Ethics: Basic Concepts and Theoretical Premises

Ethics

- **Ethics** comes from the Greek word 'ethos' which means character or ways of behaviour

- It refers to a generally accepted set of principles and standards used by an individual, institution, profession or society in general (as part of social ethics, professional ethics etc) to guide their thoughts, behaviour and actions; to determine the goodness/badness or rightness/wrongness of thoughts, behaviour and action

- Ethics is essentially about *making the right choices/decisions*

- Ethics is both *positive and negative*: It enjoins virtues of honesty, integrity, compassion, loyalty, beneficence etc; at the same time, it imposes reasonable restrictions to refrain from malfeasance such as stealing, lying, slander etc

Morals

- **Morals** is derived from the Latin word 'mores' meaning custom, or habit

- It refers to the values, ideas and beliefs of an *individual* which are used to determine the goodness/badness or rightness/wrongness of thoughts, behaviour and action

	Ethics	Morals
Origin	Greek word 'ethos' meaning character	Latin word 'mores' meaning custom/habit
What are they?	Accepted set of principles and standards to guide thoughts, behaviour and actions	Values, ideas and beliefs which are used to determine the goodness/badness or rightness/wrongness of thoughts, behaviour and action
At what level they exist?	Society, institution and individual	Individual
Where do they come from?	Social system – external	Individual-internal
Why we follow it?	Because society says it is the right thing to do	Because we believe in something being right or wrong
Flexibility and acceptability	The principles and standards are supported by consistent and well founded reasons; rational and objective; hence general/universal acceptance	Intuitive and subjective; varies from individual to individual; lesser acceptability

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Values

- **Values** refer to a set of enduring beliefs, attitude and preferences of an community/ institution/ society

- *Value* is what the community/institution/society attaches worth to or give significance to; values can be good (virtues) or bad (vices)

- They are personal and specific to community/institution/society; values serve as standards by which a community/institution/society determines if a particular thing (object, idea, policy, etc.) is good or bad, desirable or undesirable, worthy or unworthy

Ethics	Values
Guidelines and standards for conduct of individual/institution/society	Beliefs and preferences of a community/society
It is a system of moral principles which helps in making the right choices	It is the stimuli of our thinking that defines our priorities/attitude
It is consistent; rational and objective	It is subjective and differs from community to community and society to society

1. **Ethics constrain while values motivate. Comment.**

2. **Ethics is the systematic examination, justification and critical analysis of morals and values. Discuss**.

Examples

- **Ethics:** *individual, institutional and societal*; deontological ethics; utilitarian ethics; virtue ethics etc

- **Values:** *community and society*; Western societies based on values of individual freedom, liberty, achievement norms etc while oriental societies based on values of collectivism, ascriptive norms; Indian society is based on values of respect for elders, women, environment etc; in India, different communities/religion/tribes etc have their own value system; different religions have their own personal laws that codify their values; values of some tribes allow them to perform animal sacrifice; public service values and private sector values

- **Morals:** Individual A feels that it is not right for women to smoke or drink while individual B feels that it's fine to smoke or drink; attitude towards issues such as homosexuality, inter-caste or interfaith marriage, abortion, gender role etc depends on individual morals

Fallacies in ethical reasoning

1. Moral conventionalism (ethics and culture/conventions/norms):

- One commits this fallacy if one suggests that acceptance by the society is the benchmark to judge the morality of any action/practice

Examples against moral conventionalism:

- Historically, slavery, apartheid and racial discrimination in the western context; sati and untouchability in India; current example: gender discrimination in countries such as Iran, Saudi Arabia etc (women are not allowed to drive); women not given the right to vote in many European countries; as late as 1971 in Switzerland; Gadhimai festival; animal sacrifice festival in Nepal; Khap Panchayats have social acceptance; in totalitarian regimes such as Russia and China, people do not have civil liberties such as freedom of speech and expression; even corruption to an extent has social sanction

2. Ethics and Religion

- Many people are not religious but ethics apply to everyone

- Most religions do advocate high ethical standards but their text is prone to misuse due to subjective/self fulfilling interpretation

- Large scale brutalities and persecution of various groups carried out in the name of religion

- Revivalists and reformists during freedom struggle: Rebecca Myth (Fictional story of a person who remarried after the death of his wife, Rebecca. His obsessive love for Rebecca forced him to expect the new wife to behave like Rebecca in all respects. In India also, the Revivalists often invoke and eulogize the ancient times when Vedic and Puranic literature was produced)

3. Ethics and law

- **Moral legalism:** One commits this fallacy if one argues that sanction/prohibition by a law is the benchmark to judge the morality an action

Examples:

- Slavery, apartheid, laws which perpetuate gender discrimination (personal laws of different religions); laws which sanction differential wages to men and women; lashes as a means of punishment in GCC countries; Section 377 of IPC; Section 124A of IPC

- What is legal can be unethical and what is ethical can be prohibited by law (civil disobedience during freedom struggle)

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Relationship between ethics and law		Examples
Ethical	Legal	**Guidelines to protect 'Good Samaritan'**
Ethical	Illegal	**Section 377, civil disobedience (during freedom struggle)**
Unethical	Legal	**Section 124-A of IPC, Section 66-A of IT act**
Unethical	Illegal	**Laws against crimes, violence etc**

Some other fallacies

- Just because others are doing a wrong does not justify your action; two wrongs do not make a right

- **Slippery slope argument:** The argument that an action is morally impermissible because it is not morally objectionable per se but it can lead to a series of actions/consequences that are morally objectionable; no empirical basis to prove that the future course of events are inevitable; **examples:**

  - If sex education is allowed in schools, the result will be rampant sexual promiscuity; Euthanasia (Allowing Euthanasia will increase the incidents of involuntary killing/murders); giving autonomy to police/CBI will usher in a police state; privatization of PSUs will adversely affect public interest

- **Red herring:** Diverting attention from the main issue (a student getting caught cheating and blaming his parents for the same)

Importance of ethics: Why do we need ethics at all?

Individual level

Intrinsic value:

- As a guide to a good and fulfilling life; being ethical is a part of what defines us as human beings; we are rational, thinking, choosing creatures; we have the capacity to make conscious choices; every rational human being has a reason to cultivate virtues and develop a strong moral character

- Self realization and self actualization (Maslow's Need Hierarchy)

- *"In considering why I should be ethical, I should take a long term view of myself, of what I should be, and seek the answer to the question of what I should do in that light. Developing a habit of taking bribes, for example, will corrupt my very being and rob me of my mental peace."* (Aristotle)

- *Instrumental value:* Knowledge of ethics helps in resolving ethical dilemmas; right v/s right dilemmas

Societal level:

- Natural tendency of any society is towards 'entropy'; ethics is needed to move towards negative entropy. Ethics has a social dimension and forms the very basis of human society; man is inherently a selfish creature but he chooses to follow (or at least pretends to follow) ethical behaviour because he sees many advantages of living in a society; so, If I do not like something happening to me, I need to make sure I do no do the same thing to others; "***Do not do unto others what you would not like others to do to you***"

- Societies and civilizations rise and fall due to ethical/unethical behaviour of either the leaders or commoners (Roman empire, Mughals, Arab Spring, case of Japan)

- Without ethics, society would be reduced to the type of animal behaviour that is seen in nature. Hunt, kill, feed and fornicate.

- ***In contemporary times***, ethics needed for achieving the objectives of ***inclusive and sustainable development***; need for ethical behaviour on part of citizens and public servants for fighting social evils such as dowry and corruption; for checking environmental deterioration etc; ethics encourages us to coordinate with like minded people, spread awareness and initiate group action; it encourages us to become good citizens and develop a healthy civic sense

- Special need for ethics in public life

Dimensions of Ethics

1. Meta-ethics:

- It is the branch of ethics that deals with the philosophical questions about the nature of ethical theory itself

- It addresses questions such as 'what is good?'; 'what is bad?'; 'what is right?'; 'what is wrong?'; Ethical Relativism and Ethical Absolutism; Ethical Skepticism

- What is happiness?

- What is patriotism?

Q- What is the difference between patriotism and nationalism?

Q- What do you understand by nationalism and regionalism? Do you think both are in conflict with each other?

Ethical Relativism, Ethical Absolutism (Universalism) and Ethical Realism

Ethical relativism: Moral Relativism and Cultural Relativism

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- It holds that there are no universal or absolute ethical standards which apply across individuals or cultures; *'Blind men and the elephant'; Anekantavada;* Sophists (5th century BC) believe in moral/ethical relativism; Eg: a tribe in Africa kills its weakest infants in a time of famine; *Nietzsche – "Nothing is true, all is allowed."; Marcus Aurellius - "Whatever we see is a perspective, not the reality; whatever we hear is an opinion, not the fact."*

- Most philosophers reject ethical relativism while admitting that moral practices differ markedly from one culture to another. Regardless of cultural context, there are certain universal principles and norms which ought to be followed

- UN-UDHR, International Covenant on Civil and Political Rights, International Covenant on Social, Economic and Cultural Rights

- *"Despite all that we know about the different cultures within our society, there exists far more unanimity about what values must be upheld than might at first appear. We want to be able to live in a society with shared values, with a common dislike of violence, injustice and deceit in public life, in short, with a notion of common good." (*Warnock)

Challenges to Ethics/Moral Accountability: Ethical Scepticism

- *First view* is that human beings are incapable of following ethics/morals; this view supported by **Psychological Egoism** (human beings are innately selfish; altruism is an illusion; ostensible good deeds have hidden selfish motives; human beings try to maximize their self interest/utility; thinkers such as Thomas Hobbes, Adam Smith and Mandeville are proponents of this)

- However, there is no empirical evidence for this; too simplistic and over-generalization

- *Second view* is that although human beings are capable of being ethical, it is difficult to pursue moral goals due to following reasons:

- **Ethical relativism:** There are no universal/objective ethical standards; it has two components – moral relativism (moral judgements differs from individual to individual; right and wrong is a matter of personal opinion) and cultural relativism (diff societies/cultures have their own ethical norms)

- **Determinism and free will:** Human beings are not autonomous/free agents; they do not have free will; the decisions and actions of humans are determined by external forces and hence they cannot be held accountable for their actions

- **Accountability of moral agents:** The morality or the rightness/wrongness of any action is determined by three elements – existence of free will or voluntary/involuntary nature of action (doing something when one is being blackmailed), the purpose of action (the intent/mens rea; lying

to save one's life) and the circumstances of action (the situation, time, place etc; injuring someone in self defence); human beings are responsible for their actions when they act out of their free will, with the knowledge of what they are doing and with the intent of performing the action (Juvenile crimes)

2. Normative ethics:

- It is the branch of ethical philosophy that examines how one should act

- It investigates the standards and principles to assess the rightness/wrongness or goodness/badness of actions

- It entails different ethical theories and principles that help us to assess the goodness/badness or rightness/wrongness of thoughts, behaviour and actions; they guide us to make right decisions in cases of ethical dilemmas

- Knowledge of normative ethical theories *neither necessary nor sufficient for ethical conduct*; however, normative theories have the same relation with ethical decision making that the study of grammar has with the ability to speak a language

- Knowledge of normative ethics facilitates the process of 'Ethical/Moral Reasoning'

Ethical/moral reasoning

- Ethical/moral reasoning is the process by which an individual tries to do the right thing when being faced with an ethical dilemma

- It has 4 components-

1. Moral sensitivity: the ability to see an ethical dilemma

2. Moral judgement: the ability to reason correctly about what ought to be done in a specific situation; *use of normative ethical theories*

3. Moral choice: choosing the best option and accepting moral responsibility for the outcome

4. Moral character: courageous persistence in spite of temptation to take the easy way out; difference between knowledge and wisdom; *in the Mahabharat, Duryodhan tells Krishna – "I know Dharma but it fails to inspire me; I know Adharma, but I fail to withdraw from it."*

Prima Facie Principles and Ethical Dilemmas

- *Prima facie principles:* These are obligations (universal accepted virtues and principles) of moral agents under normal circumstances i.e. these principles should generally be followed by all moral

agents under normal circumstances unless there is concrete and convincing justification for not adhering to the same: honesty, truthfulness, non-violence, beneficence, non-maleficence

- **Ethical dilemmas:** Ethical dilemmas are conflicts between prima facie principles; right v/s right dilemma

- How to solve Ethical Dilemmas?

    - Moral/ethical intuition

    - Using normative ethical theories

Normative Ethical Theories

1. Teleological theory/Consequentialism

The moral worth of an action is determined by the consequences of an action

Common forms of Consequentialism are:

1.1 Ethical Egoism: The moral worth of an action is determined by the consequences of an action to oneself; it assumes that human beings are always motivated by self interest; they intrinsically are utility maximizers and indulge in self aggrandizing behavior; rational agents; hence, all the actions/decisions taken in one's *enlightened self interest* are morally permissible; altruism is an illusion

An egoist might not be greedy or selfish in an obvious sense; for instance, they might be polite and friendly, even happy to help others. However, their motive will always be their own gain (to get help from others)

What distinguishes an ethical egoist from other consequentialists is that egoists measure only consequences to themselves, i.e. their own self interest, and not consequences to anyone else

There are two problems with ethical egoism:

1. There is no empirical evidence to generalize that all moral agents are motivated by self interest and there are no altruistic or selfless acts; cynical view of human motivation and behaviour; selfless acts of many such as soldiers sacrificing their lives for the country, parents making sacrifices for children etc

2. Ethical egoist might not be able to differentiate between self interest and 'enlightened' self interest; this problem may be stated in terms of short-term versus long-term consequences or the difficulty in knowing what is good for oneself

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1.2. Utilitarianism

- The moral worth of an action is determined by the *overall* outcomes or consequences of an action

- Ends justify the means

- Achieving greatest good for the greatest number of people

- The interest of all the individuals/stakeholders affected by the action/decision is given equal weightage

- Jeremy Benthem and John Stuart Mill

Act Utilitarianism and Rule Utilitarianism

Rule Utilitarianism

- It aims at producing the greatest good for the greatest number of people; maximize the balance of good over evil or minimize the balance of evil over good

- However, it broadens the focus of moral deliberation and ethical discussion considerably when compared to act utilitarianism by asking two questions:

1. What are the long term consequences of the action/decision?

2. What will happen if everybody as a rule start acting in a similar way?

- Unlike act utilitarianism, rule utilitarianism cannot be used to justify stealing, cheating, shoplifting, violence etc on the pretext that it benefits large number of people in the short run.

Problems with Consequentialism are:

- How to determine the consequences/outcomes of one's actions? If the action does not produce greatest good for the greatest number, should the moral agent be blamed? How do we measure utility/good? (Nehru-Mahalanobis model)

- In theory, the moral agent should give equal weightage to the interest of all stakeholders but in practice, the moral agent might try to maximize its self interest in the garb of producing greatest good; so, on a slippery slope, utilitarianism might degenerate into ethical egoism (USA foreign policy and R2P; conduct of politicians and bureaucrats - functioning of PSUs; control over police and administration; non implementation of 73rd and 74th amendment)

- It propounds that **ends justify the means** and ignores that some acts are right or wrong in themselves regardless of consequences

2. Deontology

- Moral worth of an action is determined by the nature of the action itself and not the consequences of the action. Certain types of action are right/wrong regardless of their outcomes

- Duty/rule based ethics; ends do not justify means

- Deontology believes that decisions should be taken on the basis of **disinterested will of the person** following rationality and duty, whatever the cost or consequences may turn out to be

- Immanuel Kant and John Rawls provide two of the most important versions of deontology

2.1. Kant's Categorical imperative

Categorical imperative means absolute, unambiguous and unconditional obligation to follow one's duty irrespective of consequences; if we concern ourselves with outcomes, we are often misled and tempted to act for our own benefit

Two principles of Categorical Imperative:

- *"Act on the maxim that you can will to be a universal law." i.e. what are you willing to make a rule for anyone in a similar situation?* (similar to rule utilitarianism)

- *"The respect principle" or "end in itself" principle i.e. treat humanity, whether in yourself or others, always as an end and never as a means only i.e. human beings should be treated with dignity and autonomy*

Criticism/Issues

1. Totally neglecting the consequences/outcomes might not be either feasible or desirable in many situations; Durga Shakti Nagpal case

2. It suffers from moral fundamentalism/absolutism; he oversimplifies moral dilemmas and does not take into account situations involving conflict between prima facie principles; non-violence and nationalism

3. By basing his entire theory on disinterested will based on rationality/reason, logic, principle and duty, Kant seems neglect or even undermine extra-rational factors such as cultural context, traditions and customs, emotions etc; it converts dynamic human beings into static machines taking decisions just on the basis of reason

2.2. Rawlsian Theory of Justice as Fairness

- *Veil of ignorance/original position:* Rawls suggests that we must imagine a situation where a group of persons are gathered together to formulate fundamental principles for their living together (the original position). These persons do not have key information about themselves such as their gender, age, race, ability or disability, preferences, and plans of life (veil of ignorance). So, they all must anticipate the possibility that they will be the least advantaged in society and frame rules accordingly. Rawls considers these principles to be:

    - *Political justice: All citizens should have the right to elect, get elected and enjoy equal civil liberties*

    - *Economic justice: minimization of economic inequalities*

    - *Social justice: equality of opportunity for all irrespective of social status at the time of birth*

- This theory deals with larger political and socio-economic philosophy that the state should follow and is not interested in personal decision-making.

- Link it to our constitutional and preambular values, mandate of DPSPs, welfare state, inclusive development, equity and redistributive justice

3. Contractarianism/Contractualism

- It is derived from the '*Social Contract Political Theory' of Thomas Hobbes*

- Such tacit voluntary agreements exist in other social relationships as well such between friends, between spouses, parents and children, between doctors and patients etc.

- There are mutual and reasonable expectations in social relationships. And when these expectations are not met, we not only feel aggrieved but also feel that the person has violated his/her moral duty towards us.

- Application of Contractarianism in cheating in examinations (student who is teaching, other students, teachers, school/college, employer, society at large)

- **Social contractarianism** is based on the principle of reciprocity; *do not do unto others what you would not like other to do unto you*

4. Human Excellence Theory/Virtue Ethics

- It focuses on character of moral agent as a driving force for ethical behavior, rather than rules/duty/categorical imperative (deontology) or consequences of the action (teleology)

- According to this theory, objective of human beings is to achieve excellence in life and to develop as fully actualized entities; for this to happen, human beings should follow certain virtues such as justice, temperance, courage, patience, tolerance, integrity, honesty etc

- Plato described 4 cardinal virtues in 'The Republic':

  - Prudence

  - Justice

  - Temperance

  - Courage

- Aristotle: He categorized virtues as moral and intellectual (wisdom)

- Aristotle argued that each of the virtues is a mean (Doctrine of Golden Mean) between two vices

- Similarities with Buddhist and Chinese philosophy

- Aristotle did not confine the scope of being virtuous to an individual in isolation; he urged people to be good citizens too; he understood human beings to be "social animals" who could only flourish and find their individual fulfillment in community; human excellence theory tends to emphasize the role of the community in shaping our virtues i.e. we can only be excellent human beings in community; moral virtues such as prudence, temperance, justice etc have to be learned and developed; hence, role models are very important; one of the natural ways to learn virtues is by emulating other virtuous individuals

- **Criticism:** Different cultures emphasize on different virtues; we do not have universal virtues; what about moral dilemmas when there is conflict between different virtues

- **Consequentialism, deontology and virtue ethics:** *A consequentialist may argue that lying is wrong because of the negative consequences produced by lying; a deontologist might argue that lying is always wrong, regardless of any potential "good" that might come from lying. A virtue ethicist, however, would focus less on lying in any particular instance and instead consider what a decision to tell a lie or not tell a lie said about one's character and moral behavior.*

5. Other ethical theories

Religious ethics: Teachings of different religions

Care ethics:

- It is a contemporary ethical theory that believes that caring is an ethical ideal; care ethics goes beyond the principles of rationality and justice to determine right and wrong, but focuses on extra-rational factors such as feelings, emotions etc

- Care ethics is considered to be a feminine ethics as it has been developed mostly by feminist philosophers; it believes that men and women make decisions about right and wrong based on different value systems; males see ethics as being about principles and justice whereas females see ethics as being about love, compassion, empathy, trust and caring

- In 2000, Deborah Stone called for a national movement in the U.S. to draw attention to the need for social programmes of care such as universal health care, pre-school education, care for elderly and disabled etc

- *Applications of care ethics beyond personal relationships:* In any answer, as part of ethical dimension, you can quote care ethics to justify various programmes for underprivileged sections of the society for inclusive development; programmes for women, health care, SC/ST, minorities etc; importance of care ethics for administrators; compassion and empathy

So, which ethical theory should one follow in cases of ethical dilemmas?

Ethical pluralism

Utilitarianism is too flexible and prone to misuse; deontology is too rigid and absolute; conflict between virtues in virtue ethics; we cannot have a single theory that will fit in all situations; more flexible, multitheoretic approach; all these theories are at best rules of thumb

Applied Ethics

- Environmental ethics: Balance between development and environment; ethics of climate change

- Bio-ethics: Abortion (pro-life v/s pro choice), Euthanasia (Slippery slope argument), Embryonic Stem Cell Research

- Social Ethics (LGBT, Prostitution, betting, prohibition, juvenile justice act)

- Ethics of death penalty

Consequences of ethics in human life

- **Acts of double effects:** Some actions have double effects – good and bad

- How to decide the morality of such actions?

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- Principles to be followed to decide the morality of acts of double effects-

    - The action that produces the two effects must be either good or indifferent i.e. it should not be intrinsically wrong

    - The intention/purpose of action must be good

    - There must be a proportionately good reason or cause for performing an action in the first place

    - The good effect must not be obtained through evil effect

- Example: A pregnant woman about to deliver, whose physician has diagnosed serious medical complications. It may not be possible to save both the lives. Whether to kill the mother to save the baby or kill the baby to save the mother? The physician decides to save mother's life and in the process foetus dies.

- Drone attacks?

Questions

1. Some people feel that values keep changing with time and situation, while others strongly believe that there are certain universal and eternal human values. Give your perception in this regard with due justification. (2013)

2. Distinguish between

(a) Ethical management and management of ethics

(b) Discrimination and preferential treatment

(c) Law and ethics (2014)

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Human Values

Introduction

- The concept of values is as old as the human civilization; even primitive man who had no notion of living in a community had to face situations when he had to choose between two alternative courses of action and in this he/she was guided by a sense of value, by a sense of what is good and what is bad

- However, as civilization has advanced, the ethical dilemmas have become more complex and pressing

- **Ethical relativism and ethical absolutism (universalism):** While different cultures and societies have their own value system, there is a general consensus that there are certain values which have spatial and temporal universality (honesty, integrity, truthfulness, beneficence, brotherhood, empathy, compassion etc)

Classification of values

Values	Attributes
Individual /moral values	Honesty, integrity, fairness, courage of conviction, temperance, prudence etc
Social values	Humanity, equity, concern for the marginalized, compassion, empathy, tolerance, brotherhood and fraternity
Economic values	Economy, efficiency, effectiveness, profitability, fiscal prudence, GDP
Political values	Democracy, justice, liberty, rule of law, civil liberties, FRs, FDs, decentralization and devolution
Governance/ administrative values	Weberian values v/s NPA values; change orientation, outcome orientation, citizen centricity, transparency, accountability
Environmental values	Sustainable development, concern for the environment, compassion for animals
Professional/ organizational values	Public sector and private sector values

Q- Social values are more important than economic values. Discuss the above statement in the context of inclusive growth of a nation.

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Importance of values

- Human values constitute the essence of humanism

- Required for holistic development of an individual and for the survival of society; societies and civilizations fall with erosion of values (Vedic civilization, Roman empire, Mughal empire, Arab Spring; case of Japan)

- Values are like an anchor in a ship: when a storm comes, the ship is not swept away by strong currents and remains anchored to the shore. Similarly, a person with strong values and character sticks to his principles and is not swept away due to success or crisis (*'Samatva Buddhi'* in Bhagvad Gita)

How do you view the role of values in public life?

- Vivekananda: *'Value to me is in terms of service to other human beings. Success, therefore, is living a life of value to others' (Daridra Narayan)*

Joy of giving: *"Anyone who lives for himself shall not be remembered by the world and anyone who lives for others shall not be forgotten by the world."*

Are we facing a crisis of values?

2015 Essay: Crisis faced in India – Moral or Economic?

1. Spatial dimension-

- The problem of decline of values is not restricted to one or few societies. It has become a global problem.

- Gun violence in USA, authoritarian/oppressive regimes in West Asia, Pakistan, North Korea, Russia etc, terrorism, educated youth joining ISIS etc

2. Socio-cultural dimension: Increasing intolerance, right wing fundamentalism, cow vigilantism and Gau Rakshaks, parochialism; decline of all social institutions; family, marriage etc

3. Economic dimension: Global economic crisis, crisis in capitalism, crony capitalism, corporate misdemeanours

4. Political dimension: Decline in the quality of political leaders, criminalization of politics and politicization of crime, use of black money in elections, scams and scandals

5. Governance/administrative dimension: Corruption, red tapism, lack of transparency, accountability and citizen centricity, over-centralization of power, self preservation and self aggrandizement

6. Environmental dimension: Disregard for sustainable development

7. Law and order dimension: Increasing crime rates, especially against marginalized and vulnerable sections of the society

8. Crisis of values in institutions such as the **media, civil society, judiciary etc**

   We have made tremendous progress in all material realms of life (economic, technological etc) but spiritually and ethically, we are regressing

"Ours is a world of nuclear giants and ethical infants. We know more about war than about peace, more about killing than living. We have grasped the mystery of atom and rejected the sermon on the mount." *(General Omar Bradley)*

Braun (developer of rockets during World War II) : "If the world's ethical standards fail to rise with the advance of our technological revolution, we shall perish".

Sources/determinants of ethical guidance/values/attitude

Factors affecting ethics/values at micro level

- Conscience (Voice of Conscience and Crisis of Conscience)

- Cognitive development of an individual (Individuals cannot make sound moral judgements until they achieve a certain level of cognitive maturity)

- Impact of family and friends (parents, grandparents, siblings, relatives, friends, peers, social interactions etc)

- Individual life experiences

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- Educational institutions

- Ethical awareness and ability to apply the same: Knowledge about different ethical theories (utilitarianism, deontology, virtue ethics etc), impact of lives and teachings of great leaders, philosophers, reformers etc

Kohlberg's theory of development of morality

- **Level 1: pre conventional morality** - common among children (generally nine years or younger); children don't have a personal code of morality; instead, their thoughts, behaviour and actions are determined by incentive/reward for obedience and disincentive/punishment for disobedience

- **Level 2: conventional morality (most adolescents and adults) –** following social norms, maintaining social order, following one's duty and respecting authority, maintaining good inter-personal relationship; authority is internalized but not questioned

- **Level 3: post conventional morality** (10–15% of adults, not before mid-30s) – people begin to question existing order, belief system, rules and regulations etc; people at this stage have developed their own set of moral guidelines which may or may not fit the law

Conscience

- What is conscience? - Conscience is a uniquely human ability to distinguish between right and wrong, good and evil and proper and improper

- Conscience can be seen as the guardian of morality, justice and decency

Theories on conscience:

- The ***conventional intuitional theory*** believes in the idea of ***'moral sense'*** i.e. conscience is innate and human beings are supposed to immediately sense/intuit right and wrong acts; examples: some are compulsive liars while others do not lie under any circumstances; some are inherently trustworthy while others can never be relied upon

You are born with a conscience which cannot change

- ***The theory of 'moral reason'*** believes that conscience does not give us infallible knowledge of right and wrong but general principles and then human reason has to be applied to apply these principles in particular situations *(conscience is subject to reason)*

- ***The modern theory*** denies the notion that we have an immediate and underived 'sense' of right and wrong; it denies the notion that conscience is a special, innate faculty; it believes that our conscience/judgement of right and wrong is a product of individual experiences and social

evolution; to some extent, conscience is innate, however, it can be nurtured, inculcated and acquired; influenced by external environment such as family and teachers, life experiences, knowledge about different ethical theories, thinkers and reformers etc **Conscience and civil services:** Psychological research shows that at about the age of nine-ten the child develops an inner moral sense and at the end of adolescence, the child begins to develop a genuine conscience; once developed, conscience is hard to change; it is for this reason that recruitment in civil services should be done at an early age so that an individual's personality/conscience can be moulded and foundational values of civil services can be imparted

1. What do you understand by the term 'voice of conscience'? How do you prepare yourself to heed to the voice of conscience?

2. What do you mean by 'crisis of conscience'? Narrate one incident in your life when you were faced with such a crisis and how you resolved the same.

Role of Family

• Parents act as primary role models and family is the first school; a child's mind is like soft clay and is moulded as per the influence of family (and teachers); as impressionable beings, children pick up the mannerisms and values of their parents, siblings, relatives and friends

• In the initial phase of cognitive development (foundation phase or pre-conventional morality phase), a child's thought, behaviour and actions influenced by family; in this phase, conscience is not yet developed; children do not understand morality; the moral values of young children are based on obedience; they obey rules to avoid punishment; towards the end of the foundation phase, the learner develops a conscience which is a moral awareness by which he distinguishes between the morally right and the morally wrong; after developing a conscience the child uses it as a guideline for his thought, behaviour and actions

Examples:

• *Moral values:* Values of honesty and integrity; if parents lie, child learns to lie; if parents give bribe to a public official, child also learns the same; if parents jump red light, child also learns the same

• *Social values:* If parents litter in public place (civic sense), child learns the same; if family members or friends do not respect women, if parents discriminate against the girl child, male child also learns the same and develops a patriarchal mindset (ideas about gender and gender roles); if parents do not respect people from certain caste or religion, child also develops an intolerant attitude

• *Political values:* Caste based voting; if a child is raised in an authoritarian manner, he shows less concern for democratic values

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Conclusion: Family plays an important role in inculcation of *moral, social and political values* of children; inculcating basic values of honesty, integrity, patience, resilience, tolerance, care, truthfulness, generosity etc (moral); respect for women and marginalized sections of the society (social), respect for environment (environmental), role of family critical in achieving the objectives of ethical, inclusive and sustainable development

Support/training programmes should be made available to parents to assist them in the moral education of their children (social contract between schools and parents in UK)

Examples of role of family in inculcating values

- **Baba Amte:** When Baba was about 6 years old, his mother gave him a Japanese toy. It had a human figure set on a wooden base. The figure was fitted on a spring such that when one pushed it down flat on the base, it shot back to its original position. Boy Amte found that amusing. His mother sat him down and told him that the toy has an important message for him. She explained, "In life, we shall have setbacks and pitfalls but one should not be overwhelmed by them. Instead we should have courage and patience and try to stand back as quickly as possible, like this toy."

- **Dr. A P J Abdul Kalam:** During his childhood, in the absence of his father, Kalam accepted a costly gift by a visitor who had to come to meet his father. When his father returned and saw the costly gift, he initially became angry and later advised him affectionately not to accept gifts without his permission. He told him that a gift is generally an indication of an ulterior motive on part of the giver. It is like touching a snake and getting poison in return.

