making it by far one of the largest accounting scandals ever.
- The company had underreported line costs by capitalizing instead of expensing them and had inflated its revenues by making false entries.
- The scandal first came to light when the company's internal audit department found almost \$3.8 billion in fraudulent accounts.
- The company's CEO, Bernie Ebbers, was sentenced to 25 years in prison for fraud, conspiracy, and filing false documents. The scandal resulted in over 30,000 job losses and over \$180 billion in losses by investors.

FROM THE CASES MENTIONED ABOVE, WHAT WAS THE ULTIMATE RESULT?

- Many of these accounting scandals were a result of the excessive greed of a few individuals whose actions led to disastrous consequences which brought down whole companies and affected millions of people.
- Billions of dollars were lost as a result of financial disasters,
- Companies, investments destroyed
- Peoples' lives ruined.
- Death
- Jail term
- Bad reputation, names ruined
- Employees who commit accounting fraud at the request of their employers are subject to personal criminal prosecution.



Huge amounts of \$\$\$ have corrupted doctors, universities, researchers, journalists, lawyers, investigators and everybody knows. **But why do we still allow it to happen?**

*Everybody knows the war is over
Everybody knows the good guys lost
Everybody knows the fight was fixed
The poor stay poor, the rich get rich
That's how it goes
Everybody knows by Leonard Cohen*

➤ **Why do we need Ethics?**

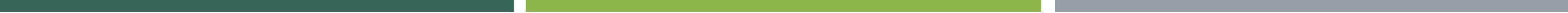


WORTH NOTING

- . "Out of all the qualities expected of us, the supremely important values are those of moral integrity and fairness. A conscious attention to a client's cause and never ending quest for perfection in the exercise of our professional skills and the indomitable courage in the face of improper pressures that conflict with our duties. All these qualities might be unattainable but are very properly expected of us when we are entrusted by our clients often with matters of great consequence in their personal lives for which let us remember we are often handsomely paid.

RIG OF GYGES

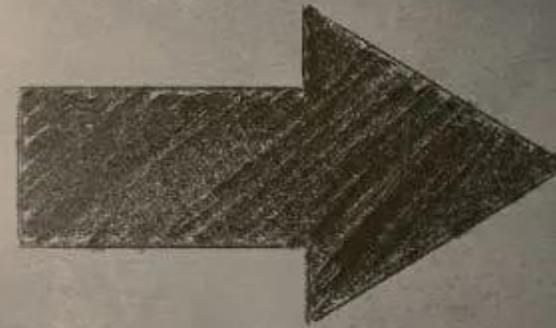
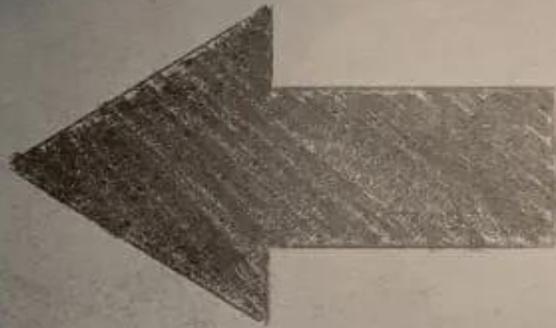
- A story is told of a young shepherd from the city of Lydia. The young boy found a golden ring and he discovered that when he turned the ring on his finger, it made him invisible.
- The shepherd boy then decided to use the ring to seduce the king's wife, attack the king and even take over the kingdom.
- Glaucon – who was Plato's student argued that the only reason people are just is because they lack the power (opportunity) to be unjust.
- **As an investigator, what you would do if you had such powers, no fear of detection?**
- The ring of Gyges is literally and figuratively a story about professionalism, transparency and accountability when no one is seeing you.
- Socrates ultimately argues that justice does not derive from this social construct: the man who abused the power of the Ring of Gyges has in fact enslaved himself to his appetites, while the man who chose not to use it remains rationally in control of himself and is therefore happy (Republic 10:612b).



PART THREE
ETHICAL DILEMMAS

ETHICAL DILEMMA

- **An ethical dilemma (ethical paradox or moral dilemma) is a problem in the decision-making process between two possible options, neither of which is absolutely acceptable from an ethical perspective. There is always a difficult choice to be made**
- **A situation where two or more important values, rights and responsibilities are in conflict and a choice has to be made between equally unpleasant alternatives**
- **Doing what is morally right that results in a bad outcome or bad effects,; and doing what is morally wrong but results in good or at least better effects or outcome.**
- **An ethical dilemma mostly presents when one has to make choices between two conflicting options both of which are right.**



We all encounter an ethical dilemma in almost every aspect of our life, including personal, social, and professional.