Examples from your own life

- **Individual life experiences:** If a person has lived a life of poverty, he/she values money more than others; if a child belongs to a dysfunctional family, he/she might not believe in the institution of marriage; if an individual has been betrayed by a friend, she might lose faith in friendship

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Importance of educational institutions

Peers and fellow students	Teachers	Curriculum and pedagogy
• Development of moral values: honesty, integrity, courage etc • Development of social values: attitude towards gender, environment, marginalized sections etc; responsible citizens; social service programmes (NSS) • School/college as a melting pot; unity in diversity; brotherhood and fraternity • Team building and leadership skills: Group activities and sports	• Ethical watchdog • Role model • Friend, philosopher and guide • Not just transmitting information but developing capabilities and character • Need to go back towards the Gurukul system (Guru-Shishya tradition)	• Focus not just on cognitive development but moral and spiritual development • Student friendly and application oriented • Life skills and vocational training (CBSE is teaching students to open bank accounts and manage their finances independently; make them aware regarding investment plans; life skills; yoga and meditation in Madhya Pradesh schools)

Dimensions of importance of education

- **Cognitive development:** knowledge, information etc; development of scientific temper, rationality, spirit of enquiry, empiricism, humanism etc

- **Holistic personality development** of an individual through sports, life skills, vocational training, leadership skills, team building etc

- **Moral development:** value based education, virtues such as honesty, integrity, compassion, punctuality etc

- **Shaping social cultural values/attitude**, especially relevant in a diverse country such as ours; awareness and appreciation of our rich cultural heritage; celebration of our diversity; shaping right attitude towards people from different religion, caste, community, economic background etc; attitude/respect towards women; respect for elders and parents

- **Shaping political attitude:** awareness of diff political systems; value of democracy; diff kinds of political cultures; FRs and FDs, constitutional and preambular values, respect for laws; attitude towards corruption; ideas of nationalism and patriotism (ask not what the country can give to you but what you can give to the country)

- **Shaping environmental attitude:** cleanliness, environmental conservation and sustainable development

Weaknesses in our education system

- *Ignoring values:* The educational system has over-emphasized the development of the mind neglecting the soul and spirit. Modern education and training has failed to produce citizens of character and integrity; the present day educational system has ignored character building altogether

- *Ignoring holistic development:* It lays greater emphasis on rote learning based examination system and grades/marks. Holistic personality development of individuals, including development of values, does not find any place in the curriculum at any stage of education; life skills are not taught; idea of holistic competence ignored

- Availability, accessibility, quality and equity

Reforms needed in our education system

- Various committees and commissions in pre-independence period: Committee on basic national education under Zakir Hussain

- *Dr. Radhakrishnan Committee* (1948-49); made significant recommendations on spiritual and moral education; inclusion of the lives and teachings of the great leaders and their philosophies

- *Kothari committee* in 1966: value based education

- *Ramamurthy Commission report* in 1990: inculcation of understanding and appreciation of India's diverse cultural heritage and socio-cultural ethos and developing respect for different religions, languages and culture; developing a sense of nationalism and patriotism; focusing on Indian contribution to world civilization in areas like mathematics, sciences, medicine, trade, architecture, sculpture etc to develop a sense of belongingness to the nation; developing scientific temper that would provide rationality; value based approach must form the backbone of educational system and also part of teachers training programme

- **National education policy** (1986; 2017)

Views of different thinkers

- Plato emphasized that educational effort should aim at the promotion of virtue.

- Mahatma Gandhi emphasized on moral education and said that, "If we succeed in building character of the individual, society will take care of itself. Education is thus the awakening of the soul".

ETHICS CLASS NOTES

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- According to Bertrand Russel as well as Vivekananda, the chief aim of education is the "formation of character" so that an individual becomes a responsible citizen and a good human being; Vivekananda said, "excess of knowledge and power without holiness makes human beings devils"

- UNESCO, in the preamble of its constitution, refers to education not only as a means to acquire cognitive capital, but also the ability to live together; education must nurture a set of values such as truthfulness, non violence, honesty, compassion and prepare a ground for the integration between science and spirituality

   Mere academic knowledge without deep rooting of moral and spiritual values would result in the development of lopsided personalities who may become rich in personal possessions but would remain poor in self understanding, peace and social concerns.

Determinants of ethics at meso level

- Professional ethics

- Organizational code of conduct

Determinants of values/ethics at macro level (role of society in inculcating values, morals, ethics etc):

- **Social-cultural-religious factors** such as caste based or religion based groups; religious philosophy and texts **influence social ethics/attitude**; socio-cultural norms; *cultural relativism* - western society based on individualism, achievement norms, oriental based on collectivism, ascriptive values; certain tribes promote animal sacrifice while others respect all forms of life; certain cultures do not give importance to civil liberties, women's rights (Saudi Arabia, Iran, China, Russia, North Korea) while others do; ethical relativism and moral conventionalism

- **Political factors** such as nature of political system (democracy, dictatorship), political culture (4 kinds of political culture), constitution (preamble, DPSPs, FDs guide the behaviour and actions of civil servants; constitutional conditioning), laws, rules and regulations determine your political attitude

- **Economic system** (capitalism based on individualistic culture while socialism/communism based on collective culture)

Can ethics/values be taught?

- *Newton's first law of motion:* An object at rest will remain at rest unless acted upon by an external force. Ethics/values act much the same way. We are born with a basic sense of values/conscience/ethical orientation; however, these values/conscience can be nurtured by

external factors such as family, educational institutions, knowledge of different ethical theories etc and most importantly by continuous practice through the process of ethical reasoning

Questions

1. Our attitude towards life, work, other people and society are generally shaped unconsciously by the family and social surroundings in which we grow up. Some of these unconsciously acquired attitudes and values are often undesirable in the citizens of a modern, democratic and egalitarian society.

(a) Discuss such undesirable values prevalent in today's educated Indians.

(b) How can such undesirable values be changed and public service values be cultivated in aspiring and serving civil servants? (2016)

2. "If a country is to be corruption free and become a nation of beautiful minds, I strongly feel there are three key societal members who can make a difference. they are father, the mother and the teacher." – A. P. J. Abdul Kalam. Analyse. (2017)

3. The crisis of ethical values in modern times is traced to a narrow perception of the good life. Discuss. (2017)

4. Without commonly shared and widely entrenched moral values and obligations, neither the law, nor democratic government, nor even the market economy will function properly. What do you understand by this statement? Explain with illustration in the contemporary times. (2017)

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Lessons from the lives and teachings of great thinkers, philosophers, reformers and administrators

- Throughout the history of mankind, there have been large number of great personalities in different walks of life who have inspired and motivated us

I. Thinkers/philosophers/reformers/administrators → Their teachings and values

II. Values/attributes → Examples from the lives of thinkers/philosophers/reformers/administrators

III. Values/attributes→ Examples from your own life

Thinkers/philosophers/reformers/ administrators

- **Plato**

- **Aristotle**

- **Kautilya**

- **Ashok**

- **Akbar**

- **Gandhi**

Plato's ethical theory of justice

Focus: "What is good life?"; " How we ought to live?"

A good life is a life of virtue

He described four fundamental cardinal virtues:

- **Courage:** Resilience, strength of character, grit, determination and endurance; doesn't mean being fearless but to overcome fear; defiance despite all odds

- **Justice:** knowing and doing the right thing; being fair; caring for the less fortunate and being egalitarian

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- **Temperance:** moderation, not to get seduced by temptation (there is enough for everyone's need but not for greed)

- **Wisdom:** Prudence, judgement about people, things and issues

- Finding the nature of good life is an intellectual task, very similar to the discovery of mathematical truths i.e. to lead a good life, people must acquire certain kinds of knowledge in various disciplines

- Development of intellectual capacity and moral capacity

- **Ethical absolutist:** There is one and only one good life for all to lead (following the cardinal virtues); there is no subjectivity in moral principles; morality is not a matter of personal opinion

Aristotle

- He adopted a scientific and empirical approach to ethical issues (observing the behavior of people)

What is a good life?

- For him, a good life is a "life of happiness"

What does happiness mean?

- ***Nicomachean ethics:*** "Happiness is an activity of the soul in accord with perfect virtue"

- Happiness is not static; it is not a goal; it is something that is derived from the journey; it is a way of doing things by following virtues; example - being courageous and refusing to be defeated by circumstances

How we ought to live life?

- "We ought to live life so as to achieve happiness"

- "We shall be happy by following the doctrine of golden mean."

- **Golden mean:** Avoiding extremes; living a life of moderation; virtue as a mean between two vices: courage as the mean between cowardice and recklessness; pride as the mean between vanity and humility

- Aristole also teaches us to be emotionally competent; anger management - *"Anyone can become angry – that is very easy. But to be angry with the right person, to the right degree, at the right time, for the right purpose and in the right way – this is not easy"*

Differences vis-à-vis Plato:

- Aristotle, unlike Plato, is not an ethical absolutist; the golden mean is to be arrived at by experimentation and trial and error (eating right is the mean between eat too little and eating too much)

- Since, the 'golden mean' would be different would be different for different people, there are many ways to be happy and lead a good life

- Secondly, Aristotle, does not believe that intellectual capacity/knowledge of good will necessarily lead to virtuous behaviour; knowledge might not transform into action due to moral weakness or lack of self control; self discipline needed

- **Aristotle and ethics in public life:** Aristotle in 350 BC in 'The Politics' emphasized that to protect treasury from frauds, all the accounts should be made public and money should be issued openly in front of the entire city

Kautilya

- **Arthashastra:** Treatise on governance and statecraft

- Not a theoretical or philosophical work; deals with real-politik than moral-politik; context: absolute monarchy; king has divine status

- **Doctrine of seven prakritis:** Swamin (King), Amatyas (Ministers/officials), Janapada (territory), Durga (fortified capital), Kosha (treasury), Danda (army) and Mitr (ally/friend)

- Functions of the king: Rakshana, Labha, Yogakshama, admn. functions etc

- **Yogakshama:** It is a broad term implying the idea of welfare, prosperity and happiness of the subject; one area where Arthashastra leaps ahead of its times is in propounding the idea of a welfare state; the text asserts, *"in the happiness of his subject, lies the happiness of the king, in their welfare, his welfare; whatever pleases himself, he does not consider as good but whatever pleases his subject, he considers as good"*

- The king carried out various welfare activities such as building of bridges and irrigational works, taking care of the minors, women, elderly and the distressed, looking after people who have been struck by calamity, "as a father protects his sons", ensuring the sale of commodities in such as way so as to benefit the subject etc; the subject views the king like a paternalistic figure

Arthashastra and ethics:

- Arthashastra mentions a variety of corrupt practices and how the king can deal with these

- "Just as it is impossible not to taste the honey at tip of the tongue, so it is impossible for a govt. servant not to eat up, at least, a bit of king's revenue. Just as it is not possible to know if the fish moving under water is drinking water or not, so it is not possible to find out if the govt servants are taking money for themselves."

- Kautilya describes forty ways of embezzlement

- *Zero tolerance attitude:* Use of danda/coercive power to punish those who indulge in corrupt activities and incentivize those who do their work honestly

Evaluation of Arthashastra

Plato's and Aristotle's idealism is in sharp contrast with Kautilya's realism. Discuss.

- Arthashastra shifted attention from political philosophy, which was the favourite arena of Greek thinkers such as Aristotle and Plato, to political science; Kautilya kept the moral angle aside and explained how a state ought to be ruled

- In modern times, many of the ideas espoused by Kautilya pertaining to violence, conspiracy theories, black magic etc would be considered to be objectionable; to that extent, many would argue that it would be embarrassing to put forth Arthashastra as the symbol of Indian political thought with what Greece has to offer by way of Plato's 'Republic' and Aristotle's 'Politics'

- But the fact is that Kautilya is recommending such measures only against traitors and enemies in emergencies

- Kautilya, like Machiavelli, present their ideas on the basis of realpolitik; they believe that *politics and ethics do not mix easily*; this does not mean they disregarded ethics or morality but they just made a distinction between individual and public morality

- The fault of Kautilya, like Machiavelli, lies in saying things unabashedly which have always been followed by states everywhere

Ashok

- **Secular, tolerant and non sectarian**; followed a policy of religious tolerance; himself a Buddhist, he ensured peaceful co-existence of different religions/sects such as Buddhism, Jainism, Brahamanism, Ajivika etc

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- **Dhamma:** It stands for duties, obligation and righteousness; it entailed general norms of social and ethical behaviour; Ashoka used his edicts (official proclamation/order) to propound and spread the concept of dhamma such as doing good to others, generosity, compassion, truthfulness etc

- **Non violence:** After the Kalinga war, he adopted non violence as a state policy

- **Compassion:** He showed great concern for prisoners and gave them amnesty on many occasions; he also had great respect for animal life and banned animal slaughter

- **Welfare state:** Provided medicinal treatments, roadside facilities for comfortable travel; 'officers of faith' were established to survey the welfare of population and establishment and promotion of dhamma; he averred, "whether I am dining or I am in my bedroom, or carriage or palace gardens, the official reports shd keep me constantly informed of people's business

Akbar

- **Secular**; tolerance for different religions; fostered communal harmony between Hindus and Muslims; practiced Hindu customs and celebrated Hindu festivals such as Diwali

- He propounded a syncretic religion/religious movement called *'Din-i-Ilahi'* to merge the best elements from different religions (Islam, Hinduism, Christianity etc); it was based on the concept of Sulh-e-Kul meaning universal peace

- Din-i-Ilahi was not just a religious movement but it also prescribed norms for ethical living such as kindness, temperance, prudence, purity of soul, prohibition of lust, animal slaughter etc

- He established Ibadat Khana (House of Worship) to hold spiritual and religious discussions with intellectuals and mystics of different religions

Mahatma Gandhi

Are Gandhian values relevant in present times? Explain.

Given the crisis of values that we are facing today, Gandhian values are more relevant today, than at anytime in the history

Individual level:

1. **Truthfulness:** "Truth is more powerful than any weapon of mass   destruction"

- All actions of Gandhiji were guided by truth; he adopted truth as a creed and till his last sigh, remained an ardent follower

- The entire freedom struggle was based on the idea of 'Satyagraha'

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2. Non violence: It not only means non killing or non injury but liberation from violent/malevolent thoughts and other negative emotions such as jealousy, hatred, ego etc

3. Punctuality: *"What a fool we shall call a person who, needing ten pounds does not care of the few shillings he regularly gets! Nevertheless, we behave just like him. We regret that we do not get time and yet we idle away the stray minutes, which put together would make a whole day, just as the stray shillings make a bank note."*

4. Courage of conviction: He believed that when fighting injustice, the actor must not only have the courage of his/her opinions but also be ready to give his/her life for the cause. Satyagraha implied the willingness to accept not only suffering but also death for the sake of a principle.

5. Fearlessness: Fearless in the face of violence by British

6. Continuous learning:

- Gandhiji was always keen to learn new things

- Knowledge of religion, philosophy etc; greatly inspired by Ruskin Bond's book 'unto his last'

- **My experiments with truth:** He regularly carried out experiments with diet, exercise, celibacy, principles of right conduct etc

- Self-examination accompanied by a self-transformation of society: *"Be the change that you want to see the world."*

7. Renunciation: "Detachment of the spirit from the fruits of the action"; *Karma Yoga* (Bhagvad Gita); he performed his duty without any desire for reward or appreciation

8. Equanimity: *"A public servant should not be flattered by praise or frightened by censure. He who swells with applause and droops with criticism cannot render service."* (Samatva Buddhi)

9. Humility: He never considered any work below his dignity; in one of the Congress sessions, he offered his services and was given the clerical work to sort out many letters for the General Secretary. He quietly did the work.

Institutional level:

1. Leadership and nurturance:

- *Transformational leadership:* Presenting a vision and inspiring people to follow; freedom struggle became a mass movement; ability to win the hearts and minds of people

- He had a knack of identifying the potential in a person, nurturing him/her and bringing the best out of them

- He had trust in the capabilities of his subordinates; example – he gave autonomy to Patel to lead the Bardoli satyagraha

2. Decentralization and delegation of powers

Societal level:

1. Tolerance:

- Had differences of opinion with many Congress leaders but never imposed his ideas on anyone

2. Non violence: The impact of his philosophy of non-violence in inspiring leaders of the 20th century such as Khan Abdul Ghaffar Khan, Martin Luther King Jr., Nelson Mandela and Václav Havel. As such, Gandhi has become a part of the moral conscience of humanity. His name and achievements symbolise a sense of revolt against injustice.

Success stories of Gandhian values:

1. **SEWA** (Trade union of self employed women); Gandhian values of service, continuous learning, decentralization

2. **AMUL:** Gandhian model of "Capillary Action" (bottom up development)

3. **Banasthali Vidyapeeth:** Fully residential women's university; practices Gandhian values of truth, nurturance, tolerance, self reliance and wearing of khadi; follows Panchamukhi Shiksha model (physical, practical, aesthetic, moral and intellectual)

Gandhian philosophy

Political philosophy:

- Although, he wanted the state to ensure social and economic justice and promoted the idea of a welfare state, but he did not want to make people dependent on the state; decentralization and devolution; autonomous and self sufficient village republics; production by masses and not mass production (Khadi)

- *Participatory governance:* State should share its power with CSOs to implement the constructive programme he propounded the concept of sarvodaya i.e. progress for all

Social sphere:

- His ideas on religion and secularism; although, his religious beliefs were rooted in Hinduism, he believed in religious universalism and oneness of all religion; he gave up his life for the cause of Hindu-Muslim unity; his ideas on caste; his ideas on gender

- **Economy:** He was not against capitalism or private property, but he propounded the *trusteeship theory* (capitalists should keep the surplus in a trust for the welfare of people); he did not favour economic dev based on heavy industrialization; he promoted small scale, cottage industries; MSMEs; khadi industries etc; need to revive the spirit of cooperation in agriculture – *collective farming*

Gandhiji's impact in post independence India:

- Gandhian DPSPs; banning of untouchability, 73rd and 74th amendment, promotion of cottage and village industries; India adopted Gandhian idea of secularism

Gandhiji's impact on freedom/liberty movements across the world:

- Martin Luther King Jr in USA; Nelson Mandela in South Africa; Aung San Suu Kyi in Myanmar; non violent solidarity movement in Poland which overthrew the Soviet backed communist govt in 1989; Velvet Revolution in Czechoslovakia

Values required in life (especially in public service) and relevant examples

Honesty, integrity and probity (can be used for fairness and impartiality also)

Quotes:

- Real integrity is doing the right thing, knowing that nobody's going to know, whether you did or not (Oprah Winfrey)

- Honesty is the first chapter in the book of wisdom (Thomas Jefferson)

- Integrity is not just about not doing the wrong thing. It is about doing the right thing.

- We should live such that when our children think of honesty/integrity/fairness, they think of us.

- The strength of a nation is derived from the integrity of citizens.

- John Kennedy: No responsibility of govt is more fundamental than the responsibility of maintaining the highest standards of ethical behaviour

- **Sardar Patel** (in his address to civil servants in 1947): Civil servants must maintain absolute impartiality and incorruptibility in admn; they must render their service without fear or favour and without any expectation of extraneous reward

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Sri M. Visvesvaraya:

- Engineer, scholar and statesman; he used stationery and candles given by govt for official work and bought the same himself for private work

- When he was the Diwan of Mysore state, used government vehicle while he went to tender his resignation. After tendering his resignation, he drove back by his private vehicle

- Embodiment of discipline, hard work and punctuality

- Soon after Visvesvaraya became the Diwan, one of his relatives went to him. He was a man whom MV liked and respected. He was in Government service. He wanted a higher post; that would have given him another fifty rupees a month. Visvesvaraya said 'No'. But, as long as the relative was alive, he paid him a hundred rupees every month from his pocket

Kuvempu:

- Jnanapith awardee, was once Vice-Chancellor of Mysore University. His son Poornachandra Tejaswi was studying B.A in the same university. Once, an English Professor approached Kuvempu and told him that his son had scored marks below minimum pass-mark in English Paper and asked him as to what to do. Kuvempu went through the answer script and instructed the professor to award him even lesser marks **(Impartiality).**

Lal Bahadur Shastri:

- He led a simple, austere life; simple living, high thinking; at the end of his life, all he owned was an old car which he had bought from the govt in instalments; he was so upright that he deposited money in government coffers because his sons had used his official car

Manik Sarkar:

- Former Tripura CM; epitome of honesty and integrity in public life; in an age, where the assets of those in public life increase exponentially election after election, he did not own a house, car or even a mobile phone; did not use red beaon car and washed his own clothes every morning; according to documents filed with the Election Commission, he is the poorest CM

AAP MLA Gopal Rai; signboard outside office; please don't embarrass by offering Diwali gifts

N R Narayan Murthy:

- He refused to give bribes during the LQPR period and set high ethical standards for Infosys

Examples from own life

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ETHICS CLASS NOTES

Compassion, empathy and concern for the society

- **Vivekananda:** Selflessness and compassion; 'service of man is same as service as god'; *'Daridra Narayan';* had a missionary spirit of service; founded the Ramakrishna Mission to carry out philanthropic and altruistic activities; what India needs is a new work culture that is rooted in Vivekanada's dictum, *"Your mind to god and hand to work."*

- **Gandhiji's talisman:** *"I will give you a talisman. Whenever you are in doubt, or when the self becomes too much with you, apply the following test. Recall the face of the poorest and the weakest man [woman] whom you may have seen, and ask yourself, if the step you contemplate is going to be of any use to him [her]. Will he [she] gain anything by it? Will it restore him [her] to a control over his [her] own life and destiny? In other words, will it lead to swaraj [freedom] for the hungry and spiritually starving millions?*
Then you will find your doubts and your self melt away."

- **Ishwar Chandra Vidyasagar:**

- He used to cry in distress when he saw poor and homeless people on the footpath; he used to buy medicines for them and donated the clothes which he wore

- **S. Radhakrishnan** donated Rs. 7500 out of his salary of Rs. 10000 to PM's national relief fund every month

- **Purushottam Das Tandon:** transferred his entire salary to public service fund

- **Jai Prakash Narayan:**

- Socialist; believed in our preambular values and mandate of DPSPs; he came up with the Antyodaya programme; upliftment of the last man; he said that an ideal state is the one in which every resource is spent in securing the well being of the weakest and every human is respected by all

- **Azim Premji:**

- He has donated around half of his stake in Wipro in Philanthropy as part of Giving Pledge

Mother Teresa: Founded the 'Missionaries of Charity'; orphanages, homes for people dying from HIV/AIDS, leprosy, TB etc

Baba Amte:

- Rehabilitation and empowerment of poor people suffering from leprosy

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Prakash Amte:

- Working tirelessly for the empowerment of Gond tribes in Maharashtra

- A doctor, who left his M.S to start the 'Lok Biradari Prakalp', a project for the development of tribal people in 1973; he has stayed in Gadchirolli district and worked there without electricity, telephone etc and has even performed emergency surgical procedures without electricity

- Lok Biradari hospital, Lok Biradari school and Amte's Animal Park for injured wild animals

Examples from own life

Fearlessness and patriotism

S. Manjunath and Satyendra Dubey:

Whistleblowers who laid their lives for the cause of public service; Satyendra Dubey was an IES officer working for NHAI; exposed financial irregularities and corruption in Golden Quadrilateral project in Koderma, Jharkhand; shot dead in Gaya, Bihar; Manjunath worked in IOC and launched a campaign to stop the sale of adulterated fuel; shot dead by oil mafia

Narendra Kumar:

IPS of MP cadre; crusader against illegal stone mining; in 2012, killed by the mining mafia

S H F J Manekshaw:

Important role in dealing with J&K incursion in 1948, Naga insurgency, 1971 war; 1962 war, his famous quote, *"there will be no withdrawal without written orders and these orders shall never be issued."*

Examples from own life

Makers of Modern India: Courage of conviction, commitment to public service, leadership

Vikram Sarabhai:

- Father of India's space programme

Homi Jehangir Bhabha:

- Father of India's nuclear programme

Chidambaram Subramaniam and M.S Swaminathan:

- Both were architects of India's agricultural development and Green Revolution post independence which made India self sufficient in food-grains

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ETHICS CLASS NOTES

Verghese Kurien:

- Social entrepreneur; father of White Revolution/Operation Flood; transformed India from a milk deficient country to largest milk producer in the world; proponent of cooperative movement in India; took millions of people out of poverty

A.P.J Abdul Kalam:

- Humble background to become the President of the country; because of his commitment to public service, he did not marry

- Played an instrumental role in India's satellite programme (development of SLVs); man behind India's Integrated Guided Missile Development Programme; developed, Prithvi, Agni, Trishul, Akash and Nag

- He believed that India could be a nuclear power and worked relentlessly for the same; tremendous conviction in himself and in the youth of the nation; he took his last breath interacting with young students; conviction in India's development potential - Vision 2020 for inclusive and sustainable development of India

- **Ethical organizational management:** A workaholic engineer was working in a major scientific project. Abdul Kalam sir was the project head. Children of that engineer once asked their father to take them to an exhibition in the evening. Engineer sought permission from Kalam sir to leave early and mentioned the reason as well. Kalam sir agreed. However, he got so much involved in the work that he completely forgot that he had to leave early. Kalam sir observed the engineer being engrossed in the work. So, he only took children to exhibition (Empathy towards subordinates)

Humility and humbleness:

- M S Swaminathan - whenever, he was praised for his achievements, he said that increased production is the result of famers' efforts

- Gandhiji

Faith in people's capacity:

- Gandhiji

- M S Swaminathan: Tremendous faith in the capacity of farmers to help themselves; the poor are self motivated; they just need little bit of support and guidance

- Alex Paul Menon: Institutionalising grassroots planning

Accountability:

- Lal Bahadur Shastri took moral responsibility for a railway accident in 1956 and offered his resignation

- British minister Lord Bates offered to resign from the govt. because he arrived at the Parliament few minutes late and was not able to answer a question pertaining to his ministry

Tolerance:

- **Gandhiji:** Accommodated different viewpoints within the Congress

- **Jawahar Lal Nehru:** Promoted debates and discussions and was tolerant towards opposition parties/leaders

Examples from own life

Non partisanship and cooperative political culture:

- Nehru suspending congress MP H G Mudgal in 1951 for receiving monetary benefits from a business house although he was willing to resign; such was the quality of political leadership

- Personal and ideological differences between Nehru and Patel/Rajendra Prasad/Radhakrishnan but they kept aside these differences in larger public interest; Patel's letter to Nehru

- Nehru respecting opposition leaders and engaging in discussions with them, although they were in microscopic minority

- P.V Narsimha Rao sending Vajpayee, who was an opposition leader, to hold talks with Pakistan

Administrators

V.P Menon:

- Civil Servant; played an instrumental role in partition of India and integration of princely states; constitutional adviser and political reforms commissioner to the last three viceroys of India; relationship between Patel and V.P Menon perfect example of relationship between minister and civil servant (politics-admn. coordination); mutual respect and trust

P.N Haksar:

- As Principal Secretary to Indira Gandhi (1967 to 1973); chief strategist behind his inexperienced prime minister's rise to near-absolute power in the mid-1970s; he played an instrumental role in nationalization of banks, abolition of privy purses, Bangladesh liberation war, drafting of India-Soviet

Union friendship agreement in 1971; he politely refused Padma Vibhushan when he was offered one since getting an award for public service made him uncomfortable

K Subhramanyam:

- Played an instrumental role in faming our national security doctrine; key role in setting up of IDSA - India's first and foremost defence policy think tank; key role in our nuclear and missile programme; convener of the country's first National Security Council Advisory Board by the then government in 1998; he also delcined Padma Bhushan

S R Sankaran:

- Commitment to public service, compassion, empathy: an 'ideal people's IAS officer'; devoted his entire life for the welfare of SCs and STs; worked for the poor and marginalized sections of the society; played an important role in abolition of bonded labour and introduction of SC/ST sub-plan; worked relentlessly for combating poverty and hunger; after retirement, associated with Safai Karmachaari Andolan to get rid of age old practice of manual scavenging; set aside a significant portion of his salary, and even pension after retirement, to educate Dalit children

G.R Khairnar:

- Former Dy. Commissioner of BMC; known for his uprightness and fearlessness; demolished illegal properties in spite of political resistance; was harassed and suspended; ultimately reinstated after the directions of Bombay HC

E Sreedharan:

- Commitment to public service, courage of conviction, work ethics, punctuality, discipline and hard work: India's metro man; associated with Delhi Metro and several projects in Indian railways such as development of Konkan railways; he conducted the restoration work of a bridge within 46 days, although the deadline was 6 months; such was his commitment to work

T.N Seshan and Vinod Rai:

- Courage of conviction; commitment to public service; discharge of duty without fear or favour

Alex Paul Menon:

- Courage of conviction: Institutionalising grassroots planning in tribal districts of Chattisgarh

N.Prashant:

- DM of Kozhikode; over 1 lakh followers on facebook; regularly interacts with people of the district to discuss various issues and take their feedback and suggestions; *'Compassionate Kozhikode';*

Operation Sulaimani to deal with urban hunger; distribution of food coupons to urban poor which can be used in many restaurants; some of Mr. Prasanth's other projects include Kozhipedia which is an Open Streetmap-based initiative on streets, folklore, cultural and natural heritage of Kozhikode and Operation Savirigiri - provides students using public transport 'security and dignity'

- **Ashok Khemka (irregular land deals in Haryana)**

Armstrong Pame:

- IAS officer from Manipur; he built a 100 km long road in a remote hill of Manipur without government's help; he used his own savings and turned to social networking sites to raise funds for the project and is fondly called "miracle man" by the villagers.

Raju Narayan Swamy:

- IAS officer of Kerala cadre, 1991 batch; a man of impeccable integrity and high moral standards; *fearlessness* - as DC, he raided the house of a liquor baron to recover govt money in spite of political pressure not to do so; *impartiality and objectivity* - he demolished the boundary wall of his own father in law when it was found that the wall is on public land

- **Ranjith Kumar:** DC of Gadchirolli district; spearheading skill development programme; 1300 youths have either opened their own enterprise or have found gainful employment in the formal sector; PM's award for governance

- **K. Gopinathan:** 2012 batch AGMUT cadre IAS officer; has launched a disaster mgmt app in Mizoram; Mizoram in high seismic zone; earthquake in 2014; early warning system and advisories; SMS feature in case internet is not working; dedicated Do's & Don'ts for citizens; relief material management inventory system to the app so that people can place their requirements through the app itself

- **T V Anupama:** Food Safety Commissioner in Kerala; has curbed adulteration in a big way; discharge of duty without fear or favour; she inspired people to cultivate their own vegetables in their backyard; after the success of parent campaign, state govt also started promoting it; earlier, Kerala used to import 70% of its vegetables from Karnataka and TN; now people growing 70% of vegetables

Private sector

Jamshetji Tata, JRD Tata, Ratan Tata: Role models on how business should be run in an ethical way; JRD Tata Trust

Narayan Murthy:

- Considered to be one of the pioneers of India's IT revolution

- Simple, austere living, despite being one of the richest Indians

- Leadership by example: He used to reach the office before his employees; he took a pay cut while increasing the salary of other members

- Honesty and integrity: He refused to give bribes during the LQPR period and set high ethical standards for Infosys

Civil society

- **Aruna Roy**

- **Bunker Roy Kapoor:** Barefoot College; known for skill dev of rural population as solar engineers, weavers, teachers, midwives etc

- **Anand Kumar**

- **Jai Prakash Narain:** Former IAS officer; resigned and founded a political party Jansatta; crusader of electoral reforms

Questions

1. Which moral thinker has inspired you the most? How have you inculcated his/her teachings in your personal life?

2. Is cognitive ability a necessary condition to develop moral capacity?

Indian Ethics

Lord Macaulay: *In 1835 he said, "I have travelled across the length and breadth of the country and I have not seen one person who is a beggar or a thief. Such wealth I have seen, such high moral values, people of such caliber. India's spiritual and cultural heritage is incomparable."*

- **Rigveda propounds the concept of cosmic order/Rita:** Rita meaning cosmic order that makes life possible in the universe; it includes virtues, duties, laws and right/ethical way of living; it is needed for harmony and balance in nature and in human society. Rig Veda states that private good should be subservient to the greatest good of all. '*Bahujana sukhaya bahujana hitaya'* (translates to "for the happiness of the many, for the welfare of the many") is a dictum enunciated in the Rigveda; it has been a touchstone of righteous public policy since the ancient times

- **Dharma:** The term *dharma* here does not mean mere religion; one of the moral virtues for maintaining Rita and to attain Moksha; it stands for duty, obligation and righteousness. It stands for an ethical way of life. In Buddhism, the word *dhamma* is used, which is the Pāli equivalent of the Sanskrit word *dharma;* Ashoka's edicts were a great source of teaching 'Dhamma'

- **Dharmashastras:** The guidelines and rules regarding what is considered as appropriate behaviour for human beings are prescribed in the *Dharma Śhāstras*; focus on personal ethics and ethical standards to be followed in social relationships; Manusmriti (legal text among the many Dharmashastras) talks about 'Sadachara' or good conduct and need to set an example through good conduct; virtues of dhairya (patience), kshama (forgiveness), dhama (self control), akrodha (abstention from anger), dhi (wisdom) etc

- **Upanishads:** Meta physical questions related to happiness, existence etc; focuses on the individual; atman centric and intellectualistic; liberation of the soul

Bhagvad Gita

- ***Selfless action/renunciation (niśkāma karma/karma yoga)*** is advocated; disinterested action; it is an action which is required to be performed without consideration of personal consequences. In Hinduism this doctrine is known as *karma yoga*

- *"From attachment, desire springs; from desire, wrath rises, from wrath comes infatuation; from infatuation, loss of memory and mind; and from loss of mind, man perishes."*

- **Lord Krishna talks to Arjuna in Bhagavad Gita Chapter 2, Verse 50 about** *"Yogah Karmasu Kaushalam"* **– Yoga is excellence at work. Kaushalam** signifies doing work with devotion and without attachment. A yogi never yearns for the fruits of action; be indifferent to failure and

success. This stability of mind (samatva-buddhi) is yoga. Yoga is evenness of mind in success or failure.

- **"Yogah Karmasu Kaushalam" and Civil Services:** Founding fathers of our constitution adopted 'Yogah Karmasu Kaushalam' as the motto of civil services

- **Concept of Rajarshi:** Chapter 4 of Gita talks about Rajarshi; civil servants should be like Gita's Rajarshi combining the qualities of a King and a Saint; dynamism, charisma and leadership qualities of a King and wisdom and calmness of a saint; qualities of both Krishna (king) and Arjun (saint)

- **Loksamgraha/Universal Welfare** (samgraha-keeping people together, protecting them working for their good etc): Propounded by Krishna

- Loksamgraha is social goal i.e. working for social good; we need to rise above our narrow duty towards our family, friends, relatives etc and work for universal welfare and world solidarity; Krishna says that human beings need to do their karma and set an example for others; he says that he need not work but he is still working and doing his karma to set an example for others through his actions and not just words; civil servants similarly needs to set an example for others and do their karma and work for Loksamgraha

- Gita also teaches us to cultivate positive emotions such as benevolence, generosity, love, devotion to god etc and control negative emotions such as anger, fear, envy, hatred, lust, attachment, selfishness etc; we should not have excessive attachment with our family and friends and they should be treated at par with others (objectivity and fairness)

- **Comparision with western philosophical thought:** Bhagvad Gita does not believe in Utilitarianism or Epicureanism (happiness is the end of life); it is similar to Kantianism (following one's duty without expectations)

Differences with respect to Kantianism:

- There is a constant reference to god in Gita unlike Kantianism; also, it is much more broader; it covers aspects of social welfare (Loksamgraha) while Kantianism just focuses on the individual

Indian Philosophy and Religious Ethics

Orthodox schools of Indian philosophy

Yoga: Yoga is not just about physical well being; it is much more than that; Ashatanga Yoga

- Yama: principles of ethical conduct (satya, ahimsa, asteya-non stealing, brahmacharya, aparigraha – non greediness)

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- Niyama: principles of personal conduct (shauch-cleanliness of body, speech, mind etc; santosha; swadhyaya; tapas-austerity and self discipline; ishwarpranidhana-contemplation of the ishwara)

- Asanas : adjust the body in various postures

- Pranayama : regulation of breath

- Pratyahara : internalization of the senses

- Dharana : concentration

- Dhyana : meditation

- Samadhi: the ultimate state of self realization.

Buddhist ethics:

- 5 precepts: no stealing, no killing, no lying, no sexual misconduct and no intoxicants

- 4 noble truths

- 8 fold path: DALESMOM

- Madhyama Marg: Middle path

- When Lord Buddha was asked by his disciple, Anand, to explain what true religion was, Buddha responded, *"Forget about all the dogmas and theories of religion. Just be good and do good."*

Jain ethics:

- Promotes five moral principles of non violence, non stealing, non possession (Aparigraha), non lying and celibacy (Brahmacharya)

- Anekantavada (non-absoluteness)

Hinduism: Tolerance and diversity

Islam teaches us charity and probity; **Islamic Hadith:** *"When the almighty appoints a person to a position, he takes care of his provision. If a person takes anything beyond that, it is illegal gain"*

Sikhism promotes the virtues of compassion, non-enmity and selfless service (langar/community kitchen)

Ancient Indian philosophy and religions (Hinduism, Buddhism, Jainism) emphasizes a lot on **'Samyama'** (moderation); leading a virtuous life which avoids both asceticism and hedonism; the middle path; Aristotle's golden mean; men should not seek sensual pleasures in excess but they should also not be extinguished; natural instincts should not be totally curbed but regulated

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- **Bhakti movement and Sufi movement:** Rejecting the distinctions of caste, colour and creed, these movements spread the message of human equality. The Bhakti and Sufi saints propagated the ideals of love, compassion, justice and selfless service. Sufism laid emphasis on free-thinking, liberal ideas and tolerance. These are the ethical values which we need even today.

Emotional Intelligence

Evolution of the concept of intelligence

- **Holistic competence/Intelligence**: *Intelligence Quotient + Ethical Quotient + Emotional Quotient*

Evolution of IQ:

- Initially, intelligence measured on the basis of IQ which focused on only cognitive skills (standardised tests with components such as mathematics, verbal ability, reasoning skills, pattern recognition skills, linguistic, memory etc)

- Howard Gardener then expanded the idea of intelligence and identified seven kinds of intelligence which included aspects such as art and music, intra-personal intelligence (self knowledge) and inter-personal intelligence (social skills and ability to understand other people)

Ethical intelligence

- The ability of an individual to distinguish between right and wrong, good and bad, appropriate and inappropriate and follow the universally accepted virtues such as honesty, integrity, compassion, empathy, courage of conviction, tolerance, temperance, prudence etc

- Ethical awareness and ability to apply theoretical knowledge in practical situations

- Process of ethical reasoning:

    - Moral sensitivity, moral judgement, moral choice and moral character

Emotional Intelligence

- Wayne Payne conceptualized (1985) and Daniel Goleman popularized the idea of Emotional Intelligence (1998); in the context of private sector

- EI refers to the *ability to perceive and understand emotions, reason with emotions and regulate and manage emotions of oneself and others*

- EI has two aspects-

    - Understanding oneself

    - Understanding others

Components of EI

1. Self awareness:

Knowing oneself; having a deep understanding of one's emotions, strengths, weaknesses, needs and desires; at a larger level, self aware people know what they want in life, what motivates them, where they are headed and why; self aware people admit their failures and often tell their tales with a smile; they are self confident and know their capabilities and limitations

2. Self regulation:

Biological impulses drive our emotions; we cannot do away with them but need to manage them and in fact channel them in useful ways; self regulation is like an ongoing inner conversation that frees us from being prisoners of our feelings

3. Motivation:

Personal and professional life; motivation theories; Maslow, Herzberg etc; motivated people remain optimistic even when the tide is against them; they learn from failures and convert challenges into opportunities (Baba Amte example)

4. Empathy:

   It does not mean trying to be in everyone's shoes and trying to please everybody; that would make decision making and action impossible; rather, it means to thoughtfully consider others' feelings, along with other factors, in the process of making intelligent and reasonable decisions; difference between empathy and sympathy-

- Sympathy is acknowledging the emotional hardships of others and providing comfort and assurance

- Empathy is understanding and experiencing what others are feeling and making thoughtful decisions

5. Social skills:

   Ability to interact with different stakeholders, negotiate with them, build relationships with them

Importance of EI

1. Personal life:

- Self awareness if the first step towards self actualization

- Self regulation is needed for controlling negative emotions such as anger, fear, guilt, envy etc

- "Anyone can become angry – that is very easy. But to be angry with the right person, to the right degree, at the right time, for the right purpose and in the right way – this is not easy." (Aristotle)

- Motivation: "It ain't about how hard you get hit; it's about how hard you can get hit and still keep moving forward."

- Empathy and social skills needed to manage relationships

2. Professional life/organizational management in private sector:

- EI is needed by managers as well as leaders for efficient organizational management

- Shift from classical organization management style towards behavioral management styles (Theory X and Theory Y)

- Role of EI in leadership: Leaders need to have social skills to inspire the members of the organization and to make them believe them in a vision; innumerable examples wherein intelligent, skilled individuals with technical expertise have failed as a leader while people not with extra-ordinary intellectual abilities and technical skills have been successful (Mike Brearley); Transformational leadership style needs robust EI (Gandhi, Kalam)

- Research by Goleman shows that EI is twice as important as technical and cognitive skills for jobs at all levels; EI is particularly important at highest levels of the company where differences in technical and cognitive skills are negligible

- Several private organizations have mandated EQ tests during the hiring process

EI and Governance/Administration

- *Traditional Weberian model:* No role for emotions; impersonal order, value neutrality, rationality, hierarchy, exercise of authority on the basis of domination and command; mechanistic and dehumanising; *consequences?*

- *Behavioral theories:* Emotions are a part of intelligent awareness; emotions are intelligent; emotions are what makes us human; emotions and values *enhance decision making process (complete rational decision making not possible; satisficing decisions)*

- **NPA:** Value commitment; citizen orientation, change orientation etc

Importance of EI in Governance/Administration

- Self awareness and self regulation (anger, fear): crowd control and mob violence

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ETHICS CLASS NOTES

- Motivation: Transactional factors and relational factors; difficult conditions of service (police); slow pace of work (hierarchy, resistance and risk aversion); distorted incentive structure; frequent transfers and postings (Ashok Khemka)

- Empathy: Views of Vinod Rai

  - Within the organization: Winning the heart and mind of subordinates (giving leave to someone in times of need)

  - Interaction with citizens, especially the marginalized and underprivileged sections of the society

- Social skills:

  - Relation between Auditor and Auditee

  - IAS/IPS officers: Communal situation, negotiating with community leaders

Importance of social skills continued…

- **Policy making** - Arun Jaitley – reforms need to be supplemented with clever and competent politics; understanding the emotions of different stakeholders; taking coalition partners, opposition political parties and state governments into confidence; consensus building; gradual and calibrated approach; Simon's "Satisficing" decision; e.g.: removing unwanted subsidy, labour reforms (allaying the concerns of labour unions etc)

- **Policy implementation:** EI and team spirit; different ministries and departments function as silos; need for coordination and cooperation; from silos to multi-disciplinary cross functional teams - Matrix Organizations

Can EI be learned?

- There is a genetic component to EI i.e. people are born with different dimensions of EI such as self regulation, empathy and social skills

- *Training and capacity building:* But research shows that nurturing plays an important role i.e. EI can be learned; it needs to be honed through training; EI is largely born in the brain's limbic system; the neo-cortex part of brain governs analytical and technical ability; conventional training programmes take a neo-cortical approach; to enhance EI, training needs to focus on the limbic system; and this requires an individualized approach

- **SEL:** Social and Emotional Learning classes; civil services/police (training being given to CRPF in naxal prone areas)

- Building of EI takes time and cannot happen without sincere desire and concerted effort **Questions**

1. What is 'emotional intelligence' and how can it be developed in people? How does it help an individual in taking ethical decisions?

2. How will you apply emotional intelligence in administrative practices?

Attitude, Social Influence and Persuasion

Attitude

Attitude is a *learned tendency* i.e. thoughts, beliefs and behaviors to evaluate a subject (people, issues, objects, events etc); state of mind; catchall term entailing whole collection of one's opinions, prejudices and sentiments

Characteristics of attitude:

- Valence: Positive and negative

- Extremeness (Likert scale: rating on a scale of 1 to 5)

- Explicit (when you are consciously aware of your beliefs and behaviours) and implicit (unconscious beliefs and behaviours)

- Simplicity or complexity: Attitude system with sub-attitudes (corruption, naxalism, sustainable development; cognitive dissonance)

- Attitudes can be learned/acquired

Components of attitude: CAB/ABC

1. **Cognitive component:** Our thoughts, beliefs and ideas about a subject, derived from formal and informal sources of information

2. **Affective component:** Feelings or emotions that a subject evokes

3. **Behavioral component:** Tendency or disposition to act in a certain way towards a subject

Example: Cleanliness

It is not necessary that all the three components are consistent with each other

How do attitudes form?

- **Micro level:** Cognition, family, social interactions, individual life experiences, educational institutions etc

- **Meso level:** Organizational culture

- **Macro level:** Socio-cultural factors, economic factors, political factors, globalization etc

Functions of attitude

- **Adjustment function:** It helps people to adjust in their personal/professional life to fit in a social/professional group (public organization: developing into a 'Weberian' bureaucrat; trained incapacity; employees developing a positive attitude due to participatory management style)

- **Ego-defensive function:** It helps individuals to defend their self image or to justify actions that make them feel guilty (smoking)

- **Value expressive function:** It helps in the expression of core values (moral/social/economic/political/environmental values)

- **Knowledge function:** It facilitates understanding and interpreting any subject (people, events, issues etc)

Attitude behavior link

- Attitudes are internalized values and beliefs and forms the character of a person

- Behaviour is the visible form of attitude (actions that make the attitude visible)

- A person is more likely to behave according to his/her attitude under certain conditions:

  - If the attitudes are strong

  - If the attitudes have been formed as a result of personal experience

  - If the person is aware of his/her attitude

  - When the attitudes are repeatedly expressed

  - When there is no external pressure

  - When a person's behaviour is not being watched or evaluated by others

Attitude behavior link becomes weak due to two factors-

1. Situation

- Examples: Attitude towards corruption, dowry, hierarchy and authority (when you enter civil services)

2. Social facilitation or the audience effect:

It is the tendency for people to act differently when in the presence of others than when alone: Dancing, public speaking etc; *'free rider problem'* in group work

- *Nature of the task:* Compared to their performance when alone, when in the presence of others, they tend to perform better on simple or well-rehearsed tasks and worse on complex or new ones

- *Nature of the person:* Self-conscious people who monitor and censor their attitude in public show weak attitude behaviour consistency since they try to hide their true attitude if it's not politically/morally correct

Behavior = Attitude * Situation * Social Facilitation/Social Influence

Persuasion and Social Influence

Persuasion

It refers to the process of influencing one's thoughts, values, beliefs, attitudes, behaviours and actions

Social/Group Influence:

It refers to the processes whereby our attitudes, thoughts, beliefs, behaviours and actions are influenced by the real or imagined presence of other people
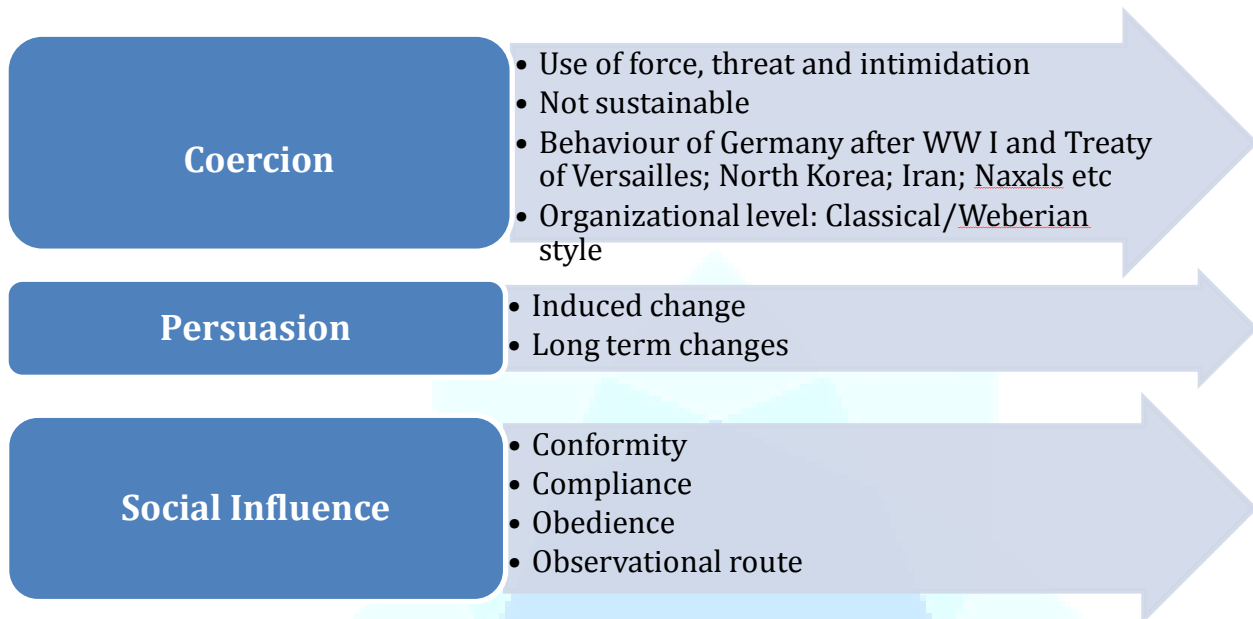
There are three kinds of Social Influence –

- Conformity

- Compliance

- Obedience

- **Conformity:** The tendency to follow generally accepted conventions and norms (Conventional morality; "what will people say?"; "what will people think?")

- **Compliance:** Behaving in response to a request from another person or group, even in the absence of a norm (salesperson)

- **Obedience:** When compliance is shown to an instruction or order from a person in authority, such as parents, teachers, police etc, behaviour is called obedience (Pre-conventional morality and children)

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Attitude change

Coercion	• Use of force, threat and intimidation • Not sustainable • Behaviour of Germany after WW I and Treaty of Versailles; North Korea; Iran; Naxals etc • Organizational level: Classical/Weberian style
Persuasion	• Induced change • Long term changes
Social Influence	• Conformity • Compliance • Obedience • Observational route

Coercion and attitude change

Can coercion as a means to bring about attitude/behaviour change be justified under any circumstance?

- Ticking bomb scenario (Utilitarianism v/s Deontology)

- Israeli courts have ruled that it is permissible to physically abuse suspects, if it saves lives

- Guantanamo Bay Detention Camp

- **Demonetization?**

- **Prohibition?**

Persuasion and attitude change

Cognitive route: persuasion on the basis of reason, logic, information etc

Affective route:

- By evoking emotions such as pride, guilt, fear, happiness, fun etc

- One method is that of **classical conditioning** which is used to create certain emotional reactions to a person, issue, or event by associating certain (positive or negative) feelings with the target object; example - commercial advertisements use classical conditioning to create a favourable impression about a product in the minds of viewers; for instance, it will show popular cricket stars having fun while consuming a particular brand of soft drink (original experiment with dog; dog salivated

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whenever food brought to him; then a bell used to ring whenever food was brought; then, dog started to salivate on the ringing of bell even in the absence of food; sound of bell is conditioned stimulus and salivating in response to bell is conditioned response)

- **Behavioral route:** It is also known as **instrument/operant conditioning**; use of positive and negative reinforcements given after the desired response; rewards and punishment; carrot and stick

Factors affecting effectiveness of persuasion

I. Factors related to source/persuader/communicator:

- The credibility/character of persuader: The rhetoric of persuasion (Ethos, Pathos, Lagos); *Is it ethical for celebrities to endorse products which they themselves don't use?*

- Physical attributes of persuader

- In group or out group

- The number of persuaders

II. Factors related to message and mode of communication

- Framing of message: Positive and negative

- Lagos (logic, rationality) or pathos (narrative/story, pathos driven speeches; Roosevelt during Great Depression and WW II; Hitler)

III. Factors related to audience:

- Processing capacity

- Readiness to change

- Perceived intention of communicator

Two routes to persuasion

Central route:

- Receiver/audience has high information processing capacity

- Attitude of the audience is changed due to careful consideration of the message; logical and thought out process; leads to a more enduring attitudinal change

Peripheral route:

- Receiver/audience has low information processing capacity

- Attitude of the audience is changed by incidental factors such as speaker's attractiveness, perceived expertise etc; it tends to appeal to emotions than cognition

Social influence and attitude change

- **Conformity:** Demonstration effect (JLG and SHGs)

- **Compliance**

    - **Foot in the door technique:** It involves getting a person to agree to a large request by first setting him/her up by having that person agree to a modest request (Milind Soman; Pinkathon)

    - **Door in the face technique:** The persuader attempts to convince the respondent to comply by making a large request that the respondent will most likely turn down, much like a metaphorical slamming of a door in the persuader's face. The respondent is then more likely to agree to a second, more reasonable request, than if that same request is made in isolation (Streetshopping)

- **Obedience:** Legal obligations; Maharashtra Social Boycott (Prevention, Prohibition and Redressal) Act, 2016

- **Observational route:** Attitude formation/change by observing others such as parents, friends etc

Persuasion and Governance

Persuasion is an integral part of leadership

Within the organization:

Ethical persuasion: Persuading subordinates, peers and superiors (coercion in classical management v/s persuasion in behavioral management; Theory X and Theory Y)

Outside the organization:

Politics: Opposition parties, state govts etc; administration: auditor and auditee

Citizens: One of the major barriers to poor policy outcomes is disengaged and passive public; lack of people's participation (Development needs to be made a mass movement); govt. cannot solve all problems by itself

Government and bureaucracy continuously tries to persuade people to act in a particular manner:

- Encouraging people to use digital modes of transactions

- Swachch Bharat Abhiyaan: Banko Bikano

- Polio campaign

- Voluntary Disclosure Scheme

- Appeal to give up LPG subsidy

- Appeal not to give bribes

- Institutional delivery: JSY, IGMSY (behavioral route to change attitude)

- Naxalism, terrorism

Coercion: Passing laws, punishment and fines etc; *" Human ingenuity is such that it will find ways and means to circumvent the law if the spirit is not willing."*

Example: Prohibition in Bihar **(Is it ethical?)**

Social marketing

- It intends to bring about changes in attitude and behaviour, especially those pertaining to social issues

Principles of social marketing:

1. Take advantage of prior and existing social campaigns: Learning from the success and failures of other programmes; Bolsa Familia; JLG model

2. Target people who are most ready for action: Stages of changes model categorize people into 4 groups-

- Pre-contemplation

- Contemplation

- Preparation/Action phase

- Maintenance phase

3. Promote single doable behaviours – one at a time: If a complex problem requires multiple behavioral changes, it is best to present them one at a time

- Example: Reducing green house gas emissions ('Turn it off' project in Canada)

4. Identify and remove barriers to behavioral change: It focuses on changing the environment rather than individual (tax payment; coercive corruption); creation of an ethical ecosystem

5. Highlight the benefits of desired behavior and costs of not following the same (taxes; institutional delivery)

6. Monetary and non monetary incentives: Surprise gifts for using public transport; appreciation and recognition (letter of appreciation to businesses that adopt environment friendly practices)

7. Get commitments and pledges: Foot in the door technique; seek commitments in groups (RWAs, parent groups, religious groups etc)

Questions

1. How could social influence and persuasion contribute to the success of Swachch Bharat Abhiyaan?

2. What factors affect the formation of a person's attitude towards social problems? In our society, contrasting attitudes are prevalent about many social problems. What contrasting attitudes do you notice about the caste system in our society? How do you explain the existence of these contrasting attitudes?

Ethics in Private Sector/ Corporate Governance

Context

- Liberalization, Privatization and Globalization

- Advent of neo-right philosophy and reliance on markets for carrying out the fundamental economic activities

- Idea of 'Networked Governance'

Rise of corporate malfeasance:

- Accounting scandals: Enron scandal, Worldcom scandal, AIG fraud, Satyam scandal, Nirav Modi scam

- Indulging in high risk activities to earn supernormal profits, risking investors' money: Lehman Brothers (2008 economic meltdown)

- Non disclosure of information: DLF

- Indulging in anti competitive practices such as formation of cartels

- Ponzi schemes: Sharda scandal

- Money laundering (round tripping, shell companies etc): HSBC bank

- Tax avoidance, transfer pricing

- Crony capitalism: 2G scam, coal block allocation scam

- Flouting laws and norms related to industrial safety and environmental standards: Bhopal Gas Tragedy, HUL dumping toxic mercury (Kodaikanal, 2001)

- Non following of product quality standards: Soft drinks, Maggi

Concept of Corporate Governance

- *Trusteeship principle:* Investment is an act of faith in the ability of a corporation's management to act as trustees of investors, protect the interest of investors and ensure the safety of the capital. Corporate governance is the acceptance by management of the inalienable rights of shareholders as the true owners of the corporation and of their own role as trustees on behalf of the shareholders

- *Governance:* Role of leadership (Board of Directors and Management), legislative framework (Companies Act, 2013, Securities Contract Regulations Act, Banking Regulation Act, Prevention of

Money Laundering Act, COFEPOSA etc) institutional framework (MCA, SEBI, RBI, IRDA, PFRDA, FSSAI etc), processes and systems and ethical framework (organizational work culture)

Essence of corporate governance

- From shareholders to stakeholders; triple bottom line companies

Internal	•Investors/Shareholders •Employees •Customers •Suppliers •Creditors/Banks
External	•Environment •Society

- **Investors/shareholders:** Maximizing shareholder value/returns; protection of shareholders' interest; not indulging in high risk activities to earn supernormal profits, risking investors' money

- **Employees:** Democratic and participatory work culture (behavioral theories); employees welfare; dealing with sexual harassment at workplace; *ethics of contractual employment?*

- **Customers:** Ensuring the quality and safety of products (soft drinks, Maggi); recalling products in case they are found to be defective or unsafe; desisting from misleading or making false claims in advertisements (fairness creams); mentioning the possible side effects of product (pharmaceutical, tobacco); mentioning nutritional information etc

- **Suppliers:** Not discriminating against them; no cronyism

- **Creditors/Banks:** Regular repayment of debt service obligations (NPA crisis)

- **Environment:** Compliance of laws/rules related to pollution, waste management etc; investing in environment friendly technology

- **Society at large:** Contributing in the process of inclusive and sustainable development; CSR; fair compensation and rehabilitation of people displaced by projects; maintaining gender parity in organization; putting in place disaster management plans to deal with industrial disasters (UCIL was warned by experts and there were few minor leaks also before Bhopal gas tragedy)

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Advantages/need of Corporate Governance

"Commerce without morality is a deadly sin." (Mahatma Gandhi)

- Corporate governance is an integral part of good governance

- ***Use of Normative Ethical Theories:*** Rule Utilitarianism, Deontology, Virtue Ethics, Contractarianism

1. Advantages for the Company:

Attracting investors, customers and retaining employees: A company with a reputation for integrity has a greater brand name and is valued by all stakeholders including employees, customers, investors etc; it helps the company in building investor confidence (especially relevant for attracting FII and FDI), attracting customers and retaining talent (enhances productivity of employees, prevents strikes), which is so essential to compete in today's knowledge economy

- Helps in building brand value (Tatas); ***"Goodwill"*** in balance sheet; *"Moral reputation never goes waste; it inevitably gets capitalized."*; gives a company the competitive edge in the long run

2. Advantages for the economy:

- Good ethical practices and corporate governance norms followed by the companies can boost the gross domestic product (GDP) by 1.5-2 per cent. Good, reputed companies are given a premium for good practices; valuation in stock market

    "There is indeed a need to rekindle old principles and ethical values which have too often been ignored or neglected in recent years in the false belief that quicker profits and greater accumulation of wealth would be the result." (J.R.D Tata)

Corporate Governance Framework in India

Evolution:

- *International influence* - Cadbury (1992) and Hampel committee reports (1998); OECD principles of Corporate Governance (2002)

- *India:* Kumar Mangalam Birla Committee Report (2000); Naresh Chandra Committee Report (2002); Narayan Murthy Committee Report (2003); Adi Godrej Committee Report (2012)

- Companies Act, 2013

- Listing agreement as per Securities Contract Regulations Act, 1956; SEBI is the capital market regulator and prescribes the conditions for listing

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- Clause 49 of the Equity Listing Agreement has mandatory as well as non mandatory provisions for corporate governance

Overarching principles of Corporate Governance

1. Shareholders/stakeholders:

- Protection of shareholders' rights and equitable treatment of all shareholders; grievance redressal mechanism for violation of their rights

- The company should recognise the rights of stakeholders in Corporate Governance and encourage co-operation between company and stakeholders

2. Board of Directors:

- The Board should provide the strategic guidance to the company, ensure effective monitoring of the management and should be accountable to the company and the shareholders

- The Board should eliminate policies that promote excessive risk-taking for the sake of short-term increases in stock price performance and ensure that a risk/crisis management plan is in place

- Separating the position of Chairman and that of the Managing Director/CEO

- The company should encourage continuous Board training and education to ensure that the Board members are kept up to date

3. Independent Directors:

- Maximum and minimum age, maximum tenure, remuneration, performance evaluation, Lead Independent Director

4. Transparency and accountability:

- The company should ensure timely and accurate disclosure on all material matters including the financial situation, performance, ownership, and governance of the company

- Disclosure and auditing of *'Related Party Transactions'* to ensure there is no conflict of interest

- The company shall maintain minutes of the meetings which should explicitly record dissenting opinions, if any (available to audit)

- The Company should formulate and implement an effective whistleblower mechanism and disclose the same

5. Audit and auditors:

- Functioning of audit committee and internal audit

- Appointment, tenure, rotation, disqualification and resignation of external auditors

- Restrictions on services provided by external auditors

- Compliance with audit standards

6. Conflict of interest: Company should have a robust policy to manage conflict of interest

- for example if institutional investors have invested in parent as well as subsidiary company and voting takes place in a subsidiary company that would affect a parent company or vice versa

- Related party transactions

7. Other provisions:

- E-voting on all resolutions of a listed company

Gist of clause 49

Mandatory provisions:

- Composition of Board and its procedure - frequency of meeting, number of independent directors, code of conduct for board of directors and senior management

- Audit Committee, its composition, and role

- Disclosure to Audit Committee, Board and the Shareholders

- Provisions relating to Subsidiary Companies

- CEO/CFO certification

- Annual Compliance Certificate

Non-mandatory provisions:

- Training of Board members

- Peer evaluation of Board members

- Whistle Blower protection policy *(Ethics of whistle-blowing?)*

- There should be a separate section on Corporate Governance in the Annual Reports of listed companies, with detailed compliance report on Corporate Governance

- **Other provisions in Equity Listing Agreement:** protecting the minority share holders, disclosure of shareholding pattern, maintenance of minimum public shareholding (25%)

Companies Act, 2013

- Requirement to constitute Remuneration and Nomination Committee and Stakeholders Relationship Committee

- Granting of more powers to Audit Committee

- Specific clause pertaining to duties of Directors

- Mode of appointment of Independent Directors and their tenure

- Code of Conduct for Independent Directors

- Rotation of Auditors and restriction on Auditors for providing non-audit services

- Enhancement of liability of Auditors

- Constitution of National Financial Reporting Authority, an independent body to take action against the Auditors in case of professional misconduct

- Mandatory Auditing Standards

- Enabling Shareholders Associations/Group of Shareholders for taking class action suits and reimbursement of the expenses out of Investor Education and Protection Fund

- Requirement to spend on CSR activities

CSR

Section 135 of Companies Act, 2013:

- Every company with a turnover of Rs. 1000 crore or more, net worth of Rs. 500 crore or more, or a net profit of Rs. 5 crore or more, shall spend at least 2% of its net profit (averaged over the last 3 years) on social welfare as its CSR

- A CSR Committee of three or more Directors, with one being independent, to formulate and recommend to the Board CSR activities; eradication of hunger and poverty, promotion of education, gender equality etc, contribution to PM/CM relief funds etc

Is it ethically right for the govt. to make CSR compulsory?

Arguments against:

- A corporation's objective is to maximize shareholder returns and it should not concern itself larger societal issues

- Corporations already benefit society by generating employment, investing in infrastructure, industries etc; so many examples where corporate leaders are doing philanthropic activities voluntarily

Arguments for:

- From shareholders to stakeholders

- Triple bottom line companies

- Developmental needs of a developing country such as India; networked governance and the need for private sector to contribute in the nation building process

Corporate Governance Reforms in PSBs (NPAs)

Rising NPAs. Reasons?