ETHICAL THEORIES THAT GUIDE IN THE DECISION MAKING PROCESS

1. **Utilitarian Theory:** “what is ethical is what advances the common good” or the lesser evil. ‘This is an Ends based approach’ to an ethical dilemma.
2. **Deontological Theory:** What is important is the duty or obligation regardless of the consequence. Everyone must follow the rule. (rule based approach)
2. **The Care Based Principle or the Golden Rule:** The Golden rule is also known as the Care Based Principle. Doing unto others what you would have done unto you. It takes into consideration compassion and personal feelings.
3. **Rights Theory:** people make decisions based on the rights that their society agrees to. What the majority of people in that society believes is important will drive decisions.
4. **Virtue Theory:** The ethical theory of virtue states that we can judge a person’s decisions based on his or her character and morality

ETHICAL DILEMMA

- A woman is diagnosed with an abdominal aortic aneurysm, a bulge in the wall of the aorta, which will likely cause her death if it should burst. Doctors advise an immediate surgical procedure that will require making a small incision. However, the woman is an exotic dancer and fears that a scar will negatively impact her means of making a living. She refuses to give her consent for the surgery but those in authority insist that the life-threatening risk is non-negotiable. Declaring that the woman is not in her right mind, surgeons order that she be anesthetized. They proceed with the operation and successfully repair the aneurysm. As a result, the patient files a lawsuit against the hospital for millions of dollars.
- In view of the 4 principles givenm was it right for the surgeons to proceed? WAS IT RIGHT FOR THE WOMAN TO SUE THEM WHEN THE DOCTORS MEANT THE BEST FOR HER?
- Patient autonomy issues are often daunting ethical **gauntlets** for health care administrators, who must weigh economic factors and dwindling financial resources when making decisions concerning patient care.

RIGHT VERSUS WRONG: IS IT A MORAL TEMPTATION OR AN ETHICAL DILEMMA?

Five tests distinguish wrongdoing from an ethical dilemma.

- **The legal test.** Does the choice or action violate any laws?
- **The front page test.** How will the actor feel if the choice or action becomes common knowledge in the community?
- **The gut feeling test.** Does the choice or action intuitively feel "wrong?"
- **The role model test.** Would a respected mentor approve of the choice or action?
- **The professional standards test.** Does the choice or action violate any part of the Professional Code of Ethics?

CHECKPOINTS: HOW TO RESOLVE ETHICAL DILEMMAS

- Identify the Issue
- Identify the key person facing the dilemma
- Identify the relevant facts -Analyze the situation
- Identify possible solutions
- Evaluate each possible solution -Choose the alternative that offers the greater good or the lesser evil.
- Compare and assess the consequences
- Make a decision based on the best identified solution
- Take action



BREAK OUT SESSION

BREAKOUT SESSION : CASE STUDY

- Marjolie is a newly recruited ICT officer with the Automation Department. She is a young, charming and spirited officer. Mr. Boss, the Corporate Director often calls Marjolie to his office to attend to his desktop computer and internet connectivity. Marjolie performs her job dutifully. It is obvious that she loves her work.
- Over the months, Mr Boss's behaviour towards marjolie began to change. As Marjolie works on his computer, Mr. Boss tries to put his hand on her shoulder and lean closer to her as if trying to understand the arrangement of his folders. She quickly draws away from him. He then begins to make offhand remarks about how his wife is clumsy and lacks warmth and glitter. Marjolie ignores the comments and continues with her work. However, she increasingly begins to get uncomfortable getting to Mr. Boss's office. Mr Boss begins to request for work to be done in his office just towards 5pm. This would keep Marjolie working to late hours of the day. Marjolie gets very uncomfortable and is troubled as to what to do. One day, Mr. Boss asks her for a kiss and she firmly refuses. He continues with his attempts but Marjolie does not yield. She mentions her discomfort to her colleague and discretely reports the matter to one of the HR officers. At the end of Marjolie's probation period, Mr. Boss writes a very negative report about Marjolie making her confirmation uncertain. However, Marjolie's supervisor had given a positive recommendation for her confirmation. This causes a predicament to Marjolies confirmation.

CASE STUDIES: RESOLUTIONS

1. Identify the affected parties in this case.
2. Discuss Mr Boss's behaviour. In what way could his behaviour be considered unethical? Has he broken any law?
3. What is the role of HR in addressing Marjolie's predicament?
4. What ethical dilemma arises from this case?

BREAKOUT SESSION – GROUP 2

Group 2 : In what ways are professionals involved in the corrupt and unethical deals in your countries?

- Specifically, identify unprofessional practices in **investigations**
- What factors contribute to rising unprofessionalism and unethical practice in the 21st Century?

Group 3: scenarios

- a) A hotel has requested an accounting officer to give them business to host seminars and workshops in return for one-week complementary accommodation for him and family during the December holidays.
- b) A record clerk has been asked to 'doctor' file folios to allow for fake requisition letters for delivery of goods and services.
- c) A board secretary is asked to alter minutes to allow for irregular inclusion of agenda items and board decisions outside the board meetings.