Recent governance reforms in PSBs:

- Constitution of BBB (to recommend selection of chiefs of government owned banks and financial institutions and to help banks in developing strategies and capital raising plans)

- Stability of tenure for Board of Directors

- Holding company structure: Nayak Committee recommendations

- Need for eliminating political interference

Penal provisions

1. Monetary penalty

2. Debarring directors/promoters from accessing capital market or being associated with listed companies

3. Delisting

4. Prosecution

Way forward

In order to strengthen the monitoring of compliance, following measures may be considered:

- Carrying out of Corporate Governance rating by the Credit Rating Agencies

- Strict nspection by Stock Exchanges/ SEBI/ or any other agency for verifying the compliance made by the companies

- Imposing penalties on the Company/its Board of Directors/Compliance Officer/Key Managerial Persons for non-compliance either in sprit or letter

Questions

1. Corporate social responsibility makes companies more profitable and sustainable. Analyse. (2017)

Ethics in International Relations

Difference between Domestic and International Affairs

- Domestic affairs are governed by a sovereign authority (sovereignty is the supreme political authority that 'States' exercise within their territory) while there is no such authority for international affairs (anarchy)

- In domestic politics/society, moral judgements are possible because cultural and moral values are shared whereas global politics/society is characterized by cultural relativism
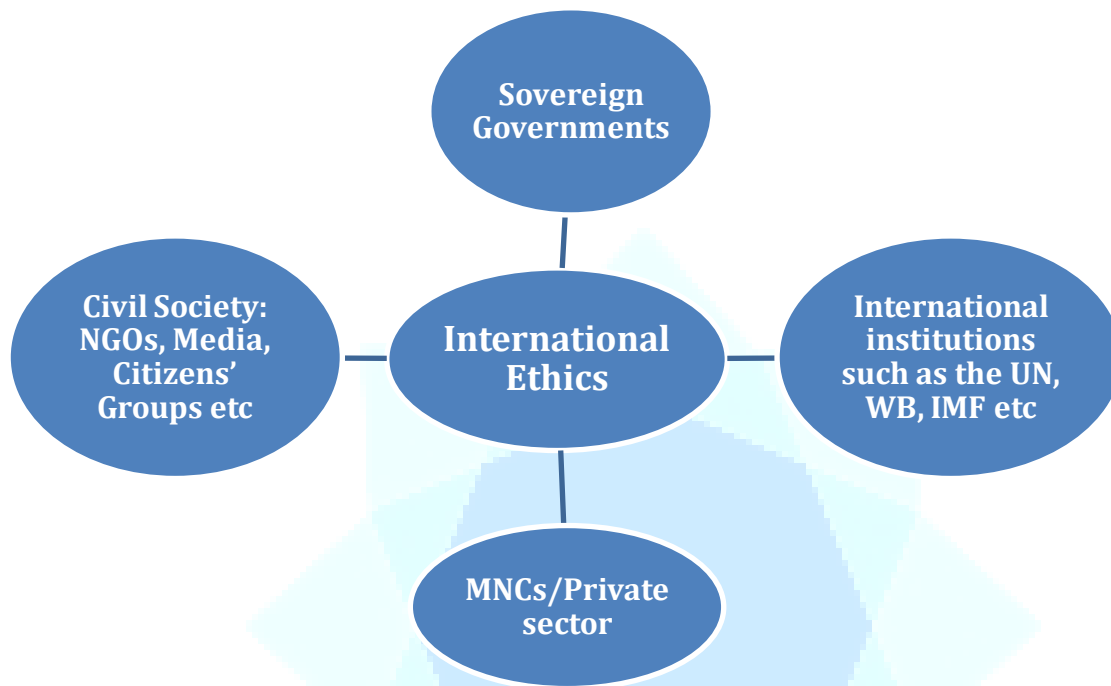
Ethics in IR

- International ethics refers to the guiding principles and code of conduct governing international issues and relations between nations

- It is based on sovereign equality of nations/states

There are two views on ethics in IR:

1. *Communitarians:* They believe that states are the primary moral actors in global society; states have the same rights and duties in a global society as individuals have in domestic society (norms such as right to self determination, right to political sovereignty, right to self defence, non intervention in other states' domestic affairs, peaceful resolution of disputes etc)

2. *Cosmopolitans:* Individuals, not the state, are the primary moral actors in a global society; global morality is based on the rights and well being of individuals; human rights take precedence over state sovereignty

Sources/tenets of international ethics

1. *The foundationalist perspective:* International morality is rooted in universal, divine principles ordained by a transcendent creator (Thomas Aquinas, Immanual Kant); universal principles as part of natural law

2. Consensual approach: International morality is derived from agreements, conventions, declarations etc adopted by member states; UN charters, international treatises and conventions (climate change, biodiversity, trade), Panchsheel principles etc

- UN charter outlines various principles such as promotion of world peace, promotion of international cooperation and solidarity among nations, peaceful resolution of international disputes, protection of human rights etc

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                    │  Sovereign   │
                    │ Governments  │
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│ Civil Society:│   │ International │   │ International │
│ NGOs, Media,  │───│    Ethics    │───│ institutions  │
│  Citizens'    │   │              │   │ such as the UN,│
│  Groups etc   │   │              │   │  WB, IMF etc  │
└──────────────┘   └──────────────┘   └──────────────┘
                            │
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                    │ MNCs/Private │
                    │    sector    │
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Theories in International Ethics

1. Idealism:

- There are some universal moral values which ought to be followed in international relations for the maintenance of a just international order

- Proponents – Aristotle, Plato, Kant (states should reduce military spending and armaments, abolition of standing armies), Woodrow Wilson (14 point formula after WWI), Nehru (Panchsheel principles) etc

- In idealism, ethics, morality, legal systems, international institutions all have a central place; international treatises, the UN organizations and the system support idealism

- Idealism is very difficult to observe in practice

2. Realism:

- It denies the existence of morality in IR and claims that all means are justified to protect and promote own self interest and achieve geo-political ends, even at the cost of other nations

- Proponents – Kautilya, Machiavelli, Hobbes, Hegel; Hegel said, *"the state has no higher duty than that of maintaining itself"*

- Realists believe in real-politik and in maintaining balance of power; fighting wars, not just for defensive purpose but also to prevent other nations from becoming stronger (militarily, economically etc); security is the overriding goal; self-preservation, self-aggrandizement and expansion of power is the raison d'etre of any state

- Realists do not believe in international treaties and conventions

- Pure realism can offer nothing but a naked struggle for power which would make any kind of international society impossible

Principled realism

- It combines the moral values of idealism and the power politics of realism; it is based on elements of both, utopia and reality

- It integrates political morality with responsible use of power

- Balancing national interest with global welfare; reconciling competing and conflicting interest of different stakeholders

- Example: India

What we need is neo-realism/neo-idealism based on enlightened self interest, prudence and wisdom, balancing tenets of idealism and realism

Ethical strategies in IR

- *Utilitarianism:* End based ethics; USA's foreign policy

- *Deontology*: Rule based ethics; use of atom bomb against Japan

- *Tri-dimensional ethics:* Ends, means and motive

ETHICS CLASS NOTES

By IPS RAJARSHI VARMA   Stay ahead.....

Domains/areas where International Ethics is practiced

Security/polity

I. Ethics of war:

1. *Pacifism*

- It totally opposes war at any cost; war is always wrong; it supports non violent civil disobedience (Gandhi and Martin Luther King), diplomatic/economic sanctions to deal with a recalcitrant state

- Dutch philosopher Erasamus: *" The cost of war is so great that even if the war is won, you lose much more than you gain."*

- *Criticism:* Idealistic and empty dream; sometimes, war is morally justified in the real world; examples-

    – Nazis could not have been defeated by any other means than war; civil disobedience relies on the scruples of the invader/aggressor and fails if the aggressor is ruthless, like Hitler

2. Amoral realism:

War is not only legitimate but also morality does not constrain war

- *Cynical view:* They justify force on the basis on self interest; *"the strong do what they have power to do and the weak accept what they have to accept";* examples-

    – Nazis and Fascists

- *Religious/holy war:* Jihad; religious convictions; war has the sanction of god and has divine justification; war is fought to destroy the enemies of god

3. Just War Theory

- Middle path between pacifism and realism; war can be justified, if certain conditions are satisfied

(a) Principles governing resorting to war at first place:

- *Just cause* (self defence, protection of innocent people from totalitarian regimes etc; WWII on the Allied side)

- *Right intention* (intention should not be revenge or territorial gains)

- *Proper authority and public declaration* (due process should be followed; declaration by competent authority; made known to public as well as enemy state)

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- *Last resort* (war should be last resort when all other peaceful/diplomatic alternatives exhausted)

- *Proportionality* (war should be started only if benefits are proportional to/exceed costs of the war)

(b) Principles governing conduct of war:

- *Obeying all international treaties/conventions* (for instance, non use of chemical/biological weapons)

- *Non combatant immunity* (civilians should not be targeted)

- *Benevolent quarantine of POWs and exchange of POWs at the end of war* (Geneva Convention)

- *Proportionality* (no disproportionate use of force; WMD should not be used)

- *Evil methods* such as mass rape/plunder campaigns, ethnic cleansing should not be carried out

(c) Principles governing termination of war and peace agreements:

- The peace agreement should be moderate and reasonable; it should not be vindictive (example: Treaty of Versailles after WWI)

- It should distinguish between leaders and soldiers of the defeated nation and civilians; sweeping socio-economic sanctions which wd adversely impact civilians should be avoided

- It should seek to remedy the wrongs that led to the war

- It should focus on rehabilitation and reconstruction of the defeated nation by investing in its socio-econ dev; promoting disarmament and demilitarization, human rights education etc

- Leaders/soldiers responsible for war crimes should be tried in an objective manner

II. Ethics of Drone Attacks/Targeted Killing (TK)

- *Asymmetric warfare:* In conventional wars, soldiers put their lives at risk; in drone attacks, people who carry out the attacks remain in high tech centers far removed from the battlefield; virtual war; it reduces human inhibitions against killing; war appears to be cheaper/easier

- Need: to combat terrorism

Principles to be followed to assess the morality of TK:

Acts of double effects; good effect without evil effect?

- If it is impossible or too costly to use conventional methods to capture a terrorist/militant

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- It should be used only as a last resort i.e. after less destructive options have been exhausted

- Minimization of collateral damage

Additional principle prescribed by Israeli High Court:

- An independent and thorough investigation must be made after each TK

Assessment of TK in terms of motive, means and ends

III. Ethics of foreign intervention/Coercive regime change/R2P

- International ethics is based on the premise of respect for sovereignty and independence of states; any sort of external intervention undermines this

- An external intervention can be justified only in emergency circumstances such as in cases of genocide or ethnic cleansing, *where principles of just war can be applied;* examples-

  - Nazi Germany, Yugoslavia (violence between Croats and Serbs; NATO forces intervened on humanitarian grounds); India intervened when Pakistan used brutal military force to crush the democratic movement in East Pakistan, which led to a refugee crisis in India; India in Maldives in 1988; the proponents point to the success of coercive regime change in countries such as Germany and Japan post WWII

- In countries such as Afghanistan, Iraq, Libya etc, many of the above mentioned principles of just war not followed; no just cause; no right intention; it wasn't the last resort; it wasn't sanctioned by the competent authority i.e. UNSC; similarly, post war, the focus hasn't been on reconstruction or ushering in a just regime; post war, these countries are in a worse/more unstable state than before

Economy and Finance related International Ethics

Ethics of Economic Sanctions:

- Iran, North Korea, Russia, Syria etc

Principles to be followed to assess the morality of economic sanctions:

- Just cause (promoting peace, protecting human rights and dignity)

- Last resort

- Probability of success

- Limited objective: Targeting only those behaviour and institutions which are unjust

- Non-discrimination: They should not target innocent civilians

- Proportionality: The good intended from sanctions must be proportional to the harm inflicted on the targeted state

Other issues

- **Ethics of international aid conditionalities:** North-South cooperation post WWII; aid as a geo-political tool during the Cold War; Washington Consensus; SAP etc; aid used to push the neo-liberal agenda; Confessions of an Economic Hitman

- **Ethics of international trade, commerce and finance:** Failure of Doha Development Round; WTO and food security considerations in developing countries; Bali Package; global economic meltdown due to the greed and unethical actions of few entities

- **Ethics of IPR**

- **Ethics of protectionism and anti-globalization movement**

- **Governance reforms in Brettonwood Twins**

- **Funding of international NGOs**

Ethics of climate change

Ethical issues in climate change:

- *Inter-generational equity:* Brundtland Commission's definition of sustainable development; the cumulative negative impact of carbon emissions is not felt immediately, there is little incentive for countries to take steps to deal with climate change

- *CBDR-RC:* Equitable allocation of burden of carbon emissions; Common but Differentiated Responsibilities and Respective Capabilities

- *Growth v/s sustainability*

- *Commercialization of pollution:* Trading of emission rights; destroys the moral stigma associated with pollution

Moral roots of India's Foreign Policy

- **Gandhi inspired and Nehru directed:** Although Nehru was the chief architect of India's foreign policy, Gandhi also influenced it in a no of ways such as (i) India's role as international peacemaker

(ii) non-violence and quest for nuclear disarmament (iii) non alignment and an independent foreign policy (iv) moral, diplomatic and economic support against colonialism, racialism and apartheid

- **Panchsheel principles** – Mutual respect for each other's territorial integrity and sovereignty; mutual non aggression; mutual non interference in each other's domestic affairs; equality and mutual benefit; and peaceful co-existence

Idealism in India's Foreign Policy

- Initially, India's foreign policy had a strong idealistic orientation

Criticism and examples:

- **Pakistan** - Internationalization of Kashmir issue by approaching the UN; giving back the debt (55 crores) that India owed to Pakistan post independence instead of using it as a leverage for concessions (Gandhi went to fast unto death for this); India's soft stance after the 1971 war in Shimla Agreement (India had more than 90000 Pakistani POWs which could have been used a leverage); India's response to terrorist attacks hasn't been aggressive

- **China:** *'Bhai-Bhai'* policy towards China and India's humiliation in the 1962 war; India did not support the autonomous status of Tibet vis-à-vis China (thus losing the strategic bargaining chip); India's support to China's candidature in UNSC

- However, in recent times, we have gradually moved towards Principled Realism

Examples:
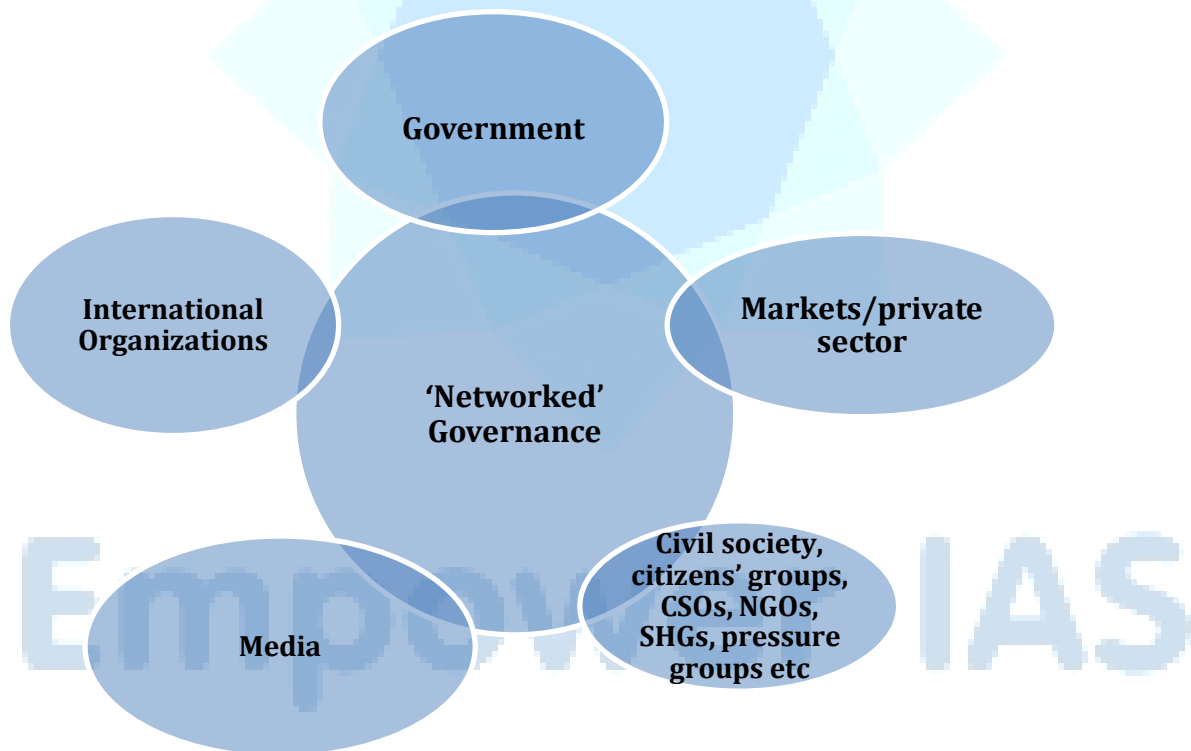
Israel, USA, Myanmar

Questions

1. At the international level, the bilateral relations between most nations are governed on the policy of promoting one's own national interest without any regard for the interest of other nations. This leads to conflicts and tensions between the nations. How can ethical consideration help resolve such tensions? Discuss with specific examples. (2015)
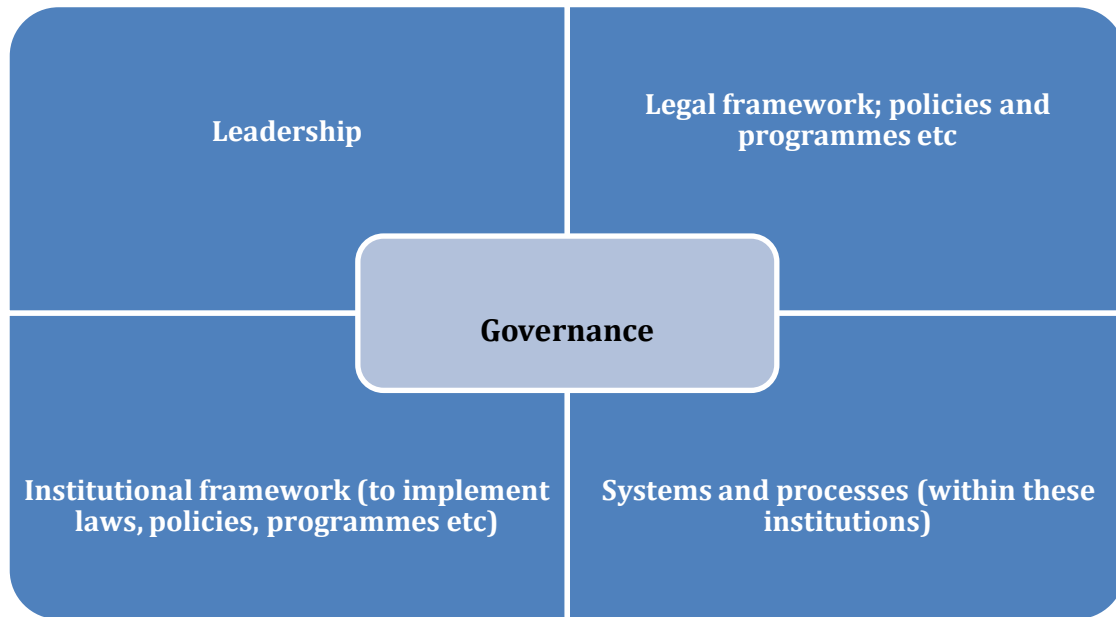
Governance and Good Governance Reforms

Governance

- WB defines *governance as the manner in which power is exercised, decisions are taken and resources are utilized for the purpose of socio-economic development of the country*

- It is a collective problem solving activity to achieve a common objective

- *Networked Governance:* From state and bureaucracy led model of governance towards 'Networked Governance;' involvement of formal government as well as other informal stakeholders such as markets, civil society, voluntary organizations, citizens' groups, media, International organizations etc; it is the capacity to get things done without formal, legal authority (which the govt enjoys); it stands for establishment, operation and networking of myriad institutions; it is possible to conceive of governance without govt

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Leadership	**Legal framework; policies and programmes etc**
Institutional framework (to implement laws, policies, programmes etc)	**Systems and processes (within these institutions)**

Governance

Good Governance

- Good governance is an adjectival expression and connotes certain value assumptions while governance is a value free dispensation

- In modern times, good governance as a concept came into existence as a result of international aid conditionalities. It was realized that good governance is a sine-qua-non for effective utilization of international aid. As part of aid conditionalities, lending agencies wanted economic reforms (liberalization and deregulation) through '*Washington Consensus'* and governance reforms through the concept of '*Good Governance'*

- While there is no single definition of good governance, it is equivalent to *purposive and development oriented governance which is committed to improve the quality of life of people*

- The concept of good governance is not new; Kautilya, Gandhi

Other features

- Liberal, democratic political system with free and fair elections, respect for human rights and pluralism, respect for civil liberties, decentralization, ethics/probity in public life etc

Importance of Good Governance:

1. *Intrinsic importance*

2. *Instrumental importance:*

- A recent WB study of more than 150 countries shows strong positive correlation between good governance and better developmental outcomes; Good Governance is a sine-qua-non for faster, inclusive and sustainable growth and improved quality of life

- Better public policy outcomes

- Checking corruption

India's achievements in the field of governance since independence

ETHICS CLASS NOTES

By IPS RAJARSHI VARMA   Stay ahead.....

Ethics in Governance/Good Governance reforms

1. **Reforms in political parties:** Inner party democracy; bringing political parties under RTI etc

2. **Electoral reforms** *(Ethics in politics and elections)*

3. **Executive reforms**

4. **Parliamentary reforms**

5. **Judicial reforms and reforms in criminal justice delivery system (Ethical framework for judiciary)**

6. **Local governance reforms**

7. **Administrative reforms:** Reforms for ushering in transparency, accountability and citizen centric administration; GPR

8. **Regulatory reforms (Ethical framework for regulatory bodies):** Autonomy and accountability, issue of conflict of interest

Electoral reforms already undertaken

- Dinesh Goswami Committee (1990); Inderjit Gupta Committee on state funding of elections (1998); Manmohan Singh Committee on party finances (2002); suggestions of EC, Law Commission and civil society organizations such as ADR, Loksatta etc

1. Lowering of voting age to 18 years (61st amendment act)

2. Improvements in registration of voters, computerization of electoral rolls and better accuracy of electoral rolls (cases of impersonation and malpractices have reduced): ***Booth level officers*** have played an important role in enrolling of all eligible voters and removing the names of bogus, dead and shifted voters; door to door distribution of voter identification slips; voter awareness campaigns to increase turnout; January 25 as "Voter Awareness Day"

3. EVMs and VVPAT

4. NOTA

5. **Reforms to reduce role of muscle power in elections: criminalization of politics and politicization of crime**

- Use of paralimitary forces and election observers to check instances of voter intimidation, booth capturing etc and to facilitate free and fair polling; videography of elections and use of secret cameras in sensitive polling booths

- SC verdict on disclosure of criminal antecedents, educational qualifications and assets and liabilities in 2002 and 2003 (pursuant to ADR PIL)

- SC striking down Section 8(4) of RoP Act

6. **Reforms to reduce the role of money power in elections**

- EC has recently countermanded elections in two constituencies (in 2016 and 2017); use of Article 324 for the first time

(a) Election expenditure ceilings (Conduct of Election Rules, 1961): For LS elections, Rs. 40 lakh to Rs. 70 lakh (in bigger states) and Rs. 22 lakh to Rs. 44 lakh (in smaller states); for assembly elections, Rs. 20 lakh to Rs. 28 lakh; EC can disqualify a person a person for 3 years if he/she has failed to lodge an account of election expenses within the time and in the manner required by Section 10(A) of RoP Act; Narottam Mishra, 2017; Umlesh Yadav, 2011; both for paid news *(not for paid news per se but for under-reporting of election expenses)*

- **Paid news:** PCI defines paid news as 'any news or analysis appearing in any media for a price in cash or kind as consideration'; it is advertisement in the garb of news item to mislead voters

 (b) Elections and Other Related Laws (Amendment) Act, 2003:

- Full tax exemption to individuals and corporates for all political contributions to recognized political parties

- Full disclosure of all contributions above Rs. 20000

- Partial state funding to recognized political parties in the form of equitable time on cable television and electronic media and provisioning of electoral rolls

(c) Reforms introduced in budget 2017: Electoral Bonds; all contributions above Rs. 2000 to be made digitally; mandatory filing of IT returns by political parties

7. Other reforms: Reforms related to Opinion Polls and Exit Polls

Proposed Electoral Reforms

1. Reforms related to EC:

- Appointment by Collegium: Recommended by Law Commission and NCRWC

- Removal of CEC and other ECs: Same constitutional protection to ECs as CEC

- Salary, allowances and admn. expenditure should be charged on CFI

- All the admn. powers related to Secretariat of EC (appointment, removal, promotions etc) should be vested with EC (like registries of SC/HC, CAG etc)

- Greater powers to EC to enforce the MCC in its letter and spirit and to enforce inner party democracy; example-power to 'deregister' a party; contempt powers

2. Systemic Reform: Move from FPTP system towards Proportional/Semi-Proportional System:

- *FPTP system:* Not a single party since independence has received more than 50% of votes; 2014 LS elections - BJP got just 31% of valid votes polled; BSP got zero seats with 4.1% vote share (3rd highest); UP Assembly elections (403 seats) - BSP got just 19 seats (4.7%) with 22% vote share while BJP got 325 seats (81%) with 41% vote share; if democracy is rule by the majority, then it has not been established yet

- *Proportional system:* Here, different parties would get seats in proportion to their votes. However, the problem with proportional system is that it might lead to a fractured mandate and unstable govts

So what is the solution?

- *Semi-proportional system:* Law Commission report (1999) has suggested **AMS (Additional Member System),** wherein some representatives would be elected from territorial constituencies and others would elected under list system. Voters will have two votes, one for the party and the second for the candidate in a constituency. The constituency representatives are elected through FPTP system. The party representatives would be elected by a party vote. Where the party gets 20% of the vote, it gets 20% of the seats (from the seats specially meant to be filled under the list system in addition to the normal seats filled by the FPTP)

- For example, in the case of India, LS has a total membership of elected members of 543. Law Commission recommended that 25% of the members of Lok Sabha or Legislative Assemblies of the States should be filled on the basis of list system. Accordingly, in the Lok Sabha as well as in the State Legislative Assemblies, the present strength should be increased by 25% and the increased strength should be filled on the basis of list system

3. Reforms to deal with money power in elections:

Use of black money in elections/party financing is the root cause of public sector corruption in India

(a) State funding of elections?

- Minimalist Model in countries such as USA, UK, Australia, Canada etc

- Maximalist Model in Germany, Sweden etc

- Mixed Models; partial state funding in India

Conclusion: State funding is not going to work; will add just another source of electoral finance; ***what we need is strict reporting and disclosure requirements;*** laws need to be amended to ensure that every penny that political parties receive is disclosed; IT returns filed religiously; accounts audited by an independent agency such as EC/CAG

(b) Amendments in IPC and Cr.PC to make bribery during elections a 'cognisable' offence (police can carry out an arrest without a judicial warrant and initiate investigations)

(c) Amendments in RoP act, 1951 to include 'Paid News' as an electoral offence

Electoral reforms for stable govt.

Options to ensure a stable govt. in case of fractured mandate:

1. Bonus seats for the single largest party (50 bonus seats in Greece)

2. Constructive vote of no confidence in the LS wherein the govt. resigns only if there is an alternative; example - Germany (violation of Article 75)

3. Shift towards Presidential system?

4. Any alliance between political parties (pre-poll or post poll) should be based on a common manifesto; the Constitution should be amended to ensure that if one or more parties in a coalition with a common programme mandated by the electorate, realign midstream with one or more parties outside the coalition, then members of that legislature party (or parties) shall lose their membership and have to seek a fresh mandate from the electorate

Other reforms

- A person should not be allowed to contest from 2 constituencies or else he/she should bear the expenses of the bye-elections

- Special Election Tribunals to dispose of Election Petitions within 6 months (HCs have not been able to do this)

- Simultaneous elections for Parliament and State Assemblies

- E-voting: Gujarat SEC introduced e-voting for Municipal Corporation elections; questions regarding secrecy and reliability

- ***Attracting people of integrity in politics:*** A conducive environment needs to be created so that competent, well qualified and ethical people enter politics; role of money and muscle power needs

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to reduce; EC should publish a booklet containing information about different candidates (educational qualifications, criminal antecedents, assets and liabilities, past experience etc) in local language so that voters can make informed decisions

Ethical framework for legislators and ministers

Presently, we have a code of conduct for legislators and ministers:

- Respect for constitution, preamble, FDs, rule of law, democratic institutions etc

- Maintenance of public trust; no misuse of public office for private gain

- Use of public resources economically, efficiently and in public interest

- Disclosure of conflict of interest (public and personal/pecuniary); in the parliament, a 'register of interest' of different legislators is maintained; further, the Speaker can disallow a person to vote on an issue in case of conflict of interest; also, severing of ties with mgmt of existing business; not starting a new business

- Disclosure of assets and liabilities

- Not accepting gifts from people with whom they have official dealings

- Availing official accommodation during official visits

- Maintaining highest standards of decency, morality and values in public life

Reforms needed (for centre as well as states)

- What we need is a **Code of Ethics** stipulating in clear and unambiguous terms, acceptable and unacceptable ethical standards of behaviour and actions; it should deal with issues such as separation of role as a minister and MP, not using govt. resources for party benefit, minister-civil servant relationship etc

- **Strict monitoring and enforcement:** For legislators, an office of Ethics Commissioner should be constituted in each house (apart from Ethics Committee) and for ministers, dedicated units in PMO/CMO to oversee the implementation of Code of Ethics; it should publish an annual report highlighting all cases of violation of Code of Ethics and actions taken thereon; it should be laid down in the legislature and should also be in public domain

Reforms in Executive

- **NPM reforms**; "Reinventing Govt"; "Entrepreneurial Govt"

ETHICS CLASS NOTES

Reforms related to Functions, Size, Structure and Functioning

1. **Rationalization of functions of Govt:**

- Central Govt should focus on its core functions; the non-core functions should be devolved to state govts, local bodies, private sector, CSOs etc

- From interventionist, expansionist and positive state to minimalistic and non interventionist state; roll back of the state; minimum government and max governance; steering role than rowing role; empower citizens rather than getting involved in service providing functions; *core functions of govt. include-*

(a) Sovereign functions: internal and external security, defence, maintenance of unity and integrity of the country, upholding rule of law, contract enforcement, legislation, justice dispensation, maintaining international relations etc

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- **Provisioning of infrastructure**: roads, railways, power, telecom, internet etc

(e) Regulatory functions

2. Rationalization of size of govt:

- *Rightsizing and not downsizing:* Total no of govt employees in India is around 1.6 crore (arnd 30 lakh in Central Govt, 50 lakh in Central and State PSUs and 80 lakh in state govt); despite the perception that our government is overstaffed, the reality is that India has very low numbers of civil servants who are necessary to carry out the basic functions of government. As compared to USA, in

India, number of govt employees per 1 lakh population is less than one-fourth of USA (668 for USA and 139 for India). India has one of the lowest ratios of government employees to population in the world; less than 1.5 per cent of India's population was employed in government, which was behind countries such as Malaysia and Sri Lanka (4.5 per cent) and China (around 3 per cent); around 15 per cent in Scandinavian countries and 6-8 per cent in the U.S. and western Europe

- 130 police personnel and 1.2 judges per 1 lakh population, and we need at least 200 of the former and 5 of the latter

- Around 20% vacancy in sanctioned strength; unable to fill even the sanctioned strength, leave alone raising the numbers to levels adequate to deliver adequate baseline governance

- More than no of personnel, distribution of personnel is the major issue

- Tools of downsizing: Use of technology (e-governance, paperless offices, automation; IFMS and VLC in AG offices); abolition of vacant posts, freeze on creation of new posts, promoting voluntary retirement, increasing compulsory retirement (Rule 56 j of FR and Rule 48 of CCS Pension rules)

- Role of SIU in carrying out need assessment of different ministries, depts and organizations and rightsizing

3. Rationalization of structure:

(a) Reorganization of ministries and depts:

- The no of ministries/depts. increased from 16 to 55; USA: size of cabinet around 15; UK: size of council of ministers around 25

Reasons for increase in number of ministries-

- Need for functional specialization: Over a period of time, expansion of govt activities; hence, more ministries and depts

- Political factors such as compulsions of coalition politics; to accommodate the demands of coalition partners and interest of party politics

- Socio-cultural factors: need to accommodate our regional and cultural diversity; separate ministries for north-east; for different sections such as tribals etc

- Historical factors: many depts have been existing for ages; need to balance continuity and change

- DRSCs provide a suitable model for integration of inter-connected ministries/departments; the number of ministries need to be reduced to around 20-25 from the present 50-55

- Examples: integration of ministries related to energy (coal, petroleum and natural gas, new and renewable energy, nuclear energy and power), transport (road transport and highways, railways, shipping, aviation, inland waterways), industry (heavy industry and public enterprises, MSMEs, steel, textiles, food processing)

(b) Internal reorganization within ministries/depts./attached offices/entire public sector:

- *Flatter structures:* Many of these levels do not add any value; delays and inefficiency; diffusion of accountability

Introducing Desk Officer System: The ministry is divided into various functional desks at the lowest level of the orgn; each of these desks manned by SO or Undersecretary; the Desk Officer deals with any case himself and is assisted by stenographers and clerks; the objective is expeditious disposal of a case by avoiding noting and drafting at lower levels

- *Delegation of responsibilities using principle of subsidiarity* so that decision takes place at the appropriate level; there is a tendency to mark file to higher levels even in case of routine matters (for example: DFPR rules empowers the HoD/HoO to delegate financial powers to subordinates

- *Cross functional and multi-disciplinary teams; free vertical and horizontal communication; high performance work systems*

- **Agencification:** Executive Agencies headed by CEOs recruited on the basis of open competition; *CEOs selected on contractual basis (Term Contracts) and given performance linked salary*; given financial and functional autonomy; can select their own staff; accountability ensured through performance agreements/MoUs; in UK, CEOs directly answerable to parliament for policy implementation and achievement of performance targets; Agencification has been a success in most of the countries; efficient and effective policy implementation; clear system of accountability

Parliamentary reforms

1. Reforms to strengthen parliamentary control over Executive:

(a) Reforms in Office of Profit:

- **Recent controversy regarding Parliamentary Secretary in Delhi:** Parliamentary Secretary is a Legislator who assists a minister and performs executive functions; often holds the rank of a minister; violation of 91st CAA; in January, 2018, EC recommended disqualification of 20 AAP MLAs for holding Office of Profit; Delhi HC has restored the disqualified MLAs (on grounds of procedural irregularities)

The Law should be amended to define office of profit based on the following principles:

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- All offices in purely advisory bodies where the experience, insights and expertise of a legislator would be inputs in governmental policy, shall not be treated as offices of profit, irrespective of the remuneration and perks associated with such an office.

- All offices involving executive decision making and control of public funds, including positions on the governing boards of PSUs, statutory and non statutory authorities etc shall be treated as offices of profit, and no legislator shall hold such offices.

(b) Abolition of MPLAD/MLALAD funds

(c) Reforms in Anti-defection law:

Issues and reforms in anti-defection law:

- *Restricts the freedom of legislators and weakens parliamentary control over executive:* In Kihoto Hollohan case (1992), SC upheld the validity of Tenth Schedule but stated that orders of Chief Whip should be binding only in following cases – Confidence or No Confidence Motion or any policy issue that is the core of party manifesto; the conscience and freedom of the legislator should be balanced with the need to be true to the electorate

- *Partisan role of Speaker:* The President/Governor can be made the competent authority to decide on disqualification on grounds of defection, in consultation with EC

(d) Reforms in functioning of Parliamentary Committees

- The members of the Committees should be appointed on the basis of their past experience and expertise

- The CAG prepares around 150-200 (1500 to 2000 paras) reports every year but very few reports (around 25-30) are discussed by the PAC and COPU. Sub-committees/working groups within PACs and COPUs at union and state level needs to be set up and strengthened so that they could take up those paras/reports which are not discussed by the PAC/COPU; these sub-committees should be set up along the lines of DRSCs for different ministries/depts; it must be ensured that all the paras are discussed by the PAC/COPU in a time bound manner

- The members need to rise above their political differences and work in overall public interest

- The Committees need to be given more powers to enforce their recommendations. In case their recommendations are not accepted by the govt, reasons should be recorded in writing and put in public domain

(e) Empowerment of private members

2. Reforms to deal with adjournments and disruptions: Changes in Rules of Procedure and Conduct of Business; Speaker needs to be more assertive (recent cases of disruptions)

3. Equity: Representation of women in Parliament and institutionalization of gender budgeting

4. Codification of Parliamentary Privileges

Codification of privileges

- Constitution says (Art. 105) that powers, privileges and immunities of each House of Parliament and of the members and Committees thereof shall be such as may from time to time be defined by Parliament

- However, no such law has been passed by the Parliament

Arguments given for non codification:

- The breaches are few. The LS Privileges Committee headed by K.C Deo (2008) suggested that there is no need to codify privileges as the existing system has functioned well; there has been only one case of admonition, two cases of reprimand and one case of expulsion

- In case, the privileges are codified, they will be subject to judicial review and may set off Legislature-Judiciary confrontation

- The reports and rulings of Privileges Committee have already codified privileges to a large extent

Arguments for codification:

- NCRWC suggested defining and delimiting privileges to ensure privileges are not misused to violate rights of citizens and freedom of press; similar views expressed by Second Press Commission and Press Council of India

Pendency of cases and judicial reforms

- **Problem:** Around 2.8 crore cases are pending in various courts

- **Impact:** Right to speedy trial is a part of Right to Life (Article 21); judicial delays undermine the faith of the people in the criminal justice delivery system and emboldens anti-social elements by reducing deterrence; further, it weakens a case due to fading of memory or death of a witness

Reasons for pendency of cases:

- *Increasing litigation* due to increased no. of laws and greater awareness/legal literacy

- *Lack of Judicial Impact Assessment:* For every bill that is passed, what is the impact on caseload, judges/staff, infrastructure, funds etc

- *Lack of judicial infrastructure:* physical (courts), IT (e-governance) etc

- *Huge vacancies:* To begin with, our judge to population ratio is very low (12 judges per million population; it needs to increase to around 50); plus there are huge vacancies – around 400 (out of around 1000) in HCs; around 4500 out of 20000 in subordinate courts

- *Archaic and obsolete court procedures leading to unnecessary adjournments and delays:* Witnesses may not be available leading to delays

- *Other reasons:* Strikes by lawyers, detailed appellate mechanism (especially litigations related to central and state govts generally go up to the level of SC)

Solutions/way forward:

1. Supply side reforms-

- *Judicial Impact Assessment:* The task force to study the feasibility of JIA under Chairmanship of Justice M.Jagannada Rao suggested to set up JIA office in Delhi and in all states; JIA should be done in a scientific manner involving legal experts, social scientists, NGOs etc

- *Increasing the working days/hours for judges:* former CJI Justice Lodha proposed that SC, HCs and Trial Courts should function for 365 days in a year; three constitution benches sat for the first time during summer break in 2017; vacation benches need to meet more frequently

- Starting greater no. of *Morning and Evening Courts* (Morning Courts in AP and Evening Courts in Gujarat)

- *Dealing with vacancies:* Reforms in the Collegium system and functioning of HCs; settlement of disagreements between SC and govt. over MoP; appointment of Acting and Ad-hoc judges

All India Judicial Service (AIJS) to deal with vacancies:

- Subordinate judiciary is a state subject; the appointment of the members of the subordinate judiciary is made by the Governor. Such appointment is to be made in the case of district judge, in consultation with the High Court and in the case of other posts, in consultation with the Public Service Commission and the High Court

- There has been a suggestion since many decades that an AIJS should be constituted. AIJS is envisaged to be an AIS to recruit candidates at the level of a District Judge in the subordinate judiciary

- Article 312 deals with the All-India Services. Constitution (Forty-second Amendment) Act, 1976 inserted All-India Judicial Service into Article 312. However, no enabling act has been passed to give effect to this amendment

Advantages of AIJS:

- It will help in tapping best talent at a young age

- It will help in filling vacancies in subordinate judiciary and HCs

- Standardization in judicial appointments

- National integration

Arguments against AIJS:

- State Judicial Services have been opposing any plan to constitute an AIJS since their promotional opportunities would be adversely affected

- Lack of knowledge of regional language would hamper judicial efficiency

- *Special Courts (on lines of Small Causes Courts in UK) to deal with offences under SLL (Special and Local Laws):* More than 50% of offences are under SLL; trivial offences such as traffic violations, cheque bouncing etc; special courts to dispose of these cases; retd. judicial officers, retd. senior govt. officers, recent law graduates etc can staff these courts; also, automation of system for online payment of fines etc; these special courts can be set up in the premises of regular courts (Bihar Special Courts Act to deal with corruption)

- *Setting up of more Family Courts:* One Family Court in every district; at present, just 190 such courts

- *Setting up of fast track courts* for heinous offences, corruption related cases and for undertrials

Gram Nyayalaya Act, 2008:

- Gram Nyayalaya Act, 2008 aims at providing inexpensive justice to people in rural areas on their doorstep. It provides for first class judicial magistrates (Nyaya Adhikaris) appointed by the states in consultation with the High Courts for dispensing justice

- Gram Nyayalayas can try criminal cases, civil suits, claims or disputes concerning all the offences not punishable with death, imprisonment for life or imprisonment for a term exceeding two years. Theft, receiving or retaining stolen property, assisting in the concealment or disposal of stolen property (where the value of property does not exceed Rs 20,000), dispute relating to purchase of property, cultivation of land, are some of the offences which could be tried in the Nyayalayas

- An appeal from the judgment of the Gram Nyayalaya lies with the Sessions court which has to be disposed of within a period of 6 months from the date of filing an appeal

- For the Gram Nyayalayas, the Centre bears the full capital cost. The cost of litigation would be borne by the state and not by the litigant

- These courts sit at the district headquarters and in Taluks. They go in a bus or jeep to the village, work there and dispose of the cases- thus they are mobile courts.

- Tribal areas are not covered

- Gram Nyayalayas Act, 2008 had come into force from 2.10.2009. Six State Governments have notified 159 Gram Nyayalayas. Out of these, 151 are operational

Revamping court procedures and legal system:

- 2nd ARC has suggested fixing time limit for various stages of the trial under PoC Act by amending Cr.PC

- Civil Procedure Code has already been amended in 2002 (only three adjournments are permitted; the court can fix a time limit for oral arguments and ask parties to file written submissions; judgement is to be pronounced within 60 days of conclusion of hearing)

- Detailed guidelines should be issued to avoid unnecessary adjournments; example – using video-conferencing

- *Introduction of plea bargaining:* It was introduced in India by amendment of the Cr.PC. Under plea bargaining, criminal defendant and prosecutor reach an agreement subject to court approval. The accused admits guilt without a trial, and in return is given a lighter punishment. This is allowed for cases in which the maximum punishment is imprisonment for seven years. However, socio-economic offences like Sati are not covered. Also, offences against women and children below the age of 14 years are excluded

Criticism – it encourages accused to plead guilty even if he/she has not committed the crime

- *Amendment in Cr.PC (2013):* Section 376 (dealing with rape) was amended to provide for new offences of rape causing death or vegetative state, or sexual intercourse by a person in authority, or gang rape, or sexual intercourse by a husband upon wife during separation; the trial of offences under Section 376 should be completed within 2 months of filing of charge sheets

ETHICS CLASS NOTES

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E-governance in judiciary:

1. **List of Business Information System (LOBIS):** It enables the Registries of Supreme Court and High Courts in eliminating manual process of Case List generation, thus removing any manipulation by vested interests. These databases contain details of fresh cases, disposed and pending cases. It is the backbone application of every Court

2. **E-courts project**: From the time the case is filed till it is disposed of with judgment, the entire processing takes place electronically. This enables easy search, retrieval, grouping, information processing, judicial record processing and faster disposal of the cases

3. **COURTNIC:** This is about providing Supreme Courts' pending case status information to litigants/advocates on any node of NICNET

4. **JUDIS:** NIC has brought out Judgement Information System (JUDIS) consisting of complete text of all reported judgement of Supreme Court of India from 1950 to till Date

5. **Cause Lists on Internet:** Causelists are scheduling of cases to be heard by the courts on the following day. The Causelists of Supreme Court and many other High Courts are available on NIC Web Servers

6. **Computerization of HCs and District Courts**

- India's first e-court was opened at Hyderabad High Court

- Telangana and AP are the first two states to be chosen for Integrated Criminal Justice System (a system which will integrate police stations with courts, jails, prosecution and forensic science labs)

2. Demand side reforms: Promotion of ADR

- Alternative dispute resolution (ADR) encompasses a range of means to resolve conflicts short of formal litigation

- Mediation, conciliation and arbitration

Advantages of ADR:

– Reduction in the cost and time of litigation and improved access to justice

– Reduction in pressure on courts

– It helps in preserving important social relationships for disputants since formal courts are based on adversarial system

Lok Adalats

- Lok Adalat means "people's court". They are statutory bodies under NLSA Act, 1987 which try to resolve disputes through mediation and conciliation

- It is a non-adversarial system, whereby mock courts (called Lok Adalats) are periodically held by the State Authority, District Authority, Supreme Court Legal Services Committee, High Court Legal Services Committee or Taluk Legal Services Committee

- These are usually presided by retired judge, social activists or members of legal profession

- *Jurisdiction:* Lok Adalats can deal with civil cases (matrimonial disputes, property disputes etc) and compoundable criminal cases (non serious offences wherein where charges can be dropped without the consent of the judge)

- While in regular suits, the plaintiff is required to pay the prescribed court fee, in Lok Adalat, there is no court fee and no rigid procedural requirement, which makes the process very fast. There are no lawyers and parties can directly interact with the judge, which is not possible in regular courts

- Cases that are pending in regular courts can be transferred to a Lok Adalat if both the parties agree. A case can also be transferred to a Lok Adalat if one party applies to the court and the court sees some chance of settlement after giving an opportunity of being heard to the other party. Legal disputes can be taken up and settled in Lok Adalats even at pre-litigative stage

- The focus in Lok Adalats is on compromise. When no compromise is reached, the matter goes back to the court. However, if a compromise is reached, an award is made and is binding on the parties. It is enforced as a decree of a civil court. An important aspect is that the award is final and cannot be appealed, not even under Article 226 of the Constitution of India because it is a judgement by consent

- All proceedings of a Lok Adalat are deemed to be judicial proceedings and every Lok Adalat is deemed to be a Civil Court

- Lok Adalats are monitored by State Legal Aid and Advisory Boards

- Parliament in 2002 made the Legal Services Authorities (Amendment) Act 2002, which provides for the constitution of permanent Lok Adalats with a maximum monetary jurisdiction of Rs.10 lakhs for conciliation and settlement of cases relating to public utility services like electricity boards, transport corporations etc

- *Parivarik Mahila Lok Adalat:* It has been conceptualized by NCW to supplement the efforts of DLSA for speedy redressal and disposal of cases related to marriage and family affairs

- Lok Adalats have helped in providing inexpensive and expeditious justice, especially to the poorer and marginalized sections of the society

Comprehensive reforms in criminal justice delivery system

1. **Police reforms**

2. **Prosecution reforms**

3. **Judicial reforms**

4. **Jail reforms**

Malimath Committee recommendations (2003); 2nd ARC recommendations etc

- **Judge's responsibility to ascertain the truth:** We follow adversarial criminal justice system wherein the judge allows the prosecution and the defence to present the evidences and the decision is arrived at on the basis of these presentations; countries such as France have inquisitorial system wherein the judge also questions the accused and can suo moto ask for production of an evidence to ascertain the truth

- **Current standard of proof** – *"beyond reasonable doubt"*- puts unreasonable burden on prosecution; *"preponderance of possibilities"* in many European countries; middle path – *"clear and convincing evidence"*

Judicial Standards and Accountability Bill, 2010:

- The bill requires judges to declare their assets, lays down judicial standards, and establishes processes for removal of judges of the Supreme Court and High Courts

- Judges will be required to declare their assets and liabilities, and also that of their spouse and children

- The Bill establishes the National Judicial Oversight Committee, the Complaints Scrutiny Panel and an investigation committee. Any person can make a complaint against a judge to the Oversight Committee on grounds of 'misbehaviour'

- A motion for removal of a judge on grounds of misbehaviour can also be moved in Parliament. Such a motion will be referred for further inquiry to the Oversight Committee

- Complaints and inquiries against judges will be confidential and frivolous complaints will be penalised

- The Oversight Committee may issue advisories or warnings to judges, and also recommend their removal to the President

Key issues and analysis:

- The key issue is whether the balance between independence and accountability is maintained by the proposed mechanism in the Bill. The Oversight Committee has non-judicial members which might impinge on the independence of the judiciary

- The Bill penalises anyone who breaches the confidentiality of complaints. It is questionable whether a penalty is needed for a frivolous complaint that remains confidential

- The Scrutiny Panel has judges from the same High Court. This is different from the in-house procedure of the Supreme Court and might lead to non objectivity in examination of complaints

Judicial Overreach:

- It refers to the phenomenon of judiciary encroaching upon the domain of Legislature and Executive and subverting the theory of separation of power

- **Judiciary and Legislature:** *Judicial Legislation* (under Article 142); *Judiciary interfering in legislative domain* (in 2005, SC directed the Pro-tem speaker of Jharkhand Assembly to conduct a composite floor test to ascertain who enjoyed majority)

- **Judiciary and Executive:** *Judicial Policymaking* (2G verdict, Coal Block verdict, blanket ban on iron-ore mining in Goa and Karnataka, inter-linking of rivers, field trials of GM crops); *Judiciary performing Executive functions* (monitoring of investigation through Continuous Mandamus in 2G case; SIT to monitor the investigation of black money issue; SC setting up an Oversight Committee to oversee the functioning of MCI; SC imposing reforms on BCCI and setting up a Committee of Administrators to run BCCI)

Issues with Judicial Activism and Judicial Overreach:

- It upsets the balance between the three organs of the govt. Judiciary performing legislative and executive functions leads to concentration of power in a single institution, which is antithetical to democratic values

- Judiciary needs to look into its own internal problems such as huge pendency of cases, vacancy in judges, issues with collegium system etc

- Misuse of PIL to settle personal scores and for political purpose; a lot of time and resources spent on frivolous PILs due to which the proportion of constitutional cases that SC deals with has come down considerably over a period of time

Conclusion: SC has played an instrumental role in bringing justice to the doorstep of marginalized and ushering in good governance reforms and socio-economic justice through Judicial Activism. However, it needs to ensure that Judicial Activism does not translate into Judicial Overreach. Judiciary should not instill in itself the idea that it can solve all the problems. In the words of late Justice J.S Verma, *"Judicial Activism should be used like a scalpel to cure rather than as an axe to kill."*

Local governance reforms

Constitutional and statutory changes to empower and strengthen local bodies:

- Pursuant to 73rd and 74th amendment, part IX of the constitution came into existence which has certain mandatory and certain discretionary provisions; in the spirit of 73rd and 74th amendment, article 243 G and 243 W needs to be amended as follows: The state legislature shall by law (and not may by law) vest PRIs and ULBs with such powers and authority so as to enable them to function as institutions of self govt

- *Giving voice to local bodies:* Legislative Council to be created in each state that will have sole representation from LSGs

- MPs and MLAs should not be a part of LSGs (unnecessary political interference; local leadership gets subdued)

- ***Devolution of functions and clear delineation of functions:*** Devolution of functions in most of the states is poor and uneven; the issue is all the 11th and 12th schedule functions are also state govt functions; even after 73rd and 74th amendment, most of these functions still being performed by institutions other than LSGs; either functions have not been devolved; if they have been devolved, detailed activity mapping has not been carried out; if activity mapping has been carried out, the functions still continued to be performed by other institutions; multiplicity of structures and agencies exist (state govt line depts, parastatals and autonomous bodies, Development Authorities, users associations and stakeholder groups, office of DM) to perform similar functions; such organizational jungle has led to lack of coordination and confusion, duplication of effort, diffusion of accountability, inefficiency, wastage and poor outcomes; moreover, even after activity mapping, PRIs have not been devolved funds and functionaries to perform the assigned activities

- **Reform:** For each of the subjects in 11th and 12th schedule, detailed activity mapping needs to be carried out using principle of subsidiarity; activity mapping refers to the process of unbundling of subjects into smaller activities and assigning them to different tiers of govt; clear delineation of functions between state govt and local govt and between different tiers of local govt; subjects can be divided into 2 broad categories of activities; (1) Planning and setting and enforcing standards; these shd be assigned to higher authority such as state govt (2) implementation, asset creation,

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M&E; these shd be assigned to different tiers of panchayat; example: school education – framing of curriculum, appointing teachers, setting standards and conducting examinations by state govt; school mgmt and monitoring of teachers' attendance at GP level; healthcare – appointment of doctors, provisioning of medical equipments, accreditation of hospitals, enforcing professional standards by state govt; health sub-centre managed by GP, PHC by intermediate panchayat and CHC/district hospitals by ZP

Devolution of funds:

- In India, local govt revenues, as % of total govt revenues is less than 3% (15% in USA); internal revenue mobilization as % of total revenue is less than 5% (less than 1% for states such as Bihar and Jharkhand); vertical asymmetry between expenditure/functional assignment and taxation/revenue generation powers (like centre state relations; therefore inter-governmental transfers needed)

Reforms in SFCs:

- Synchronization in the constitution of SFC and CFC

- Composition: The eligibility criteria of Chairperson and members should be part of statutes of different state govts

- Functioning: The SFC needs to make a thorough analysis of the finances of rural and urban local bodies and give concrete recommendations regarding their functioning; make suggestions with regard to mobilization of more resources (increasing tax base and collection efficiency), rationalization of expenditure; performance based devolution depending on factors such as effort of the local bodies to raise more resources, rationalize expenditure, quality of service delivery to citizens and implementation of recommendations of SFCs

Devolution of functionaries and capacity building for self governance

- Convergence between local bodies and state govt line depts/parastatals: Tremendous shortage of skilled personnel in local bodies; the functionaries of state govt. line depts/parastatals should be transferred to local bodies or if they need to exist on grounds of functional specialization, there should be organic relationship between the two; they should operate under the overall control of local bodies

- *Present system of training:* NIRD, SIRDs, ATIs, distance training programme of IGNOU etc; trained in panchayat and municipal laws, maintenance of accounts, office procedures etc; content needs to be revamped to include emerging areas such as principles of good governance, issues related to transparency and accountability, gender budgeting, equity and concerns of marginalized sections of the society, environmental mgmt, disaster mgmt etc; special focus on capacity building of EWRs; SFCs shd earmark a specific proportion of total expenditure on training and capacity building

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Reforms in SEC:

Reforms to ensure independence of SEC:

- No uniformity in the qualifications, tenure of office, age limit and status of SECs across different states (West Bengal: sufficient experience in the affairs of Union any State Government in an administrative post)

- The State Election Commissioner should be appointed by the Governor on the recommendation of a collegium, comprising the Chief Minister, the Speaker of the State Legislative Assembly and the Leader of Opposition in the Legislative Assembly

- The State Election Commissioner should be given the status of HC judge and should be removed in the same manner as a HC judge

Reforms to prevent delay in conduct of elections:

- The task of delimitation and reservation of constituencies should be entrusted to the SECs

- Local government laws in all States should provide for adoption of the Assembly electoral rolls for local governments without any revision of names by SECs

Decentralized planning:

- **Constitutional provisions:** As per articles 243 G and 243 W, the state legislature may by law vest with PRIs and ULBs such powers and authority that would enable them to function as institutions of self govt; these powers include preparation and implementation of plans related to economic development and social justice; articles 243 ZD and 243 ZE provide for constitution of DPCs (for consolidating plans of PRIs and ULBs and to prepare a draft development plan for the entire district) and MPCs (for preparing draft development plan for the entire area); DPCs and MPCs have to prepare an integrated plan and focus on coordinated spatial planning entailing issues such as sharing of water and other natural resources, integrated dev of infrastructure, environmental mgmt etc

- **Legal provisions in states:** In pursuance of articles 243 G and 243 W, different states have empowered the PRIs and ULBs to prepare plans for economic dev and social justice; in pursuance of articles 243 ZD and 243 ZE, different states have provided for constitution of DPCs/MPCs in their respective Panchayat/ULB act

The constitutional vision of institutionalizing decentralized planning at Panchayat and ULB level has not been realised; reasons-

- Lack of legal backing: Many state govt PRI and ULB laws have not empowered the PRIs to prepare plans for econ dev and social justice as envisaged in article 243 G (243 G and 243 W are discretionary)

- In those states which have this provision in their PRI and ULB acts, the task of decentralized planning is not taken seriously; reasons:

    – Lack of devolution of functions and power; local bodies are not motivated to prepare plans since they know that they wd not have the authority to implement what they plan

    – In case devolution of functions has taken place, there is lack of devolution of finances; absence of untied funds to implement the plan

    – Lack of functionaries to prepare the plan; PRIs and ULBs lack the capacity to undertake planning exercise

    – Lack of interest shown by State Planning Boards and erstwhile Planning Commission

Particular issues with planning in urban areas:

- In many states MPCs have not yet been constituted

- *Multiplicity of planning authorities:* ULBs such as Municipal Corporations, MPCs for Metropolitan areas, DPCs for entire district, Development Authorities, Town Planning Boards, Housing Boards, Water and Sewerage Supply Boards and other parastatals; conflict between MPC and DPC in metropolitan areas; multiple districts in a metropolitan area; Delhi metropolitan area has 7 revenue districts; MPC under MoUD and DPC under MoPR; issues of coordination; confusion, inefficiencies, duplication of effort and diffusion of accountability

- Development Authorities plan as well as develop; conflict of interest; physical development supersedes planning concerns

Issues in functioning of DPCs:

- In some states, DPCs not constituted; in states where they have been constituted, mostly they are dysfunctional and dormant; no meetings take place in states such as Jharkhand and Chhattisgarh (In Kerala, DPC is active and functional)

- Huge variations across different states in terms of composition/structure, chairpersons etc of DPC; chairperson either Minister/MP/MLA from that district or ZP President

- DPC does not have an organic link with local governance structures (PRIs and ULBs); it is the only body in the decentralization scheme of the constitution where 20% of the members can be

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nominated; in many places, chairperson is also nominated; being constituted partly through indirect election and partly through nomination, it is neither accountable to the people directly nor to the PRI/Municipal system

- Politicization of DPCs: Nomination/induction of political members; Minister/MP/MLA as chairperson; DPCs have become political forums stronger than elected local bodies

Reforms in decentralized planning:

- Constitutional and statutory backing: amendment of article 243 G and 243 W; "The state legislature shall (and not may)…"; different state govt acts of PRIs and ULBs need to empower them to prepare plans for econ dev and social justice

- Devolution of 3Fs: Devolution of functions, clear delineation of activities using activity mapping, devolution of funds, devolution of functionaries and capacity building etc

- State Planning Boards need to be pro-active in promotion of decentralized planning and integration of decentralized plans with state plans; states may also design a planning calendar prescribing the time limits within which each local body has to finalize its plan and send to the next higher level

- In every district, DPCs shd be constituted and shd be the sole planning body of the entire district (except for metropolitan areas); it shd have a planning office with a full time District Planning Officer

- Setting up of a Resource Centre, comprising of a Planning and Data unit, which will provide support to PRIs in preparation of plans

- Evolving partnerships and developing networks: collaboration with CSOs, academic and research institutions, experts in decentralized planning, urban governance, waste mgmt, urban transport etc; a pool of common professional experts shd be maintained by a federation of local bodies, comprising of engineers, planners, community mobilizers, urban dev experts etc

- **Urban planning:** In Metropolitan areas with MPCs, DPCs should be subsumed in MPCs; in TN, MPC for Chennai Metropolitan area is deemed to be a DPC for those areas of revenue districts included in metropolitan area; planning shd be the sole responsibility of MPC and ULBs; the planning wing of Dev Authorities, parastatals etc shd be subsumed in ULBs; between MPC and ULBs, clear delineation of responsibilities pertaining to planning shd be done; ULBs shd be responsible for plans at the layout level while MPCs shd be responsible for coordinated spatial planning (regional and zonal plans)

Long term solution: Constitution of District Council/Govt

- At present, there is artificial distinction between PRIs and ULBs, especially at block and district level; people have common needs; health and education services are basic public services that shd be available to everyone (PURA and RURBAN Mission); second, growth of census towns and peri-urban areas; distinction between rural and urban getting blurred; greater coordination and holistic/integrated approach needed; DPCs in most of the states dysfunctional

Reform:

- At the district level, ZP shd be transformed into a District Council/Govt comprising of elected representatives from both, rural and urban areas; its jurisdiction will be expanded to cover the entire district; under such a scheme, the rural-urban distinction between LSG institutions will remain for individual municipalities and Panchayats up to the intermediate level; at the district level, the distinction will disappear and the District Council wd serve as the true local govt for the entire district

- DM will serve as the CEO of the District Council and wd be accountable to the council for all local functions and to the state govt for other functions

- DPCs/MPCs shd be subsumed within District Council once it is constituted; all other planning bodies existing at the district level (Dev Authorities, parastatals etc) shd be subsumed in the planning/technical wing of District Council

- *Examples:* in 1980s, Karnataka made experiments with the concept of District Govt; in 1991, District Councils were formed in Kerala

Reforms related to accountability and transparency:

- *Need for transparency/accountability:* It has been observed that the LSGs are beset with the same issues that plagues higher governance (corruption and patronage, inefficiencies, non transparency and non accountability, non responsiveness, arbitrary use of power and authority); so, decentralization of issues/problems as well; since local govt is nearest to the people and citizens interact with them on a regular basis, local corruption, inefficiencies and arbitrariness are much more visible and affect the citizens in a much more direct manner vis-a-vis higher governance structures

Reforms needed-

- Local Body Ombudsman for a group of districts under Lokayukta to look into complaints of corruption and maladministration (Remaining reforms similar to those discussed in transparency and accountability in civil services)

External audit and maintenance of accounts:

- **Accounts:** Lack of capacity at local level, especially for PRIs, to maintain accounts; CAG has developed accounting manuals and budget formats (NMAM) which is based on accrual system of accounting for ULBs; this needs to be followed by all ULBs

- **Audit:** CAG has developed auditing standards and manuals; presently, audit of local bodies in most of the states being done by DLFA; two views – (1) Finance Commission is of the view that CAG shd carry out external audit of all local bodies and DLFA shd work under its admn and technical supervision (2) 2nd ARC suggests that for PRIs, DLFA shd carry out audit and not CAG; DLFA needs to be strengthened and made independent of state govt; she shd be appointed by the state govt in consultation with the CAG; CAG shd give TGS; ULBs, especially Corporations which deal with huge funds, shd be audited in the same manner as govt companies as per Companies Act, 2013; statutory audit by an auditor selected by the state govt from the empanelled list of CAs prepared by CAG; supplementary audit by CAG or DLFA; there should be separate legislative committee on local bodies to examine audit reports on lines of PAC; FRBM act for local bodies for ensuring fiscal prudence

Specific reforms related to PRIs

- *Creation of Ward Sabhas in large sized GPs:* In large sized GP, the relationship between the people and GP becomes too distant; dilution of the principle of subsidiarity; creation of an intermediate body called Ward Sabha between Gram Sabha and GP to enable popular participation; examples: Ward Sabhas exist in Karnataka; in Odisha such bodies are known as Palli Sabhas that function below Gram Sabha at smaller habitation level

- *Devolution of regulatory functions* to Panchayats such as issuance of birth, death and domicile certificates; enforcement of building bye laws, issuance of voter id cards; enforcement of regulations pertaining to weights and measures; rural /community policing

Devolution of finances to PRIs:

- Devolution of funds from higher tiers of govt shd be unconditional; grants/loans from state govt/central govt shd be untied and unconditional, flexibility and discretion to Panchayats (on lines of BRGF); performance based grants (performance based devolution by SFCs)

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Internal revenue mobilization:

- Optimum utilization of existing taxes assigned to Panchayats- fixation of realistic tax rates and user charges for water supply, street-lighting etc, widening tax base, improving collection efficiency etc

- Additional, innovative areas of resource mobilization: Mining - State govts shd share a part of royalty received on mining with Panchayats (in fact states should share other non tax revenue with Panchayats also); also, Panchayats shd be empowered to impose cess on royalty; examples: in TN and Karnataka, PRIs have been empowered to impose cess on land revenue paid to govt

Relationship between PRIs and state govt:

- Under various state govt PRI acts, PRIs have been relegated to a subordinate position and state govt wields considerable influence over them; some of these controls include power to suspend a resolution of the panchayat, power to enquire into the affairs of panchayat, power to inspect and issue directives, power to remove elected panchayat representatives under certain specified conditions, approval of budget of a panchayat by a higher tier or by a state authority; there have been instances of arbitrary use of such powers such as power to suspend elected representatives on the pretext of corruption, electoral malpractices etc; state govt needs to give up these powers and delegate them to independent bodies such as Local Body Ombudsman (in cases of corruption, abuse of office etc) and SEC (in cases of electoral malpractices)

Reforms in ULBs

- **Goal:** Planned/holistic, inclusive/equitable and sustainable urbanization

- **Sub-goals:** Urban poverty alleviation and sustainable livelihoods, affordable housing, affordable and quality public transport, universal and clean water supply, sanitation, sewerage and waste mgmt, clean and healthy environment, special provisions for marginalized and vulnerable sections of the society in each of the sectoral outcomes

- **Enablers/instruments:** Urban planning reforms; urban governance reforms (democratic decentralization using principle of subsidiarity/clear delineation of functions and activity mapping; devolution of functionaries and capacity building; financial empowerment; convergence; transparency, accountability and citizen centricity)

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Holistic and integrated urban planning:

- City Development Plans under JNNURM; issues- (i) they focused only on core area of the city, ignoring peri-urban areas (because of increasing pressure of population on metropolitan areas and tier 1 cities, peri-urban areas, in the vicinity of these cities, have emerged as intense centres of economic activities; haphazard dev of peri-urban areas taking place); (ii) rigid and inflexible land use pattern, building bye laws and FSI leading to sub-optimal use of land and infrastructure (iii) lack of integration of CDP and sectoral plans