Group3

- 1) What is unprofessional in these scenarios assuming that all three officials have agreed to the requests? How damaging is their unprofessional behaviour to public service delivery?
- 2) When your boss wants you to do something unethical- what should you do?

CASE STUDY 2: RECRUITMENT GROUP 4

Your company is recruiting for senior level positions that are technical in nature. You have been appointed chair of the Shortlisting Committee. As a committee, you have set and agreed on the criterion for shortlisting. Your CEO calls you to his office and gives you three names to be considered for shortlisting. He mentions that the Permanent Secretary (PS) has interest. On scrutinizing the given names, your committee notes that two of them do not seem to have the required skills and work experience though they had applied. One of them meets the basic required qualifications but his name was not in the original list of applicants- in other words, he had not applied. On scrutinizing the list of applicants, there are a number that are qualified for the job.

- 1. As the chair of the committee, what would you do?**
- 2. Is there any breach of ethics in this case? Explain**
- 3. Which persons are involved in the identified unethical practice if any?**

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ARTICLE 232: PRINCIPLES OF PUBLIC SERVICE IN KENYA

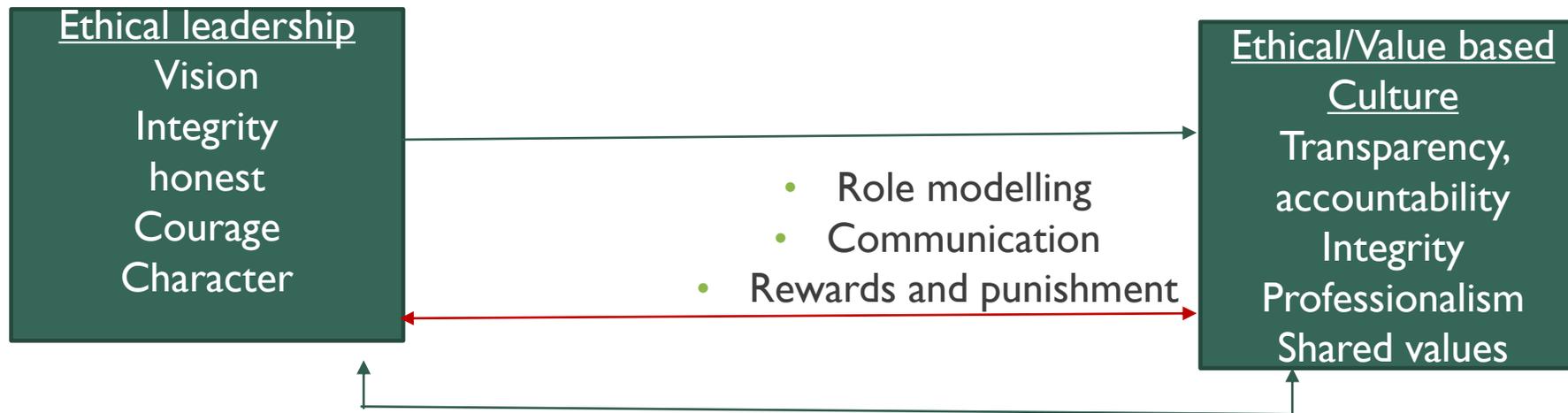
Prescribes the desired behavior and standards of public officers

1. Place public interest above personal interest;
2. Act professionally with honesty, consistency and impartiality;
3. Uphold economic, efficient, effective and prudent use of public resources
4. Uphold transparency, accountability and be responsive;
5. Uphold the rule of law and respect of institutions of Government;
6. Avoid conflict of interest in performance of duties
7. Involvement of people in the process of policy making
8. Maintain oneself in a morally upright manner

KEY TENETS OF A PROFESSIONAL IN THE 21ST CENTURY:

- Technical competence- Skill;
- Excellence: Commitment & Performance
- Life long learning - Up-to-date knowledge,
- High standards of Integrity & Confidentiality
- Consciousness
- Accountability
- Respect for others - maintain public trust

ROLE OF LEADERSHIP



Technology, globalization,
competition, ever changing
marketplace, immigration
politics, legal framework,
societal values

Managing ethics must be part of a larger coordinated
cultural system supporting ethical conduct every day



Ethical dilemmas have a way of sneaking up on a person. If something smells funny, stay away from it. Or help get rid of it.

— *Price Pritchett* —

AZ QUOTES

CONCLUSION

- **To give real service you must add something which cannot be bought or measured with money, and that is sincerity and integrity.” – Douglas Adams**

Personal ethics are the moral foundation on which people build their lives. They assist in decision making, problem solving and ability for determining “right” versus “wrong”

A close-up, black and white photograph of a hand holding a pen, writing the words "Thank you" in a cursive script on a light-colored surface. The pen is positioned at the end of the word "you", and the ink is still wet. The background is a soft, out-of-focus light blue and white.