Reforms:

- City development plan shd have the following components: plan for urban poverty alleviation and sustainable livelihoods, affordable housing plan, plan for affordable and quality public transport, water, sanitation and sewerage plan, environmental mgmt plan, plan for promoting inclusive urbanization with special focus on the needs and concerns of marginalized sections of the society, plan for peri urban areas and financial plan (outlining the sources of finance for urban dev)

- Annual plan, strategic plan (5 years) and perspective plan (15-20 years), taking into account sectoral plans

- **Multiplicity of planning structures in urban areas**: All the planning shd be done by MPCs or Municipal Bodies while Dev Authorities and Parastatals shd give technical input; in metropolitan areas, DPCs shd be subsumed within MPCs

- Revamping of town planning acts, municipal and building bye laws and land use conversion norms; mixed land use planning needs to be promoted

- **Strategic densification of economic corridors** as a planning strategy needs to be pursued for accommodating future urbanization; increasing FSI at growth nodes; example: cities such as Singapore and Manhattan have increased FSI strategically near Metro Stations since transport system can accommodate higher density

- **Land readjustment as an alternative to land acquisition** for dev of urban infrastructure; here, only a part of the land is used for infrastructure dev; the remaining part, whose value increases due to infra dev, is returned to the landowner; thus, it helps in avoiding public discontentment and protests to a great extent; being done in Gujarat

- Ensuring citizens' participation in planning: through Mohalla Sabhas/Area Sabhas

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Urban governance reforms:

Empowerment of ULBs

- In the spirit of article 243 W, democratic decentralization using principle of subsidiarity; devolution of functions of 12th schedule to ULBs

- Clear delineation of functions and detailed activity mapping to assess which activities need to be carried out by state govt and which activities by ULBs

Role of parastatals: At present most of the urban services by parastatals, Dev Authorities etc; housing boards, transport corporations (DTC), water supply, sewerage and sanitation boards etc; these parastatals either need to be dismantled and subsumed within ULBs; if they are needed due to their professional and technical competence, they shd hv an organic relationship with the ULB; the ULB shd sign MoUs/Performance Agreements with them for service delivery; however, ultimate accountability with ULBs

- **Empowerment of Mayor and holding her accountable:** At present, Deliberative Wing of the ULB is headed by the Mayor while Executive Wing is headed by a CEO (generally a civil servant); Mayor needs to be made the Executive head; she shd be given executive powers and at the same time held accountable for all urban governance/dev related issues (single point accountability); she shd have a fixed, stable tenure so that she can deliver results

- **Creation of new institutions:** *Independent Municipal Services Regulator* (for evaluating the quality of service delivery, fixing of user charges, dispute resolution etc); *Local Body Ombudsman*; *Mohalla Sabhas and Ward Committees*; each ward wd be divided into diff Mohallas and each Mohalla will have a Mohalla Sabha; Ward Committee will exist at the level of Ward and will comprise representatives of different Mohalla Sabhas; these structures will enable popular participation and will help in institutionalizing participatory and citizen centric governance; these shd have legislative backing through an act; Delhi has passed Delhi Nagar Swaraj Act

- **Systemic reforms:** Reforms to bring about transparency, accountability and citizen centricity; strengthening of service delivery capability through adoption of Sevottam Model; citizens' charter and internal grievance redressal mechanism, outcome/performance budgeting, RFDs, flatter structures, multi-disciplinary and cross functional teams, simplification of rules and regulations, reengineering of processes and systems (building permits and completion certificates), reducing discretionary powers, internal supervision, proactive and preventive vigilance, e-governance and ICT

Financial empowerment of ULBs:

- According to Isher Judge Ahluwalia Committee, Rs. 40 lakh crore worth of investment wd be needed for urban infra in the next 20 years; internal revenue mobilization as % of total revenue for ULBs is around 50%

- Increase in grants and loans received from state and central govt; states shd accept the recommendations of SFC with regard to share in net proceeds of taxes; according to Isher Judge Ahluwalia committee, states shd share 25% of GST equivalent with local bodies

- Constitutional amendment to incorporate a Local Bodies Finance List, clearly delineating the taxation powers of ULBs (and also PRIs), on lines of Part XII of the constitution

- Optimal utilization of existing taxes assigned to ULBs by fixing realistic tax rates, widening tax base, increasing collection efficiency etc (property tax, profession tax, motor vehicle tax, entertainment tax, advertisement tax etc); rationalization of user charges for water supply etc as fixed by Municipal Services Regulator

Additional, innovative measures of resource mobilization:

- Monetization of land

- Charges for additional FSI

- Charges for land use conversion shd be at least 50% of the actual land value

- Borrowings from banks and financial institutions

- Raising resources through municipal bonds

Functionaries and capacity building:

Quantity/number of functionaries:

- Creation of a separate professional municipal cadre specialising in areas such as urban planning, infrastructure, waste mgmt etc; recruitment through open competitive exams; urban governance is increasingly becoming a complex and specialised task

- Dismantling of parastatals, Dev Authorities etc and transferring their functionaries to ULBs

- Hiring of external experts and consultants

Quality of functionaries and capacity building:

- Continuous training and capacity building; institutes such as IIPA, ATIs, NIUA etc shd prepare standardised training modules

- Setting up of IIUM

- At least 10% of the total funds shd be earmarked for training

Reforms in Regulatory Bodies

- Balancing autonomy and accountability; case of RBI; they can be made accountable directly to the legislature; *CAG audit?*

- Issues of conflict of interest (AERB, GEAC)

- Turf wars between regulators (SEBI and IRDA; TRAI and CCI)

- Draft Regulatory Reforms Bill

Civil Services Reforms

Nature of civil services in India

- *'Ruling bureaucracy'* during colonial times

- Post independence, we continued with ICS

- The entire organizational structure of govt and civil services is Weberian in nature characterized by impersonal order, hierarchy, rules and regulations, centralization of authority, value neutrality and rationality, political neutrality and anonymity

- Permanent, career based (an uninterrupted progression from recruitment to retirement) and generalist civil services; all the services recruited by UPSC, a constitutional body; merit based recruitment on the basis of open competition; elaborate training; established performance mgmt and career dev system; promotions based on seniority and merit; permanency of tenure; all the important positions at centre, state and district level reserved for civil service

Achievements/role of civil services in India

- Civil services has contributed positively to the functioning of our democratic polity, pluralistic society and growing economy

- Regulatory functions such as upholding the unity and integrity and maintenance of law and order in a vast country such as India prone to various conflicts (ethnic, communal, regional etc)

- Other functions such as conduct of elections, disaster mgmt, audit etc

- Civil services have contributed not just in policy implementation but also policy formulation and M&E (quasi legislative and quasi judicial functions); a permanent civil service has expertise and institutional memory for effective policy making

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- Permanent, career based civil services has provided stability and continuity during transfer of power from one elected govt. to another

- A permanent and impartial civil service is in a much better position to assess the long term consequences of policies while political executive might have short term outlook; competitive populism and vote bank politics

- AIS have an all India character; they are recruited by the centre and serves both, states as well as centre (when on deputation); they carry grassroots experience while serving the centre and national perspective while serving the states; promotes the concept of cooperative federalism; people from one state, speaking a particular language and following a particular culture serve in a completely different state, with a completely different language/culture; play a unifying role; further, they act as a link between policy making and implementation; between cutting edge level functions at the field level and policy making functions at HQ level

- As per a WB report, the strengths of civil service in India include its extraordinary pool of skills and talents, its field experience, extensive networking, understanding of the functioning of govt at different levels, its can deliver attitude and ready adaptability to new and unfamiliar situations

Relationship between Civil Servants and Political Executive

- In a Parliamentary democracy, power vests with the people and this power is exercised through elected representatives; doctrine of collective responsibility of the council of ministers (Article 75); responsible to the legislature and to the people through periodic elections; civil servants are accountable to the ministers

Areas and modes of interaction/conflict between civil servants and political executive:

- **Policy making:** Apart from the political executive and legislature, senior civil servants play an integral role in policy making; they have long years of experience and professional skills and competence; when the politician is busy nursing his constituency and managing politics outside, the bureaucrat initiates and formulates policies and get them approved as an administrative ritual; thus the policy document is his handiwork; also, civil servants play a significant role in delegated legislation

- **Policy implementation:** There is political interference in policy implementation; the bureaucrat tries to follow rules and regulations in policy implementation while the politician tries to pressurise the bureaucrat to bend rules for private gain or to nurse his constituency and help his supporters; the result is either collusion and corruption or discord and confrontation

- **Aggregation, articulation and arbitration of interests:** In any democracy, there are different interest groups such as farmers, labourers, industrialists, women etc; although, aggregation, articulation and arbitration of group interests is essentially a political act and political parties and legislators are expected to do these (not the minister since she is a part of the govt which represents the entire nation and not any particular group); however, in practice, different interest groups lobby with civil servants; civil servants get overtly and covertly involved in group politics and act as conduits for the flow of group interests within the admn

- **Inherent clash between political control and admn autonomy:** The politician/elected representative perceives himself as the real guardian of public interest and wants to control the bureaucrat while the latter needs autonomy and discretion to function efficiently and effectively

Indian experience: Phases of relations between political executive and civil servants

Ist phase: pre-independence - India had a 'bureaucratic state' and a 'ruling bureaucracy' during colonial times wherein the British ruled the country with the help of ICS/IPS

2nd phase – 1947 to 1975:

- After independence, the role reversed and the civil servants were made accountable to the political executive. In the initial years, cordial and harmonious relation; mutual respect and appreciation of each other's distinct roles and responsibilities

- Under Article 77, President has formulated the *'Transaction of Business Rules'* which specify the structure and functioning of a ministry/dept, and by implication the relationship between civil services and political executive; the relationship between the secretary and minister is organic; the minister is an elected representative and has the final decision making power but it is the secretary's responsibility to give her free and frank advice without fear (of retribution) or favour; explain to the minister the constitutionality/legality/propriety of a decision, the short term and long term consequences of a decision, impact on different stakeholders etc; once the secretary's advice has been suitably considered, she is bound to implement the decision of the minister honestly and faithfully, unless it is unconstitutional/illegal

- *Civil services conduct rules* also has provisions related to the relationship between the two; eg: no civil servant is allowed to be a member of any political party/orgn or take part in any political movement or activity or use her influence to affect legislative/local body election

3rd phase: post 1975 – During emergency, there was subordination of civil services by the political executive; civil servants, for the fear of being harassed and losing their jobs, voluntarily surrendered; period of *'committed bureaucracy'*; the trend continued and in subsequent years, *unbalanced polity* emerged

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Politicization of bureaucracy –

- Political executive started to resent advice that did not fit in their short term political interest; they did not appreciate free and frank advice from civil servants; harassing honest civil servants, interfering in personnel issues such as transfers and postings; factors such as caste, community, language and monetary factors etc started playing an imp role in transfers and postings; mass transfers of officers whenever a new govt comes; ministers interfering in placement of officers at middle and top mgmt level under central staffing scheme and also for foreign assignments

- On its part, civil servants started not to render objective and impartial advice to ministers; they learnt the art of obtaining favours (such as plum postings and foreign assignments) in return for pliable decision making

- They started to anticipate the minister's wishes and gave their advice accordingly; they started to be identified with a particular political dispensation; as a result, political neutrality, which was the hallmark of civil services was gradually eroded; relationship started to be characterized by uneasiness, suspicion and distrust; civil servants started to play safe and focus on just routine functions

- The issue is that civil servants are accountable to the ministers but this accountability is vague and ambiguous; there is no ex-ante specification of accountability; hence the relationship between minister and civil servant becomes issue specific and the civil servant deals with the minister as and when issues present themselves; this leads to either collusion or discord, both of which are not desirable for governance

- Another issue is ministers interfering in the day to day functioning of civil servants and giving improper oral instructions (PSUs/PSBs)

- ***Example of politicization of bureaucracy:*** Madras HC and later SC quashed the appointment of 11 members of TNPSC, stating that due process was not followed and appointments were made in an arbitrary manner

- **Bureaucratization of politics:** India inherited a very strong bureaucracy after independence; historically, during the colonial times, bureaucracy was more powerful than the elected legislatures; they were not accountable to the elected representatives but to the Crown/Secretary of State/Governor General etc; after independence, although they were made accountable to the elected govt, still it wielded a lot of power and played an instrumental role in political decision making because of their experience, expertise, admn skills and other developments such as delegated legislation; another factor is deteriorating quality of political leaders with limited understanding of governance; dependent on civil servants for decision making

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Reforms: Need for preservation of political neutrality; fair, objective and transparent transfer and posting policy; the civil services code (code of conduct and code of ethics) in the proposed civil services act shd clearly specify the framework of relationship between political executive and civil servants; civil services authority should fix tenure and decide on transfers and postings, placement at middle and top mgmt level and foreign postings

- *SC judgement in 2013* enjoining the central and state govts to ensure security of tenure for civil servants; it also ruled that a Civil Services Board (CSB), comprising senior bureaucrats, be formed at the Centre, in each state and Union Territory to advise the government on matters such as postings, transfers and disciplinary action; in pursuance of SC verdict, DoPT issued a notification in January, 2014 and amended AIS (Cadre) rules, asking the states to ensure a minimum of 2 years tenure for AIS officers; the states were also asked to constitute civil services board that will make recommendations to ACC (Appointment Committee of Cabinet) regarding transfers and postings and in case they are not accepted, reason shd be recorded in writing; CSB shd also submit quarterly report to DoPT on all premature transfers and postings; there are some states which have not yet constituted CSB such as MP; many state governments have already constituted their CSBs; but the issue is the these CSBs are not independent and they just formalize the wishes of political executive

- SC also pronounced that civil servants must refrain from acting on oral instructions of political bosses

Issues with our bureaucracy

- *Colonial bureaucracy:* Debates after independence whether to continue with the ICS or not; Nehru said in 1964 that his greatest failure has been that he has not been able to change the admn; it's still a colonial admn and its continuance is one of the main reasons for India's inability to solve the problem of poverty; Indira Gandhi said in 1966, "what we need is a revolution in our admn system".

- Weberian theory treats *bureaucracy as a closed system* and bureaucrats as a class apart from the citizens; people are treated as passive beneficiaries and recipients of admn help rather than active partners in dev; inward looking

- **Hierarchy:** Vertical hierarchical structures; 7-8 levels between dealing hand and ministers; delays, red tapism, diffusion of accountability; corruption; different levels do not add to decision making

- Excessive focus on **rules and regulations** leading to goal displacement; process accountability and not performance accountability; instrumental bureaucracy has become institutional bureaucracy; red tapism and lack of outcome orientation

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- **Value neutrality, rationality and impersonal order**; it is structural, mechanistic and dehumanising what is required is value commitment and civil service activism; concern for marginalized sections of the society

- **Attitude of civil servants:** Status quoist attitude; common experience has been that civil servants are wedded to their powers and privileges and resist changes; non implementation of 73rd and 74th amendment; they still seem to be following the Hegelian dictum that they represent the universal interest of the society; self aggrandizement and self preservation; *colonial mindset of unchallenged authority and arbitrary use of power;* it starts from the beginning; training and OLQs; they are made to believe that they are superior than the citizens who they are supposed to serve

- **Inefficient, ineffective and corrupt:** India's ranking in various development/governance indicators highlights that Weberian bureaucracy has failed to achieve the objectives of Development Admn.

- **Non transparent** (secretive nature of functioning; even after RTI, resist giving information in the garb of section 8), **non accountable** (article 311, issues related to disciplinary proceedings etc); **non responsive** and **absence of citizen centricity**

- **Over centralization; lack of decentralization and delegation** at the organizational and political level

- Permanent, career based civil services has led to **excessive job security, complacency**; no fear of punishment for incompetence or wrongdoing; risk aversion: distorted incentive structure; hence, civil servants tend to adopt a minimalistic approach focusing on disposal of routine files rather than innovating or resolving problems

- In the words of former PM Manmohan Singh on Civil Services Day – *"Systemic rigidities, needless complexities and over centralization has made bureaucracy ineffective and inefficient; that's why civil service has to change; but not in an incrementalist manner; a thorough transformation and metamorphosis is needed."*

Administrative reforms

Transparency

Issues and reforms needed in RTI

1. **Legislative reforms**

Official Secrets Act:

- The Official Secrets Act, 1923, enacted during the colonial era, governs all matters of secrecy and confidentiality in governance

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- The law largely deals with matters of security and provides a framework for dealing with espionage, sedition and other assaults on the unity and integrity of the nation

- However, given the colonial climate of mistrust of people and the primacy of public officials in dealing with the citizens, OSA created a culture of secrecy. Confidentiality became the norm and disclosure the exception

- *Section 5 of OSA* (dealing with national security), became a catch-all legal provision converting practically every issue of governance into a confidential matter

- **Section 5:** Any person having information about a prohibited place, or such information which may help an enemy state, or which has been entrusted to him in confidence, or which he has obtained owing to his official position, commits an offence if (s)he communicates it to an unauthorised person, uses it in a manner prejudicial to the interests of the State, retains it when (s)he has no right to do so, or fails to take reasonable care of such information. Any kind of information is covered by this Section if it is classified as 'secret'. The word "secret" or the phrase "official secrets" has not been defined in the Act. Therefore, public servants enjoy the discretion to classify anything as "secret"

- This tendency was buttressed by the *Civil Service Conduct Rules, 1964* which prohibit communication of an official document to anyone without authorization

Section 123 of the Indian Evidence Act, enacted in 1872, prohibits the giving of evidence from unpublished official records without the permission of the Head of the Department

Reforms

- The Official Secrets Act, 1923 should be repealed, and substituted by a chapter in the National Security Act, containing provisions relating to official secrets

- Amendment of Civil Services conduct rules and para 116 of the Manual of Office Procedure : "*Every Government servant shall, in performance of his duties in good faith, communicate to a member of public or any organisation full and accurate information, which can be disclosed under the Right to Information Act, 2005.*"

- Section 123 of the Indian Evidence Act, 1872, needs to be amended

- As an affirmation of the importance of transparency in public affairs, ministers on assumption of office may take an oath of transparency along with the oath of office and the requirement of administering the oath of secrecy should be dispensed with

ETHICS CLASS NOTES

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Reforms in RTI to deal with frivolous and vexatious requests:

- The information seeker *"shall not be required to give any reason for requesting the information ….. or any other personal details…."*.

- This salutary provision is important to ensure that there is no subjective evaluation of the request, or denial on specious grounds

- However, in recent times instances of frivolous or vexatious (or mala fide). There are also cases in which public servants under a cloud and facing grave disciplinary charges have repeatedly attempted to use the act to intimidate, harass or at times even humiliate seniors with requests that have been vexatious

- If safeguards are not provided in such situations, there could be three dangers. First, such frivolous or vexatious requests may overwhelm the system and defeat the very purpose of the act. Second, the even tenor of the administration may be paralysed, seriously undermining delivery of services. Third, if public servants facing serious charges successfully resort to such tactics directly or through proxies it may lead to breakdown of discipline, insubordination and disharmony in public institutions

Section 7 may be amended to insert sub section (10) as follows:

- *"The PIO may refuse a request for information if the request is manifestly frivolous or vexatious*

- Further, it may be provided that *information can be denied if the work involved in processing the request would substantially and unreasonably divert the resources of the public body*

Provided that such a refusal shall be communicated within 15 days of receipt of application, with the prior approval of the appellate authority. Provided further that all such refusals shall stand transferred to CIC/SIC, as the case may be and the CIC/SIC shall dispose the case as if it is an appeal under section 19(3) of the RTI Act

2. Institutional reforms

Reforms related to CIC and SICs:

- **Increasing number of cases pending in CIC and SICs:** Around 30,000 cases: Lack of financial autonomy, non-appointment of new information commissioners, dependence on contract staff rather than regular recruitment and insufficient office space

- ***CIC's inability to ensure compliance with its orders:*** The CIC does not have contempt powers and the only way in which it can ensure compliance is to use its power to impose a penalty (Section 20). Penalty proceedings are a lengthy process. The CIC's inability or reluctance to ensure compliance with its orders is likely to have at least two consequences, both injurious to the RTI regime. First, it

deprives citizens of a sense of "justice". Second, it creates an impression that the CIC does not take its own orders seriously and this could erode the hard won credibility of the CIC

- *The quality of orders issued by the CIC*: Orders are often cryptic and devoid of any significant reasoning, or even the basic factual background

- *Role of CIC in implementation of RTI in letter and spirit:* The CIC needs to make assessment as to whether public authorities are performing their duties in consonance with the letter and spirit of the act. If there is a deviation, the CIC can make suitable recommendations to the public authority. This could include directing the public authority to proactively disclose certain information in accordance with the act. Unfortunately, the CIC is not devoting a great deal of time to such issues

3. Reforms in systems and processes

3.1. Information and Record-keeping:

a. Suo motu declaration under Section 4: Suo motu disclosures should also be available in the form of printed, priced publication in the official language, revised periodically

b. Modernizing recordkeeping:

- Right to Information would be honoured only if the information exists and when it exists, it is easily retrievable and intelligible; cataloguing, indexing and orderly storage; digitization

- Several record keeping agencies already exist in GOI and most states have entrusted record keeping to State Archives, State Gazetteers and State Record Rooms

Public Records Offices should be established as an independent authority in GOI and all States by integrating and restructuring the multiple agencies currently involved in record keeping. This Office will be a repository of technical and professional expertise in management of public records. It will be responsible for supervision, monitoring, control and inspection of record keeping in all public offices

3.2. Creation of a single window agency at district level:

- Presently almost all departments and agencies of the State Government are represented at the District level. All these offices are often dispersed and most citizens would be unaware of their location. Under such circumstances it becomes difficult for an applicant to identify the Public Authority and to locate it

- A Single Window Agency should be set up in each District. This could be achieved by creating a cell in a district-level office, and designating an officer as the Assistant Public Information Officer for all public authorities served by the Single Window Agency. The office of the District Collector/ Deputy Commissioner, or the Zilla Parishad is well suited for location of the cell

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3.3. Method of classification documents: A major contributor to the culture of secrecy in the government is the tendency to classify information even where such classification is clearly unwarranted (confidential, secret, top secret)

- The GOI should amend the Manual of Departmental Security Instructions

- It would be advisable for each Ministry/Department to identify the information which deserves to be given a security classification.

Officer Authorised to accord the Grading:

- *Top Secret Not below Joint Secretary*

- *Secret Not below Deputy Secretary*

- *Confidential Not below Under Secretary*

Should political parties be brought under RTI?

Accountability

- In recent times, with the advent of good governance, accountability concerns have come to the fore; accountability is a complex issue and it has various dimensions:

1. Agents of accountability/accountability to whom:

- **Horizontal accountability:** Organizational/internal hierarchy (internal supervision, audit, vigilance, disciplinary control etc); political (to political executive/ministers); legislature (parliamentary committees); judiciary (any aggrieved citizen can approach the judiciary for violation of right, grievance redressal etc; articles 32 and 226; issuance of writs); CBI, CVC, CAG, Lokpal etc

- **Vertical accountability:** to the citizens, media etc

2. Standards of accountability/accountability for what:

- **Fiscal accountability:** maintenance of proper records and accounts of financial transactions; using public funds wisely; GFR 21 (canons of financial propriety)

- **Procedural/process accountability:** compliance with rules, regulations and procedures

- **Performance/product accountability**: achievement of output and outcomes

- **Moral/ethical accountability:** It has overlap with other forms of accountability; unless a public official is ethical, other forms of accountability cannot be ensured; at the same time, there might be tension between ethical and other forms of accountability such as organizational/political accountability; morality might call for disobedience to superiors/ministers

Institutional and individual accountability

Institutional accountability:

- Traditionally, the accountability of public sector organization measured in terms of *Procedural Accountability -* compliance to rules and regulations, whether expenditure by competent authority or not etc; *Financial Accountability -* maintenance of proper accounts, expenditure as per Appropriation Act or not, parliamentary control over public finance

- *Performance Accountability*: Performance in govt. is generally measured in terms of consumption of input (financial resources, human resources-how many vacancies etc); no focus on outcomes; tools of ensuring accountability include budgetary techniques (line item budgeting), annual reports etc

- **Past initiatives:** *Performance Budget* in 1975-76 (linking input to output and outcome); *ZBB* in 1980s and *Outcome Budget* in 2005; MoUs with PSUs

Reforms needed to ensure institutional accountability

- *Budgetary reforms to ensure financial accountability:* From cash based accounting to accrual accounting; from single year budgeting to multi-year budgeting; to deal with skewed expenditure pattern, *Modified Cash mgmt System* needs to be strictly followed for all demand for grants wherein the total expenditure in the last quarter shd not exceed 33% of total budgetary provision and in the month of March shd not exceed more than 15%

- **Performance accountability:** Need to shift from input based line item budget to outcome/performance budgeting

- UPA govt had introduced RFD system under Performance Monitoring and Evaluation scheme wherein KPIs of different ministries and departments were fixed and they were given marks on the basis of their performance; RFDs have been discontinued

e-Samiksha and PRAGATI of NDA govt:

- e-Samiksha is a real time, on-line system for monitoring of follow-up action on the decisions taken during the presentations made by different Ministries/Departments to the Prime Minister. The

follow-up action in respect of each decision is to be updated by the concerned Ministry/Department/Agency as and when the status changes or at least every month.

PRAGATI:

- It is a three-tier system (PMO, Union Government Secretaries, and Chief Secretaries of the States); Prime Minister holds a monthly programme where he interacts with the Government of India Secretaries, and Chief Secretaries through Video-conferencing enabled by data and geo-informatics visuals

- Three objectives of Grievance Redressal, Programme Implementation and Project Monitoring

- It combines Data Management and Analysis, Geo-spatial technology and Video-conferencing

- It also offers a unique combination in the direction of cooperative federalism since it brings on one stage the Secretaries of Government of India and the Chief Secretaries of the States.

- Innovative project in e-governance and good governance

AP CM's Dashboard:

- Real-time data of various government initiatives and projects; 26 departments and 230 government schemes are part of the project

- All the departments share the progress of various projects on a day-to-day basis

Individual accountability (of civil servants)

1. Horizontal accountability (within the state):

a. Within the organization: APAR (need to shift towards a comprehensive Performance Management and Evaluation System); internal supervision (strengthening internal supervision; proactive and preventive vigilance, internal audit etc); disciplinary proceedings (reforms needed); internal mechanisms of whistle blowing and protection of whistleblowers

b. Outside the organization:

- To the political executive/ministers

- Legislature: through Parliamentary Committees; PAC, COPU etc

- Judiciary

- CVC, CBI, CAG, Lokpal and Lokayukta

2. Vertical accountability (outside the state):

- **To the citizens:** RTI, citizens' charter, grievance redressal, citizens' feedback, social audit etc

Other reforms to strengthen accountability

1. Fitness bar:

- 2 comprehensive in-depth reviews after 14 and 20 years of service; the first review after 14 years should be used for apprising the civil servant regarding her strengths and weaknesses for future advancement; second review after 20 years wd be used to assess the civil servant's competence for further continuance in service

- Rule 56 (j) of FR and Rule 48 of CCS Pension Rules have provisions of compulsory retirement; according to Rule 56 (j), the appropriate authority has the absolute right to retire a person in public interest if the person has attained 50 years of age (for Group A &B officers); as per Rule 48 of CCS Pension rules, the person should have completed 30 years of service

- **January, 2017: Compulsory exit for 2 IPS officer** - In a rare move, the Appointments Committee of Cabinet (ACC) gave the go-ahead to compulsorily retire two IPS officers for "non performance".

- **2. Repealing article 311 (and 310):**

- **Arguments for article 311: (i)** protection of honest civil servants so that they can render their advice without fear or favour; so that they are not subject to whims and fancies of their superiors or political executive **(ii)** govt. as a model employer should be fair and worthy of emulation **(iii)** the condition that civil servants cannot be removed by an authority lower than appointing authority is consistent with hierarchical structure of govt **(iv)** procedural safeguards needed to ensure natural justice **(v)** it is the complex system of disciplinary proceedings and not article 311 that leads to delays in enquiry and removal of delinquent officer

- **Arguments against: (i)** Internationally, no other constitution has such guarantees **(ii)** it leads to lifelong job security, complacency and erosion of accountability, with no fear of penalty for wrongdoing/inefficiency **(iii)** formidable protection/relief is available even outside article 311 (CAT, SATs, HCs, SC) **(iv)** the rights of a civil servant is subordinate to the overall public interest; civil servant as an agent of the state cannot claim to be superior to state **(v)** compulsion of equal treatment of all public servants and judicial pronouncements have extended the benefits of article 311 to PSUs, parastatals, cooperatives etc which was not the original intention

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Rationalization of disciplinary proceedings

Issues:

Long drawn process entailing multiple and sequential steps:

- The process for imposing Minor and Major Penalty have been described in CCS (CCA) Rules, 1965; the steps include –

- Examination of complaints received or lapses noticed to ascertain whether there is a 'vigilance' angle (1 month)

- Decision regarding departmental enquiry or CBI enquiry (3 months)

- Preliminary investigation (3 months)

- Report sent to CVC for 1st stage advice (advice to be given within 1 month)

- Issue of charge-sheet, list of witnesses and docs etc and defence by the accused employee (45 days)

- Issue of final orders in case of minor penalty (2 months)

- Appointment of Inquiry Officer (IO), Presenting Officer (PO) and detailed enquiry in case 1st stage advice recommends major penalty

- Completion of detailed enquiry (6 months)

- Forwarding of enquiry report to the accused govt servant so that he could make representation

- Forwarding the report, considering the representation, to CVC for 2nd stage advice (1 month from receipt of representation)

- Consultation with UPSC

- Issue of final orders (within 1 month of receipt of CVC's advice)

- Even if time schedule as per these rules are adhered to, imposition of minor penalty takes more than 10 months and major penalty more than 16 months

- However, in reality, the time schedule is rarely followed; a recent survey highlighted that receipt of 1st stage advice from CVC took around 6 months (instead of prescribed 1 month); the time taken between appointment of IO and completion of enquiry was 1 year 7 months (instead of 8 months)

Elaborate appellate mechanism rendering the entire process self defeating:

- Even after imposition of penalty, the govt servant can approach the Admn Tribunals, HC and the SC (SLP under article 136) for revision and review of orders, only after the completion of which the delinquent officer would begin to suffer the penalty; the Tribunals also entertain pleas to stay Departmental Enquiries on technical grounds

Reforms

- The CCS (CCA) Rules, 1965 shd be repealed and the new Civil Services Act shd specify only the minimum statutory procedures for disciplinary proceedings to satisfy the criteria of natural justice, leaving the details of procedure to be followed to the respective depts

- The departmental enquiry shd be simplified entailing only two stages – communication of charges to the govt servant and a disciplinary meeting/interview to be conducted by a superior officer in a summary manner, without the trappings and procedures borrowed from court trials; 'preponderance of possibility' rather than 'beyond reasonable doubt' shd be the standard of evidence required for IO (Investigating Officer) to reach her conclusions; such a system is followed in UK and most other developed countries

- Focus shd be on documentary evidence rather than oral evidence

- IO shd be relieved of her normal responsibilities so that she cd complete the investigation expeditiously

- Major Penalty such as dismissal or removal shd be allowed to be imposed by an authority who is 3 positions higher than the post of the AGS (accused govt servant) and Minor Penalty by an authority who is 2 positions higher; however, no penalty shd be imposed without an enquiry/interview and without giving a reasonable opportunity to the AGS to be heard; principle of natural justice shd be followed

- 2 stage consultation with the CVC shd be done away with and only 2nd stage advice after completion of disciplinary proceedings shd be obtained

- Consultation with UPSC shd be done only in cases involving dismissal or removal; in all other cases, it shd be done away with

- Where Minor Penalty is sufficient to meet the ends of justice, Major Penalty shd be avoided since they are more time consuming

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Citizen centric administration

- People's participation in governance is an essential component of good governance and democratic ethos

Need:

- *Intrinsic importance:* A democracy is based on the idea of popular sovereignty i.e. citizens are sovereign; citizens are also the final consumers of all services provided by the state; hence, the state exists to serve the sovereign-citizen-consumer and not to rule them

- *Instrumental importance:* To enhance the quality of public service delivery

- *Our preamble, constitutional values and mandate of the DPSPs provide the basic framework (embodies the idea) of a welfare state and by implication, provide for the creation of a citizen centric governance structure*

- From process accountability to performance/product accountability; from transactional to transformative governance

Citizens' participation in governance

5 ways to facilitate citizens' participation:

1. Citizens seeking information

2. Citizens giving suggestions

3. Citizens demanding better services

4. Citizens holding service providers accountable

5. Active citizens participation in governance

1. **Citizens seeking information:**

- RTI

- Help desks, information cum facilitation centers etc

2. Citizens giving suggestions:

- Public hearings

- Institutional consultations (mygov.in; legislative standing committees)

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- *Citizens' report card, citizens' feedback survey:* Public Affairs Centre (PAC), a non profit orgn from Bangalore has conducted citizen surveys to get feedback regarding quality and adequacy of public services, on lines of client satisfaction surveys in private sector; 3 reports published in 1993, 1999 and 2003 for services provided by agencies such as water and sewerage board, electricity board, public hospitals, RTO etc; remarkable improvement in public satisfaction from 1993 to 2003; Bangalore Development Authority developed its own report card, which it used to obtain feedback from customers on corruption and to identify weaknesses in service delivery

- PAC has also developed a citizens' report card toolkit which can be used by public organizations/officials. It is a self learning course related to designing and implementing CRC

- BATF (Bangalore Agenda Task Force); it is a partnership between the citizens, corporates and the administrative agencies – the BMC, BDA, Bangalore Police etc

3. Citizens demanding better services

- Hyderabad Metropolitan Water Supply and Sewerage Board: 24*7 grievance redressal mechanism; single window clearance mechanism for water supply and sewerage connections

4. Citizens holding service providers accountable: Social audit; MKSS in Rajasthan

5. Active citizens' participation in governance: Communitization of Services Act (Nagaland); Bhagidari scheme (Delhi)

Sevottam model

- It is a framework to enhance the quality of services/goods provided by the state

- India is the first country to have a published standard for public service delivery; IS 15700:2005

It has 3 components:

- **Citizens' Charter**

- **Grievance redressal system**

- **Strengthening the service delivery capability of the state**

International examples: Trains in many of the European countries provide compensation in case of delays; Eurostar between UK and France provides 1 free single ticket for delays between 1 to 3 hours; Trains in Japan are incredibly punctual. Being on time is counted down to the centiseconds. the average annual delay per operational train is 0.9 minutes, which includes uncontrollable delays caused by natural disasters, a not-infrequent occurrence in Japan

Citizens' Charter

- It is a document entailing a set of promises and commitments on part of a public orgn; it outlines the following-

    - VMG of the orgn

    - Services/goods that citizens are entitled to

    - Standards/quality/norms of these services/goods

    - Grievance redressal mechanism in case these standards are not met

    - Responsibilities of citizens: not paying bribe, not approaching touts, giving information regarding any wrongdoing/demand for bribe etc

- It is based on the principle of popular sovereignty and the premise that citizen is the king and the govt exists not to rule the citizens but to serve them

- It is an instrument to promote transparency, accountability, responsiveness, efficiency and effectiveness of a public orgn; to bring about participatory and citizen centric admn

Issues and reforms

- In India, citizens' charter came into existence in 1996

- A survey by Transparency International India in Jharkhand found that except for banks, none of the service providers related to water and electricity supply, land records, police, PDS etc are displaying citizens' charter

- A survey conducted by IIPA found that around 80% of the public entities have not listed quality standards of services that citizens are entitled to; around 60% have not specified the time frame for grievance redressal in case quality standards are not met

1. Issues/reforms in formulation/content:

- It should be *simple, precise and meaningful* (not vague and ambiguous), it should clearly spell out the VMG of the orgn, the services/goods that citizens are entitled to, the standards/norms for these services/goods should be in measurable and monitorable terms, grievance redressal mechanism in case these standards are not met and responsibilities of citizens

- It should be formulated in a *participatory and consultative manner*; involvement of cutting edge level functionaries of the orgn (since they have to implement the charter) and citizens (since they are the end users) and CSOs, outside experts etc

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- *Social equity:* The charter should give due importance to needs of vulnerable and marginalized sections of the society (women, elderly, disabled etc)

Issues/reforms in implementation

- Citizens' charter cannot be implemented in isolation; *thorough reengineering of processes and systems* need to precede before implementation; the orgn needs to strengthen its service delivery capability as part of 'Sevottam' model

- *Training and capacity building of the members of the orgn*, especially the cutting edge level functionaries; need to move from Weberian mindset to NPA; behavioral/sensitivity training; attitudinal change; outcome and citizen orientation; emotional intelligence

- *Operationalization of grievance redressal system*

Issues/reforms in M&E

Continuous monitoring and evaluation of charter; performance auditing; independent evaluation by external agencies; social audit; citizens' report card and feedback survey

Other reforms:

- Citizens' Charter need to be given legislative backing; many ministries/departments/orgn have still not formulated; even if formulated, not taken seriously

- A specific portion of the budget needs to be earmarked for awareness generation and IEC campaigns to create bottom up pressure

- No one size fit all strategy: different branches/field offices of the parent orgn should have different charters as per the local context; example – Income Tax dept; IAAD etc

- It should be a dynamic document; continuously reviewed and updated as per the changing environment, learning and feedback

Grievance redressal mechanism

Grievances are of two kinds:

- *Related to corruption*: there are laws and institutions in place to deal with these

- *Related to non performance, poor service delivery and systemic deficiencies:* systemic reforms need to be undertaken; Sevottam model; strengthening service delivery capability

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Present system:

1. Institutions outside the Executive:

- Judiciary, Lokpal and Lokayukta, CAG, CBI and CVC, various regulatory institutions such as SEBI, CCI, TRAI, consumer courts, electricity regulatory authorities, Banking sector Ombudsman

- Constitutional and statutory bodies such as NHRC, NCSC, NCST, NCPCR etc

Grievance redressal mechanism within the executive

Central level:

- Dept. of admn. reforms and public grievances

- Directorate of Public Grievances in Cabinet Secretariat

- Public wing of PMO

- Public wing of President's Secretariat

- Protectorate General of India in the Ministry of Labour (for grievances related to breach of contract, fraud etc)

Dept of admn. reforms and public grievances serves as the nodal agency for issuing policy guidelines for grievance redressal, monitoring of pending grievances through CPGRAMS and coordination for timely disposal of grievances; *use of social media such as Twitter!*

Guidelines:

- In every ministry/dept, JS level officer should be designated as Director of Public Grievances (nodal officer for redress of grievances)

- In Central Secretariat, every Wednesday as meeting-less day; 3 hours (10 AM to 1 PM) devoted to grievance redressal; similarly, 1 day should be designated in attached/subordinate/field offices

- As part of Sevottam model, preventive and proactive steps need to be taken to introduce systemic reforms to reduce/eliminate grievances; identify grievance/complain prone areas, analyse reasons for grievances and undertake systemic reforms

- Acknowledgement of receipt of grievance, continuous monitoring and time bound disposal of grievances

State level:

- Public wing of CMO; CMs conduct public hearings/Jan Sunwais; *Delhi example* - CMO, separate public grievance commission has been set up; Grievances and Anti Corruption Cell under Secretary (AR) and Directorate of Vigilance; grievance redressal cells in different depts and local bodies (NDMC, Delhi Jal Board, DDA etc)

District level:

DM serves as the District Grievance Redressal Officer; example: Kozhikode DM using facebook for grievance redressal as part of *Compassionate Kozhikode*; DM acts as Grievance redressal Officer under Lokvaani in UP

Non state grievance redressal system: Media and civil society

Reforms

- At present, there are a lot of external constitutional and statutory bodies involved in grievance redressal such as the judiciary, Lokpal and Lokayuktas, CVC, NHRC/SHRC, NCSC/SCSC, NCST/SCST, NCW/SCW, NCM/SCM, NCPCR/SCPCR

- A strong internal grievance redressal system needs to be institutionalized in every public organization

- In every orgn., there should be a public grievance redressal officer on lines of PIO under RTI act; all the grievances should be redressed in a time bound manner (say within 30 days); penalty in case time limit is not followed; each orgn should appoint an appellate authority to hear appeal against the grievance redressal officer in case the complainant is not satisfied

- On lines of CPGRAMS, each orgn./ministry/dept at state and district level should start an online PGRAMS for online lodging and redressal of complaints

- Legislative backing (grievance redressal act)

- Creation of bottom up pressure through IEC campaigns

- Till the time, a law is not passed, all the guidelines of DARPG need to be followed in letter and spirit, especially those pertaining to identification of grievance prone areas and introducing systemic reforms to prevent/eliminate the underlying causes that lead to grievances

The Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011 (Citizens Charter and Grievance Redressal Bill): It has lapsed; provisions include-

- Every public authority is required to publish a Citizens Charter within six months of the commencement of the Act.

- A citizen may file a complaint regarding any grievance related to service delivery.

- The Bill requires all public authorities to appoint officers to redress grievances.

- Grievances are to be redressed within 30 working days.

- The Bill also provides for the appointment of Central and State Public Grievance Redressal Commissions. A penalty of up to Rs 50,000 may be levied upon the responsible officer or the Grievance Redressal Officer for failure to render services.

- Various state govts such as Rajasthan, Punjab, MP, Bihar, Jharkhand etc have passed such 'Right to Service' acts

- As per these acts, public orgn have to deliver various services such as issuance of driving licenses, approval of building plans, issuance of caste, birth/death, domicile certificates, copies of land records, electricity and water connections, ration card, voter's id card etc in a time bound manner

- Officers have been designated for the same; on failure to provide the service by the designated officer within the given time, the aggrieved person can approach the First Appellate Authority
An appeal can be made from the order of the First Appellate Authority to the Second Appellate Authority which can order the designated officer to deliver the service or impose penalty for deficiency of services

- The Appellate Authorities has been granted certain powers of a civil court like issuance of summon to the designated officers

- Right to Service Commissions have also been formed in states such as Punjab for ensuring effective implementation of the act

Strengthening the service delivery capability of the state

- Systemic reforms

- Government process reengineering

- Reforms to usher in transparency, accountability, citizen centricity, e-governance, efficiency etc

Seven step model for citizen centricity/Sevottam model:

- **Define** services

- **Set** standards, for each service

- **Develop capability** to meet the standards

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- **Perform** to achieve standards

- **Monitor**

- **Evaluate** the impact and

- **Continuous improvement** based on M&E

Current examples

- The Performance Management Division of the Cabinet Secretariat had included two modules of the Sevottam framework i.e. Citizen Charter and Public Grievance Redressal Mechanism, as mandatory success indicators in the Results Frame Document (RFD) 2010-11 for 62 Ministries/Departments approved under Performance Monitoring and Evaluation System (PMES) by the Prime Minister.

- Four States namely, Himachal Pradesh, Karnataka, Madhya Pradesh and Orissa have adopted Sevottam for capacity building for poverty reduction pilot projects.

- For example: Municipal Corporation of Shimla has launched a Sevottam pilot project which has led to streamlining the processes in issue of Electricity and Water Bills, registration of births and deaths, solid waste mgmt; opening of a new 'Training Centre on Sevottam' in Himachal Pradesh Institute for Public Administration (HIPA)

- In Karnataka, Sevottam model has been implemented in Dept of Women and Child Development for effective service delivery of Integrated Child Development Services

Generalists v/s Specialists

- *Career based civil services:* In countries such as India, France, Italy, Japan, Korea, Malaysia etc; merit based recruitment on the basis of open competition; elaborate training; permanency of tenure; an uninterrupted progression from recruitment to retirement; established performance mgmt and career development system; promotion on the basis of both, seniority and merit; all the important positions at centre, state and district level reserved for civil service; promotions based on seniority; permanent and generalist in nature

- *Position based civil services:* In countries such as USA; it is more open since appointment at various positions is done from a wider pool comprising of both, civil servants as well as outside experts from private sector

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- In reality, most of the countries have a mix of career and position based SES; USA-only 10% of positions filled from outside civil service; similarly, 20% of Korea's career based SES recruited from outside

Arguments for position based civil services in India:

- All the issues with career based SES: The assurance of a secure career path and life-long job security has led to complacency, inertia and risk aversion; it has inhibited innovation and has bred lack of accountability with no fear of punishment for incompetence or wrongdoing

- Experts from outside the civil service will bring new ideas, private sector work culture and managerial practices which will boost innovation and productivity

- Governance today has become a complex task; civil servants are at the helm of sectors such as urban dev, industrial dev, nuclear energy, infrastructure etc; these are intricate domains and need specialized knowledge; for example, urban dev specialists needed to achieve the objectives of Smart Cities Mission; use of technology; smart public transport etc

- Lateral entry is not a new phenomenon. It has existed in India since a long time. Examples – Most of RBI Governors and Economic Advisors have been professional economists. People like Manmohan Singh, Montek Singh Ahluwalia, Sam Pitroda and Nandan Nilakeni were not part of regular bureaucracy.

Arguments against:

- Difference between public and private sector: Experts from private sector might not be able to understand and appreciate the 'publicness' of public admn; private sector values and ethos cannot be applied in toto in public sector; issues of equity and promotion of public interest

- Lack of field experience and understanding of our socio-cultural and political realities: The AIS provides a unique link between cutting edge level functions at the field level and policy making functions at the HQ level; they have in-depth knowledge and understanding of our diversity, socio-cultural milieu, political constraints and federal structure; experts recruited through lateral entry directly at SES level might not be able to understand these and multiple links in chain of command from the union govt to a village

- Conflict of interest

- Other issues such as logistics of recruitment, impact on the constitutional mandate of affirmative action in govt jobs

Conclusion: Keeping these arguments in mind, there is a case for progressive induction of certain features of position based civil services in India; we need generalists who can specialize and specialists who can generalize

Reforms: Introduction of competition at Senior Executive Services (SES) level in two ways-

- ***Opening up of SES to all Group A Services:*** Placement at SES level by Central Civil Services Authority; it shd invite applications and make recommendations on the basis of domain competence, APAR, Service Record and interview

- ***Lateral entry from private sector:*** At the level of AS/Secretary (HAG and Supertime Scale); CSA shd identify positions which shd be advertised for lateral entry, invite applications and make recommendations on the basis of interview and pre-determined parameters such as domain competence

(These reforms pertain to strengthening administrative leadership as part of governance reforms)

Ethical framework for civil servants

Need for an ethical framework:

- *Special characteristics of public sector and public servants; trusteeship principle; managing public resources and funds; they take decisions that affect the lives of millions of people; and therefore civil servants need to follow certain foundational values*

International experience:

In many countries, civil services ethics and values are part of either the constitution or law:

- Article 153 of the Polish constitution states that civil servants shall be professional, diligent, impartial and politically neutral

- Australian Public Service Act and New Zealand's State Service Act have separate chapters on public service values and ethos and are legally enforceable; for example, as per the Australian Public Service Act, it is the responsibility of the Agency Head to uphold Australian Public Service values

- In UK, pursuant to the recommendations of Nolan Committee, a legally enforceable code of conduct came into existence in 1996; the code is a clear and concise standards of behaviour and actions that civil servants are expected to follow and is a part of civil servants' terms and conditions of employment

- Values to be followed by public servants: ALOOHIS (Accountability, leadership, objectivity, openness, honesty, integrity, selflessness)

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- In USA, Ethics in Govt Act passed in 1978 and Office of Govt Ethics set up

Ethical framework for civil servants in India

- AIS/CCS conduct rules

Issues with AIS/CCS Conduct Rules:

1. They are vague and generic; non-measurable and non-monitorable; in the nature of pious homilies and sermons; more like aspirational statements of intent; for example, *Rule 3 of CCS* Conduct Rules states that every govt servant shall maintain absolute integrity, devotion to duty and would not do anything that is unbecoming of a govt servant, maintain highest standards of honesty and ethics etc

2. They are unrealistic, impractical and non implementable

For example, *Rule 4 of CCS-* every govt servant has to take previous sanction of the govt if her son/daughter/dependent is accepting employment in a firm that has official dealings with govt; now a days, almost every firm deals with the govt in some way or the other; *Rule 16*: No Government servant shall speculate in any stock, share or other investment; *Rule 18:* returns of movable property worth Rs. 10000 or more and full returns of immovable property; observed more in breach than in reality

3. Not comprehensive; do not cover the framework of relationship between political executive and civil servants; do not cover the issue of conflict of interest comprehensively

4. They are unreasonable and undesirable: *Rule 9* – no govt servant can criticize any govt policy; recent example: an IAS officer was transferred because he questioned the credentials of Deen Dayal Upadhyaya; it prohibits communication of an official document to anyone without authorization (secrecy)

5. They do not cover practical situations of ethical dilemma such as should all kinds of gift and hospitality be avoided? What favours are acceptable without being rude/discourteous? What are the ethical norms to be practiced outside office hours? Situations in which rules can be bypassed? (for instance, construction of roads/O&M; normal process – preliminary estimate, AA, TS, DE, BOQ, open tendering etc; monsoons approaching; hence work starts even before TS or open tendering is not done); Should every kind of favour extended to friends/relative be considered unethical?

6. They are more in the nature of what civil servants should not do rather than what they should do

7. They do not cover norms for ensuring good governance such as promotion of citizen participation in decision making, consultation with different stakeholders etc

8. Most importantly, there is **no monitoring and enforcement mechanism**; not taken seriously by public officials

Reforms needed

- *A comprehensive Civil Services Code entailing two components:* A *Code of Ethics* which would entail a clear and concise statement of public service values, ethos and ethical standards that civil servants are expected to follow; a *Code of Conduct*, which should outline in precise and unambiguous manner, a list of acceptable and unacceptable behaviour and action

- **Code of Ethics:** It should include foundational/public service values such as honesty, integrity and probity; impartiality/fairness/objectivity/non-partisanship/consistency of treatment (procurement of public service, tendering, recruitment, delivery of service); compassion and empathy; transparency; accountability; responsiveness; political neutrality; anonymity; dedication to public service; constitutional conditioning

- **Code of Conduct:** Conduct Rules need to be redrawn

- *Civil Services Code should have legal enforceability and should be a part of proposed Civil Services Law; special focus on its implementation and enforcement*; internally, it should be the responsibility of the HoO/HoD to enforce the code (like Australia); in the APAR, in the self assessment section, every supervisory officer should mention the steps taken by him/her to monitor and enforce the code among her subordinates; externally, Central Civil Services Authority should undertake regular audits to evaluate the steps taken by an organization to implement the code; tools such as social audit, citizens' feedback etc can also be used

Corruption

Definition:

- No unanimous definition of corruption; it includes one or more of these – illegal gratification, receiving pecuniary benefits for undue favour, financial misappropriation etc

Types of corruption:

- **Coercive** (citizen is a victim of extortion and is forced to pay bribe for goods/services she is entitled to; resistance to such corruption might lead to delays, loss of time, effort and wages, harassment and even threat to life and limb)

- **Collusive** (both the bribe giver and taker actively connive and benefit at the cost of society/public exchequer; examples – public procurement, allocation of natural resources such as land, minerals and spectrum, recruitment etc);

- **Incidental** (malfeasance by individuals); **Institutional** (corruption in the entire institution due to lack of internal controls) and **Systemic** (corruption is entrenched and pervasive; it is the norm rather than exception)

Reasons: Contextual factors that influence corruption/ethics in public life

1. Historical context

- The concern about corruption is as old as the human civilization; Aristotle in 350 BC in 'The Politics' emphasized that to protect treasury from frauds, all the accounts should be made public and money should be issued openly in front of the entire city

- The history of a country has a great influence on the ethical character of the governance system; spoils system in USA

India has a long history of unethical practices in governance system; Kautilya's Arthashastra mentions a variety of corrupt practices and how the king can deal with these; *"Just as it is impossible not to taste the honey at tip of the tongue, so it is impossible for a govt servant not to eat up, at least, a bit of king's revenue. Just as it is not possible to know if the fish moving under water is drinking water or not, so it is not possible to find out if the govt servants are taking money for themselves."*; Kautilya describes forty ways of embezzlement

- The Mughal empire and princely states had the system of 'bakshish' for selling and buying favours

- EIC was known for corruption of its officials and drain of wealth; ruling bureaucracy; colonial mindset of unchallenged authority and arbitrary use of power still persists

- Continuation of unethical practices for long periods increases the tolerance level for admn. immorality

2. Economic system

- After independence, we adopted a state led dev model and bureaucracy led model of governance; state controlling the commanding heights of the economy; absence of competition and rent seeking

- Tremendous asymmetry of power; more than 90% of people in the unorganized sector living a precarious existence; even the lowliest of govt servants wielded considerable influence over this 90% of population; citizens at the mercy of state

- Over-regulation, over-centralization and state monopoly transformed citizens into passive beneficiaries than active participants

- Post LPG, over-reliance on and under-regulation of market led model has led to market failures, crony capitalism etc

3. Socio-cultural context:

- The cultural system of a country like its religious mores, societal/family values, education system etc play an imp role in determining the moral fibre of people; for instance, Protestants (protestant ethics)

- Decline of ethical values of the society in general; issues with family, education etc

- The advent of 'acquisitive society' which gives primacy to money and power (consumerism and materialism; individualism)

- In India, there exists *'culturally sanctioned corruption';* our social system is based on collectivism and close relations between family and friends; hence, favours to family and friends becomes part of 'socially sanctioned corruption' which does not raise eyebrows; there is certain duality in developing countries where an individual's personal life is judged by indigenous cultural standards while the official conduct is assessed under western norms

- **Political factors:** The behaviour of political leadership has a demonstration effect not just on civil servants but on the entire society; decline in standards of political leaders; capture of power at any cost has become the norm; corruption in elections and political funding root cause of public sector corruption; reforms in political funding needed; political culture

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- **Governance factors:** Laws and policies, institutions, systems and processes to deal with corruption
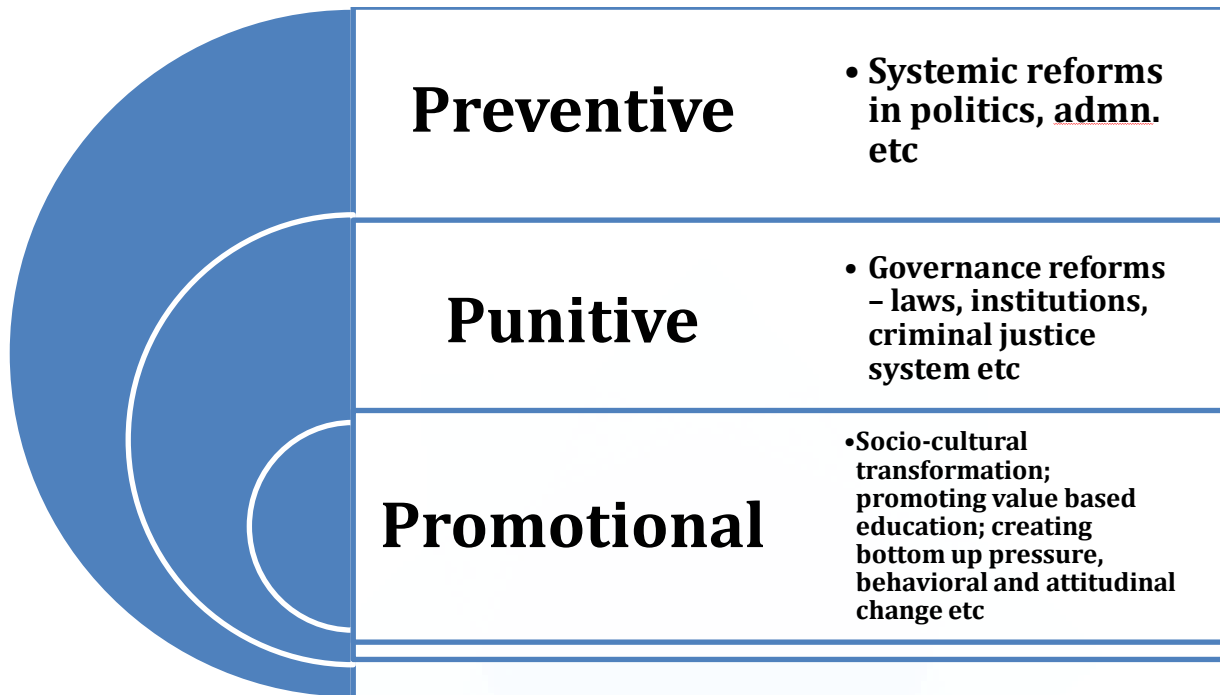
Impact of corruption

- *Socio-culturally,* it erodes the moral fibre of the society

- *Politically,* it undermines the faith of the common man in the politico-admn system and the legitimacy of the govt

- From the vantage point of *governance*, it results in poor public service delivery

- *Economically,* it has an adverse impact on econ growth and other macro-econ indicators (size of black economy in India and consequent economic loss); size of public resources reduces; distortion in allocation of public resources; low investment due to lack of trust in public institutions; inequality increases; the poor is hurt the most due to corruption; it is one of the major obstacles in poverty alleviation and development; empirically, corruption is likely to reduce investments by around 5% and econ growth by around 0.5-1% in developing countries

- *Environmental degradation* (due to general governance failure)

Corruption in India

- According to Transparency International's Corruption Perception Index 2016, India ranks 79th out of 176 countries

- Around 70% of the people who have accessed public services were reported to have paid bribes and around 75% of these were poor

Reforms/solutions needed to deal with corruption

Preventive	• **Systemic reforms in politics, admn. etc**
Punitive	• **Governance reforms – laws, institutions, criminal justice system etc**
Promotional	•**Socio-cultural transformation; promoting value based education; creating bottom up pressure, behavioral and attitudinal change etc**

Promotional measures - Socio-cultural transformation

- To bring about any long term/sustainable change, moral fibre of the society at large needs to be strengthened since political leaders/civil servants product of the same society

- Role of parents/family, education etc critical

- As a society, zero tolerance attitude towards corruption; societal values need to recognize that there is no place for corrupt in the society

- Target the spirit; *'human ingenuity is such...if spirit not willing'; "line separating good and evil does not pass between states or classes but through the middle of every human heart";* focus on character building and following the path of 'Dharma'/righteousness

Punitive measures: Legislative and Institutional Reforms

Legislative reforms

1. Reforms in Prevention of Corruption act:

- **Expanding the definition of corruption:** It does not define corruption but lists out offences such as acceptance of illegal gratification, financial misappropriation, receiving pecuniary benefits without

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any public interest being served, assets disproportionate to known sources of income etc; the list of offences should also include *gross perversion of constitution and wilful violation of oath of office, abuse of authority to favour or harm anyone, obstruction of justice and squandering of public money*

- There should be a special section for offences such as collusive corruption, disproportionate assets etc; more stringent punishment and burden of proof should be shifted to the accused

Sanction for prosecution:

- *Section 19:* Prior sanction of competent authority needed to prosecute a public servant (MPs, MLAs, ministers, govt officials etc); for protecting honest public servants from vexatious or malicious complaints; however, deliberate delays in sanction to shield dishonest public servants

- Prior sanction should not be needed if a public servant is caught red handed or in disproportionate assets case

- In cases where GoI is empowered to grant sanction, it should be given by an Empowered Committee comprising of CVC and Dept. Secretary (Cabinet Secretary in case of sanction against Secretary); sanction in a time bound manner within 2 months; in case of delays/refusal, reasons should be recorded in writing, put in public domain and laid down in the respective legislature

- Prior sanction under section 6-A of DSPE act for JS level officers and above of Central Govt; these are senior officers who take imp decisions on a day to day basis; exposing them to frequent enquiries will be demoralizing and create an atmosphere of risk aversion and policy inaction; same reforms needed

- **Speeding up of trials:** As mandated by PoC act, all cases should be tried by a Special Judge on a day to day basis; fixing time limits on different stages of the trial; preventing unnecessary adjournments and delays

- PoC should be amended to **include private sector entities** involved in providing public services and NGOs receiving substantial funding from the govt (more than 1 crore or 50% of operating cost annually)

- **Confiscation of property of corrupt public servants:** PoC act allows confiscation after conviction; **Bihar Special Courts Act, 2009 -** The property of a public servant who is being tried on corruption charges can be confiscated even before the completion of trial; 6 special courts have been set up in the state for speedy trial of offences under the Prevention of Corruption Act, 1988; the law *debunks the doctrine of 'presumption of innocence';* Odisha has also passes such an act

2. Reforms in Whistleblower Protection Act

• Issues with Whistleblower protection act

• Internationally, in USA federal govt, there is a hotline called *'Fraud Net'* through which employees of an organization or any person can report instances of fraud, misdemeanours etc to the General Accounting Office; further, public employees in USA, Australia, Canada and UK enjoy constitutional protection on speaking out of matters of public concern like dangers to public health and safety

3. Introduction of False Claims Act (on lines of USA): Anybody can file a litigation on behalf of the govt against anyone who has made a fraudulent claim against the govt, say in matters of public procurement; if the false claim is established in a court of law, the person/entity who brought the suit is suitably compensated out of the damages recovered

4. Benami Transaction (prohibition) Amendment Act, 2016

5. Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015

6. Serious economic offences (to deal with private sector corruption):

• These include tax evasion, smuggling, money laundering, accounting scams, stock market scams, bribery etc; presently dealt by multiple laws such as Companies Act, Banking Regulation Act, SEBI Act, Prevention Of Money Laundering Act, COFEPOSA, IPC, IT act, GST, Customs act; institutions include Ministry of Corporate Affairs, RBI, SEBI, MoF etc; investigation by SFIO, a multi-disciplinary organization, under Ministry of Corporate Affairs to carry out investigations under Companies Act; also, police, CBI involved

Reforms:

• A new comprehensive law on serious economic offences needed

• SFO should be set up under the new law to investigate and prosecute offences; under Cabinet Secretariat; multi-disciplinary body with experts from financial sector, accountancy, forensic audit, investigation etc

• A Serious Fraud Monitoring Committee should be constituted to oversee the investigation and prosecution; headed by Cabinet Secretary; other members include CVC, Fin Sec, Home Sec, Law Sec, Corporate Affairs Sec, Dy. Governor, RBI etc

Institutional Framework

Central govt level:

1. Administrative vigilance division in DoPT is the nodal agency

2. CVC (set up in 1964 pursuant to recommendations of Santhanam Committee and statutory status in 2003 pursuant to SC judgement in Vineet Narain case)

3. CBI (DSPE act; 3 divisions)

4. Vigilance units in diff ministries/depts.

5. Lokpal; issues with implementation of Lokpal act

State govt level:

1. SVCs

2. ACBs

3. Lokayuktas:

- Composition, method of selection, mandate, powers and functioning of Lokayuktas has varied across states

- In some states, Lokayukta deals with only cases of corruption while in others it covers other grievances as well

- In some states, only MLAs and ministers covered while in others govt officials, VCs of universities, ERs at local level and members of cooperatives also covered

- In some states, investigation power, in others Lokayukta depends on state machinery for investigation

- In some states, powers of a civil court such as search and seizure and contempt; in others no such powers;

- The experience with regard to functioning of Lokayukta has been unfortunate; in Maharashtra, the credibility of the institution was lost after the incumbent continued to function for several weeks even after being asked to step down; in Punjab and Haryana, the institution was abolished through an ordinance; in MP, the Lokayukta indicted several ministers in a land deal, however no action taken ; in UP recently, SC exercised its extra-ordinary powers under article 142 to appoint the Lokayukta since there was no consensus among the CM, Leader of Opposition and Chief Justice

Reforms needed – Lokpal and Lokayukta Act needs to be implemented as soon as possible

- **Ombudsman at the local level:** A local body ombudsman for a group of districts for investigation into cases of corruption and maladministration

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- **Reforms in criminal justice delivery system:** Professional investigation (police reforms, autonomy of investigation agencies, forensics, etc), unbiased and efficient prosecution, swift judicial proceedings and higher conviction wd create deterrence; corruption needs to be perceived as a high risk and low reward activity

Systemic reforms

- Legislative and institutional framework to a limited extent help in preventing corruption by creating deterrence; however, *systemic reforms are needed to prevent and to reduce opportunities of corruption*

- Corruption = Monopoly + Discretion - transparency -Accountability; reduce monopoly and discretion and enhance transparency and accountability

1. Promotion of competition: Dismantling of public sector monopoly; deregulation and liberalization; at the same time, private sector needs to be regulated to ensure public interest not compromised; examples: telecom sector; agricultural marketing

2. Reengineering of processes and systems/GPR:

- **Simplification of laws, rules and regulations:** The HoD in each ministry/dept/public sector orgn. should review the dept codes and manuals/manual of office procedure; recasting of transaction of business rules and prepare an exhaustive report suggesting repeal of archaic and obsolete rules and modification and updation of other rules. This updation should be done at regular intervals; the rules should be simple, necessary, relevant, rational and citizen friendly; example: *redesigning of forms*

Examples of GPR

(a) Regulation of building activities:

The LSGs in urban areas have to regulate building activities to ensure planned development; regulation entails *submission of proposed building plan, payment of fees, scrutiny of documents, site inspection by officials, grant of building permit, grant of completion certificate post construction;* the entire process is tedious, non transparent and prone to corruption

- Reforms in cities such as Delhi, Bangalore and Hyderabad; move towards *self certification and voluntary compliance*

- The owner/registered architect submits all the docs, along with the fee, in the Municipal Corporation, with an affidavit/undertaking that all the municipal bye laws are being adhered to; approval is then given in a fixed time; in case of fraud, discrepancies and misrepresentation, heavy penalty is imposed, including demolition; the architect is blacklisted and the matter is reported to

Council of Architecture; field testing of random samples of buildings is conducted by the Municipal Corporation

(b) Reforms in issuance of passport:

- People had to travel long distances due to inadequate no of passport offices (30 locations across the country)

- The entire system was manual and non citizen friendly; there was no scientific assessment of demand for passports and service delivery capacity leading to long queues and inconvenience

- Corruption and role of middlemen; it used to take months to get a passport or make any changes in existing passport

- *PPP between TCS and MEA*; setting up of 77 PSKs across India; digitization of the entire process of applying for passports; launching of online portal called passport seva; after online submission of personal information, photo, digital signature and all relevant documents, applicants are given an appointment date and time at a PSK using an *electronic queue mgmt system*; this prevents overcrowding and overflow of people; the online portal gives real time information regarding the status of passports; customer call centres and helpdesk services in 17 languages to provide information to applicants

- *Joint mgmt of passport centres/PSKs; front office is being managed by TCS and back office by govt officials;* TCS took care of data mgmt, disaster recovery, maintenance of online portal, data migration from legacy system, change mgmt, training and capacity building, citizen feedback and grievance mgmt, coordination with other stakeholders such as Police, India Post and security printing press; the back office (CPV division of MEA) verifies docs and gives final approval

- **Results:** The time taken for delivery of passports has reduced to 45 days (5 days for Tatkal passports); 40000 applicants handled every day; 19000+ calls every day in 17 languages

(c) Reforms in RTOs in issue of driving license:

- With the launch of *Vahan and Sarathi* (online systems for vehicle registration and issuance of driving license), the office procedures and record mgmt have been streamlined, however few issues remain

- Two step process in issuance of driving license; in the first stage, after getting trained in a licensed driving institute, the individual has to undergo a theoretical MCQ test; this stage is transparent as question banks have been developed and questions are given randomly

- However, the 2nd stage i.e. 'test of competence' is still subjective and prone to corruption; in this test, an official of the Motor Vehicle Dept asks the applicant to carry out various manoeuvres in her own vehicle and the candidate is declared successful based on the subjective assessment of the official administering the test

Solution: The entire process needs to be video-recorded and kept open to public scrutiny; the conduct of practical test of competence can also be outsourced

3. Reducing discretionary powers:

- Wherever possible, decision should be taken by a committee instead of an individual

- *Legislation:* Right to Time-bound Delivery of Services Act

- *Use of technology:*

    – CASS (Computer Assisted Selection of Scrutiny Cases in IT Dept.); Labour reforms, Shramev Jayate programme (use of technology to select units for inspection and uploading inspection reports within 72 hours)

- **E-governance**: E-Seva in AP, FRIENDS in Kerala, e-cops in Punjab, Bhoomi project in Karnataka, Gyandoot project in MP, Lokvaani in UP; e-procurement (since large part of corruption in public procurement)

- *Decentralization and delegation* (at an organizational level) so that power is not concentrated in one individual/position

- **Political decentralization/devolution:** Greater the distance between decision maker and people, greater the scope of corruption and lesser the means to enforce accountability; implementation of 73rd and 74th amendment in letter and spirit

4. Other systemic reforms to deal with corruption

(a) **Internal supervision:**

- Controlling corruption in the office is primarily the responsibility of the HoO; it has generally been observed that with the establishment of external anti corruption institutions, departmental officers feel that it is not their responsibility to control corruption in the office; external anti-corruption machinery cannot be a substitute for internal supervision since the supervisors/dept officers are best equipped to deal with corruption

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- Random inspections, surprise visits, confidential feedback from citizens and members of the orgn; in the APAR, there should be a self assessment column pertaining to corruption wherein each supervisory officer should indicate steps taken by her to control corruption in the office; internal vigilance and internal audit needs to be strengthened; whistle-blowing needs to be promoted through in-house mechanisms

(b) Proactive and preventive vigilance:

- *Risk profiling of jobs and people* needs to be done in an institutionalized and systematic manner in all govt orgn; the HoO needs to undertake risk profiling of diff jobs and people; jobs classified into high risk, medium risk and low risk, depending upon proneness to corruption; for example: the job of a tax assessing officer is high risk while an official in enquiry counter is low risk; similarly, people need to be classified into high risk, medium risk and low risk depending on their level of integrity; low risk people shou;d be deployed for high risk jobs

- *Risk profiling of govt officials and identification of people with doubtful integrity should be done on the basis of following factors* – APAR, self assessment of the reported officer on what efforts he/she has taken to control corruption in the office, internal vigilance report, confidential peer evaluation, feedback from citizens, pending disciplinary proceedings and complaints, analysis of annual property returns and personal lifestyle and integrity tests

- *NYPD and London Police are conducting 'Integrity Tests'* wherein officers are presented with real life situations and their response is carefully monitored and recorded using audio and video surveillance; the test is administered by specialist internal vigilance unit

- In India, *Integrity Pacts are being signed in cases of public procurement* wherein bidders give an undertaking that they will not pay any illegal gratification to secure the contract while the public agency promises to ensure a level playing field; ONGC was the first PSU to sign an Integrity Pact with Transparency International India and CVC

- Requirement of Integrity Pacts in all defence procurements as per revised Defence Procurement Procedure Manual

(c) Institutional coordination between CAG on the one hand and external anti corruption institutions on the other: CAG conducts external audit and unearths serious irregularities/cases of corruption; however, there is a huge time lag between commission of the offence, issuance of audit observations and initiation of steps to hold the concerned officials accountable (CAG report is laid in the appropriate legislature and PAC calls the HoD/HoO to give an explanation); the culprits get enough time to destroy evidence and cover their tracks; *CAG (DPC) act needs to be changed* to ensure that as soon as any serious irregularity is detected by an audit team, CAG should have the power to give the audit observations to external anti corruption units; moreover, *audit teams can*

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be trained in forensic audit so that crucial aspects for criminal investigation can be taken due care of

- **Transparency:** Reforms to strengthen RTI

- **Accountability:** Reforms to strengthen accountability (reforms in personnel admn. - recruitment, training and capacity building, repealing articles 310 and 311, compulsory review after 14 and 20 years, rationalization of disciplinary proceedings, introducing a robust PMES, Civil Services Authority and Civil Services Law etc)

- *Ushering in citizen centric admn.:* Help desks and information-cum-facilitation centres; Citizens' Charter and internal grievance redressal mechanism; social audit, citizens feedback survey etc

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Role of media, civil society and citizens

- Networked Governance; the apathy of citizens (or non state actors) in a democracy is more dangerous than tyranny of a dictator in a totalitarian regime

- **Media:** Washington Post played an imp role in exposing the Watergate Scandal; Indian Express and The Hindu played an imp role in exposing the Bofors scandal

- **Civil society/NGOs:** Social Audit/public hearings of the work of MCD and Delhi Vidyut Board by Parivartan, an NGO based in Delhi; in public hearings, local residents testify if work has been done as claimed; MKSS, through public hearings, exposed corruption in public works in Rajasthan; PAC of Bangalore and Praja of Mumbai publishes 'Citizens' Report Cards' on civic issues; ADR and Loksatta on electoral reforms; role of NCPRI in RTI

- **False claims act**

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Questions

1. What do you understand by the following terms in the context of public service?

– Integrity

– Perseverance

– Spirit of service

– Commitment

– Courage of conviction

2. What do you understand by 'probity' in public life? What are the difficulties in practicing it in the present times? How can these difficulties be overcome?

3. It is often said that poverty leads to corruption. However, there is no dearth of instances where affluent and powerful people indulge in corruption in a big way. What are the basic causes of corruption among people? Support your answer with examples.

4. What does 'accountability' mean in the context of public service? What measures can be adopted to ensure individual and collective accountability of public servants?

5. How do the virtues of trustworthiness and fortitude get manifested in public service? Explain with examples.

6. Some recent developments such as introduction of RTI Act, media and judicial activism, etc., are proving helpful in bringing about greater transparency and accountability in the functioning of the government. However, it is also being observed that at times the mechanisms are misused. Another negative effect is that the officers are now afraid to take prompt decisions. Analyze this situation in detail and suggest how this dichotomy can be resolved. Suggest how these negative impacts can be minimized.

7. Two different kinds of attitudes exhibited by public servants towards their work have been identified as the bureaucratic attitude and the democratic attitude.

(a) Distinguish between these two terms and write their merits and demerits.

(b) Is it possible to balance the two to create a better administration for the faster development of our country?

8. Today we find that in spite of various measures like prescribing codes of conduct, setting up vigilence cells/commissions, RTI, active media and strengthening of legal mechanisms, corrupt practices are not coming under control.

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(a) Evaluate the effectiveness of these measures with justifications.

(b) Suggest more effective strategies to tackle this menace.

9. Public servants are likely to confront with the issues of 'Conflict of Interest'. What do you understand by the term 'Conflict of Interest' and how does it manifest in the decision making by public servants? If faced with the conflict of interest situation, how would you resolve it? Explain with the help of examples.

10. What do you understand by governance, good governance and ethical governance?

11. Discuss Public Services Code as recommended by 2nd ARC

12. Max Weber said that it is not wise to apply to Public Admn. the sort of ethical and moral norms we apply to matters of personal conscience. It is important to realize that the state bureaucracy might possess its own independent bureaucratic morality. Critically analyse this statement.

13. Young people with ethical conduct are not willing to come forward to join active politics. Suggest steps to motivate them to come forward.

14. Discipline generally implies following the order and subordination. However, it may be counter-productive for the organisation. Discuss.

Case Studies

Types of case studies

I.   Case is given; options are also given; evaluate the merits and demerits of each of the alternatives and suggest the best option

II. Case is given; you have to generate options and suggest the best one

III. Reaction to a situation

Depending on the nature of case studies/area of focus:

I.   Public organization; RTI officer; EE in Municipal Corporation; senior officer in Finance Ministry; District Admn. etc

II.   Private sector: ED in an IT company (sexual harassment case); CEO of a company that manufactures electronic equipment

III. Common citizen/civil society: Sivakasi and child labour

IV. Issue based: Environment degradation, migration, displacement and rehabilitation

Link between Theory and Case Studies

How to approach a case study?

I. Introduction:

- *Subject matter and facts:* Understanding subject matter; public service, private sector, civil society etc; law and order issue, disaster mgmt etc; title of the case study

- *Values in conflict/ethical issues/ethical questions:* Values of private sector include efficiency, profit etc; values of public service diff; values of civil society different

- *Stakeholders*

II. Body: Options and evaluation

III. Conclusion: Correct option, along with solutions

Some principles to be followed

- **Short term v/s long term solutions:** What to do to deal with the case in hand (short term); how to ensure such cases do not happen in future; institutional and systemic reforms (long term)

- **Soft v/s hard measures**

- **Supply side and demand side measures**

- **Current examples:** Policies and programmes of the govt; examples: PRAGATI, compulsory retirement, 360 degree appraisal system, biometric attendance system

- Wherever possible, **try to write in table form**; steps taken and why it will be effective; looks neater and more pleasing to examiner

Decision premises: Evaluation of options

- *Micro/Individual level:* Role of conscience as a responsible, ethical human being

- *Organizational level:* Public service values (public interest), private sector values, AIS/CCS conduct rules etc

- *Macro level:* Constitution, law, policies and programmes, international conventions etc

- *Indian ethics:* Vedas, Bhagvad Gita, Dharma, Nishkama Karma, Karmaphala Sidhanta

- *Normative ethical theories:* Rule Utilitarianism, Deontology, Virtue Ethics, Contractarianism, Care Ethics etc

- EI, attitude, persuasion, social influence etc

- Teachings from the lives of great leaders, reformers etc

- Quotes on different values

Stakeholder Analysis

Option/ alternative	Stakeholders	Pros	Cons

How to generate options?

1. Options should be appropriate: Grievance redressal

2. Properly structured and complete:

- "I will resign"

- Huge pressure; very difficult to work; so, I will quit my job (elaborate the option in a formal structure)

Ethics is not just about finding solutions but the process and analysis that you have carried out for arriving at solutions; so, you have to explain the ethical issues involved; conflict of values; ethical questions and dilemmas; you have to analyse and then justify your conclusion; just writing "I will do this" is not enough; analyse the case; have a conversation with the examiner; examiner wants to test your approach; whether you are exploring options

Previous years case studies

1. A Public Information Officer has received an application under RTI Act. Having gathered the information, the PIO discovers that the information pertains to some of the decisions taken by him, which were found to be not altogether right. There were other employees also who were party to these decisions. Disclosure of the information is likely to lead to disciplinary action with possibility of punishment against him as well as some of his colleagues. Non-disclosure or part disclosure or camouflaged disclosure of information will result into lesser punishment or no punishment. The PIO is otherwise an honest and conscientious person but this particular decision, on which the RTI application has been filed, turned out to be wrong. He comes to you for advice. The following are some suggested options. Please evaluate the merits and demerits of each of the options:

a) The PIO could refer the matter to his superior officer and seek his advice and act strictly in accordance with the advice, even though he is not completely in agreement with the advice of the superior.

b) The PIO could proceed on leave and leave the matter to be dealt by his successor in office or request for transfer of the application to another PIO.

c) The PIO could weigh the consequences of disclosing the information truthfully, including the effect on his career, and reply in a manner that would not place him or his career in jeopardy, but at the same time a little compromise can be made on the contents of the information.

d) The PIO could consult his other colleagues who are party to the decision and take action as per their advice.

e) Also please indicate (without necessarily restricting to the above options) what you would like to advise, giving proper reasons. (20 marks; 250 words)

Analysis

Ethical dilemma: The case is about acceptance of a mistake in professional capacity in the public sector that might jeopardize one's professional career

Ethical values/questions?

- **Transparency and accountability v/s professional career development**

- **Private interest v/s public interest**

- **Bonafide mistake v/s malafide intention**

a) **Option 1:** Superior's advice - We seek superior's advice for guidance; more practical experience; also, as per the govt. hierarchy, you are responsible to your superior; however, we have to use our own discretion before following advice; ultimately accountability to oneself; superior's advice is subject to probity, constitution, laws etc; as civil servants, we owe our allegiance to the constitution and rule of law; use your own *professional judgement*

Option 2: Leave or transfer- The PIO won't have to take decision himself; unconscientious, it is not what responsible human beings supposed to do; as a public servant, abdication of responsibility and running away from the problem; it shows lack of courage of conviction in oneself; willful act of omission; violation of oath of office

Option 3: Compromising on the content of information – The PIO will be able to protect himself/herself in the short term; it's against the RTI act; penalty under section 20; again unconscientious; it's a willful act of commission; violation of the public trust doctrine

Option 4: Consulting colleagues; opinion of different stakeholders; their advice must be subject to own reason and conscience; ultimately accountability is ours; professional judgement

Correct option:

- I am an honest and conscientious person; bonafide mistakes with no malafide intentions

- First of all, I will call the file related to the concerned decision and see the file notings and the ground on which decision was taken

- Then I will add a note to the file highlighting the wrong decision and the circumstances under which mistake was committed

- Then, I will call my superior, apprise him of the issue, explain my position and ask for his advice

- I will also discuss with the peers as they were also party to the decision

- I will then give full disclosure under the RTI act

- Also, I need to recuse myself since the case entails conflict of interest and ask someone else to disclose the information

- In case the competent authority initiates disciplinary proceedings, I will explain my situation

Why I will go for this option?

- *Individual level:* As human beings, we all make mistakes; honesty, integrity and probity demands that we rectify those mistakes without any fear or shame; we need to be honest to our conscience
- *Public service values:* Trusteeship doctrine and fiduciary responsibility; subordination of individual interest to public interest
- *Professional implications:* Moreover, if we do not disclose/partially disclose, and in the future, this issues crops up, even my career prospects would be in jeopardy
- *Indian ethics:* Doctrine of Karmaphala Sidhanta; since I have done no wrong, I have nothing to fear
- *Normative ethical theory*

Long term solution: Analyse the reasons for the mistake and put in place mechanisms to ensure that such mistakes are not committed or are rectified as soon as possible; may be periodic assessment of decisions that have been taken

2. You are working as an Executive Engineer in the construction cell of a Municipal Corporation and are presently in-charge of the construction of a flyover. There are two Junior Engineers under you who have the responsibility of day-to-day inspection of the site and are reporting to you, while you are finally reporting to the Chief Engineer who heads the cell. While the construction is heading towards completion, the Junior Engineers have been regularly reporting that all construction is taking place as per design specifications. However, in one of your surprise inspections, you have noticed some serious deviations and lacunae which, in your opinion, are likely to affect the safety of the flyover. Rectification of these lacunae at this stage would require a substantial amount of demolition and rework which will cause a tangible loss to the contractor and will also delay completion. There is a lot of public pressure on the Corporation to get this construction completed because of heavy traffic congestion in the area. When you brought this matter to the notice of the Chief Engineer, he advised you that in his opinion it is not a very serious lapse and may be ignored. He advised for further expediting the project for completion in time. However, you are convinced that this was a serious matter which might affect public safety and should not be left unaddressed.

What will you do in such a situation? Some of the options are given below. Evaluate the merits and demerits of each of these options and finally suggest what course of action you would like to take, giving reasons. (20 marks; 250 words)

a) Follow the advice of the Chief Engineer and go ahead.

b) Make an exhaustive report of the situation bringing out all facts and analysis along with your own viewpoints stated clearly and seek for written orders from the Chief Engineer.

c) Call for explanation from the Junior Engineers and issue orders to the contractor for necessary correction within targeted time.

d) Highlight the issue so that it reaches superiors above the Chief Engineer.

e) Considering the rigid attitude of the Chief Engineer, seek transfer from the project or report sick.

Analysis

Ethical dilemma: Whether or not to accept and rectify a wrongdoing in a public organization at the cost of private/organizational interest

Ethical issues/questions:

Organizational interest v/s public interest

a) The advice of Chief Engineer is subject to my own reason and conscience; public interest is of my paramount importance and if I have reasons to believe that lives would be in danger, then I need not follow the advice; we need to use our own ***professional judgement***; going ahead might be wilful act of omission

b) It depends on the nature of written orders; if unfavourable, I am convinced that public lives in danger, I will not accept it; I will record the reasons in writing on the file so that if disciplinary proceedings initiated on grounds of insubordination, I can defend myself

c) It is needed to fix accountability (dereliction of duty and negligence) and to ensure work is completed on time

d) This option to be used if no solution available within the hierarchy (although it would amount to indiscipline and insubordination)

e) Unconscientious; violation of public trust; abdication of responsibility; lack of courage of conviction

Correct option:

- First of all, I need to assess the seriousness of the issue; since the Chief Engineer saying that it's not a serious lapse, I need an independent assessment of an expert third party; IIT Roorkee professors/civil engineering experts

- Once, it is known that, serious lapses, I will convey the same to Chief Engineer along with an exhaustive report of mine (option 2); is still he asks me to go ahead with the project, I will not do the same and record the reasons in writing

- I will also apprise the superiors above Chief Engineer of the situation to get his support so that I am not victimized in the future (option 4)

- Do option 3; Show-cause notice to Junior Engineers; call for an explanation and initiate disciplinary proceedings for such a serious lapse; also instructions to Contractor; extra compensation to contractor as per the terms of contract to ensure his interest not compromised

- If the need arises, I can also blow the whistle (approach the CVC/media etc); examples – Satyendra Dubey and S. Manjunath

Why I will adopt this method?

- **Individual level:** To begin with, as a human being, we need to be accountable to our conscience; project timelines and targets are not more important than lives of fellow human beings

- **Public service/professional front:** Upholding public interest; no amount of delay and inconvenience to people in the short run can be a justification for putting the lives of people at stake; If I do not act in such a way and follows CE's advice blindly, it would be a wilful act of omission; moreover, even from the career point of view, if the flyover falls and people die, ultimately accountability will be mine since I am in-charge

- **Indian ethics and normative ethical theory:** Dharma; Categorical imperative; do our duty in all circumstances

Long term solution: In order to ensure that such a mistake is not committed in the future, institutionalized mechanism of *concurrent monitoring and audit* so that mistakes come out in the open as soon as possible

3. Sivakasi in Tamil Nadu is known for its manufacturing clusters on firecrackers and matches. The local economy of the area is largely dependent on firecrackers industry. It has led to tangible economic development and improved standard of living in the area. So far as child labour norms for hazardous industries like firecrackers industry are concerned, International Labour Organization (ILO) has set the minimum age as 18 years. In India, however, this age is 14 years. The units in industrial clusters of firecrackers can be classified into registered and non-registered entities. One typical unit is household-based work. Though the law is clear on the use of child labour employment norms in registered/non-registered units, it does not include household-based works. Household-based work means children working under the supervision of their parents/relatives. To evade child labour norms, several units project themselves as household-based works but employ children from outside. Needless to say that employing children saves the costs for these units leading to higher profits to the owners.

On your visit to one of the units at Sivakasi, the owner takes you around the unit which has about 10-15 children below 14 years of age. The owner tells you that in his household-based unit, the children are all his relatives. You notice that several children smirk, when the owner tells you this. On deeper enquiry, you figure out that neither the owner nor the children are able to satisfactorily establish their relationship with each other. (25 marks; 300 words)

- Bring out and discuss the ethical issues involved in the above case.

- What would be your reaction after your above visit?

Analysis

Ethical issues:

- Childhood v/s livelihood: Whether exploitation of children can be justified on grounds of providing them with livelihood (from the societal vantage point)

- Short term gain and long term pain: The children or their parents might feel that they are earning money; however, in the long run, the children are being deprived of getting education and building their capability which would enable them to live a happy and prosperous life (from the parents vantage point)

- Profits v/s ethics (Industry vantage point)

- Legal loopholes (Govt. vantage point)

Stakeholders: Me, children, enterprise and the owner, local society and economy of Sivakasi, society

My reaction after the visit:

- Approaching appropriate authorities: District Admn, Police, SCPCR, NCPCR; detailed investigation needs to be carried out and the owners of such units need to be punished to create deterrence; the children need to be rehabilitated and arrangement should be made for their education under RTE

Long term solution:

- ***Persuasion, social influence and attitudinal change:*** Talking with the owner of the Industrial units; other community leaders in the area; use of GPs, Bal Panchayats etc

- Approaching NGOs; IEC campaigns

- Approaching local media

- Creating awareness regarding the issue and loopholes in the law; filing a PIL etc

Why I will do what I will do?

Individual ethics (conscience); responsibilities as an informed citizen; Indian ethics (Loksamgraha); Normative ethical theory (Virtue theory; Contractarianism, Care Ethics etc)

4. You are heading a leading technical institute of the country. The institute is planning to convene an interview panel shortly under your chairmanship for selection of the post of professors. A few days before the interview, you get a call from the Personal Secretary (PS) of a senior government functionary seeking your intervention in favour of the selection of a close relative of the functionary for this post. The PS also informs you that he is aware of the long pending and urgent proposals of your institute for grant of funds for modernization, which are awaiting the functionary's approval. He assures you that he would get these proposals cleared. (20 marks; 250 words)

- What are the options available to you?

- Evaluate each of these options and choose the option which you would adopt, giving reasons.

Analysis

Ethical dilemma: Whether or not to comply with an unethical/inappropriate request that will benefit me and my organization

Ethical values/questions:

- Fairness and impartiality v/s professional/organizational interest

- Nepotism v/s integrity

- Means v/s end

Stakeholders:

- Me and my organization

- Senior govt. functionary and his relative

- Other candidates

- Students

- Society

Option	Stakeholder	Pros	Cons
1. Agreeing to the request of senior govt. functionary	Me and my organization	Funds for modernization of my organization; professional success	Might be in trouble if the issue comes up in the future
	Senior govt. functionary and his relative	Happy and satisfied that the relative got the position	Might be in trouble if the issue comes up in the future
	Other candidates		Unfair to them; violation of consistency of treatment
	Students		If the professor is not competent, students wont be imparted proper technical training
	Society/system	Modernization of institute might benefit students in the long run	What will happen if everyone as a rule start doing the same? Institutionalized/systemic corruption

Option	Stakeholder	Pros	Cons
2. Blow the whistle; approach, CVC, CBI, call the media etc	Me and my organization	In public perception, I would come across as an upright public servant	Extreme and impractical step; I might be victimized and harassed; transfers etc; lack of substantial evidence; all pending proposals of the institute will be stalled
	Govt. functionary and his relative		Their reputation would be undermined; legal action against them
	Other candidates	The recruitment can take place in a fair manner	Unnecessary media attention disturbing the entire process
	Students	Fair for students	Unnecessary media attention disturbing the entire process
	Society/system	Symbolic: Zero tolerance towards favouritism, nepotism, corruption etc	Instability in the system; the final objective might not be achieved

Option	Stakeholder	Pros	Cons
3. Consult your peers and colleagues in the interview panel. Do what they tell you.	Me and my organization		
	Govt. functionary and his relative		
	Other candidates		
	Students		
	Society		

Option	Stakeholder	Pros	Cons
4. Politely decline the request and give a stern warning to the PS not to make such requests in the future. Explain to him that if the candidate is deserving, he/she would automatically be selected; at the same time, extra effort to get funds; talk to the govt. functionary (and his seniors/peers) to ensure flow of funds is not adversely affected	Me and my organization	Ethical and conscientious thing to do; competent and deserving professors for the institute; funds for the institute	Personal victimization; flow of funds might be stalled
	Govt. functionary and his relative		Embarrassment since their demands would not be met
	Other candidates	Fair	
	Students	Would get a competent and deserving professor	
	Society/system	Create deterrence so that people do not make such requests; ethical ecosystem	

Why I will choose the last option?

- Personal level; public service values; Indian ethics; normative ethical theory

  If you do something wrong and accept an illegal order, it will give a signal that you are pliable; you have to give a strong signal right from the beginning; that you are a man of impeccable integrity; once they come to know that you are not pliable, such requests would stop coming in the future; you have to set the record straight

Quote examples of impartiality: Visveswaraya; Kuvempu

Long term solution:

- *Transparency and accountability* in recruitment process: To prevent instances of nepotism in future, I will ensure that decisions on recruitment take place by a collegium and not by one person; and the reasons for selecting a person and rejecting others should be recorded in writing

5. As a senior officer in the Finance Ministry, you have access to some confidential and crucial information about policy decisions that the Government is about to announce. These decisions are likely to have far-reaching impact on the housing and construction industry. If the builders have access to this information beforehand, they can make huge profits. One of the builders has done a lot of quality work for the Government and is known to be close to your immediate superior, who asks you to disclose this information to the said builder. (20 marks; 250 words)

- What are the options available to you?

- Evaluate each of these options and choose the option which you would adopt, giving reasons.

Analysis

Subject matter: This case is about disclosing confidential information causing windfall gain to a private entity

Ethical values/ethical questions:

- Public trust v/s private gain and professional success
- Favouritism v/s impartiality and neutrality
- Honesty and integrity v/s breach of confidentiality

Stakeholders

Options:

1. **Give the information as per the instructions of your superior**

- **Merits:** Everybody happy; you will be in the good books of your superior and builder; the contractor will make profits

- **Demerits:** Violation/breach of public trust; misuse of public position for private gain; professionally, it can jeopardize your career if the information comes in public domain; unfair for other players in the housing and construction sector

2. Blow the whistle; approach the media etc

- **Merits:** I will come across as an honest and upright officer with zero tolerance towards such requests; will create deterrence for others

- **Demerits:** Personal victimization and harassment; transfers; instability in the system; lack of substantial evidence

3. Go on leave; seek transfer etc

Correct option:

Politely decline; tactfully refuse the request explaining the builder the risks involved in disclosing information

- **Merits:** Ethical thing to do; upholding public trust; fair for competitors

- **Demerits:** Risk of personal harassment and victimization; might have negative impact on professional development; might lose the builder (no body is indispensable)

- Reasons/justification

6. You are the Executive Director of an upcoming InfoTech Company which is making a name for itself in the market.

- Mr. A, who is a star performer, is heading the marketing team. In a short period of one year, he has helped in doubling the revenues as well as creating a high brand equity for the Company so much so that you are thinking of promoting him. However, you have been receiving information from many corners about his attitude towards the female colleagues; particularly his habit of making loose comments on women. In addition, he regularly sends indecent SMSs to all the team members including his female colleagues.

- One day, late in the evening, Mrs. X, who is one of Mr. A's team members, comes to you visibly disturbed. She complains against the continued misconduct of Mr. A, who has been making undesirable advances towards her and has even tried to touch her inappropriately in his cabin. She tenders her resignation and leaves your office. (20 marks; 250 words)

- What are the options available to you?

- Evaluate each of these options and choose the option you would adopt, giving reasons.

Analysis

This case is about sexual harassment at workplace

Ethical issues/questions:

- Organizational interest v/s gender justice/gender sensitivity
- Responsibility as an ED v/s responsibility as an ethical human being
- Efficient performance v/s dignity of women
- Responsiveness v/s apathy

Options:

1. **Don't do anything:** Ignore the complaint of Mrs. X; accept her resignation
- **Merits:** Mr. A, who is a star performer, would remain in the organization; I won't have to go through the trouble of initiating an investigation into the sexual harassment case
- **Demerits**: Unethical and illegal; violation of prevention of sexual harassment at workplace act; further, if Mrs. X goes to the media, organizational reputation undermined

2. Go soft on Mr. A: Try to make them reach an informal settlement; explain to Mrs. X that such things are routine affairs and one should learn to bear with them and ask her to come back in the organization

- **Merits:** In the best interest of the organization; middle path

- **Demerits:** Demoralizing for women employees; against the letter and spirit of prevention of sexual harassment at workplace act; it will give signal to male employees that they can get away with such unacceptable behaviour; lack of efforts to ensure a safe working environment for women

3. Dismiss Mr. A on the basis of complaint of Mrs. X

- **Merit:** Satisfy the demands of Mrs. X; she wont talk about it outside; organizational reputation intact

- **Demerit:** Violation of principle of natural justice

Correct option:

- Following Prevention of Sexual Harassment at Workplace Act, 2013 and Vishakha judgement of SC in letter and spirit

- Call Mr. A and ask for an explanation

- If the complaint is found to be true prima facie, refer the case to the in-house committee; if the in-house committee does not exist, form one

- Objective and non-partisan enquiry following principle of natural justice; on the basis of findings of committee, take appropriate measures (warning, counselling, censure, suspension, dismissal etc)

- File and FIR and cooperate with the police to carry out the investigation

- Zero tolerance towards such issues

Long term solutions:

Work culture: Gender sensitivity workshops; attitudinal and behavioral change; persuasion

Reasons and justification

Short term v/s long term solutions; soft v/s hard measures; supply side v/s demand side measures

Short term:

- Objective and non partisan enquiry; if conflict of interest, recuse; warning, counselling, major and minor penalties, disciplinary proceedings etc. to create deterrence in the future; use of principle of natural justice; right to be heard; free, fair and public trial; right to an impartial jury; right to self defence

- ***Participation of all stakeholders:*** call upon all stakeholders; apprise them of the problem; discuss what needs to be done

Long term solutions:

- ***Supply side issues:*** Systemic reforms in the organization; process reengineering; citizens' charter; grievance redressal mechanism; performance mgmt; incentives and disincentives; external and internal audit and social audit; use of technology; strengthening service delivery capability; Sevottam model etc

- ***Behavioural and sensitivity training for all stakeholders:*** Human ingenuity is such that it will find ways and means to circumvent the rules/laws etc if the spirit is not willing; need to bring about behavioural, attitudinal changes

- ***Demand side solutions:*** IEC campaign; creating awareness among citizen-consumer-sovereign; multimedia; use of vernacular/local languages; citizens' report card, feedback etc

Options in any case study

- Do the wrong thing; everybody happy

- Resign, leave, seek transfers etc

- Try to convince the superiors/other person that something wrong is taking place and something needs to be done; prepare an exhaustive report etc

- Seek written orders

- Complain to a higher authority (Chief Secretary, Cabinet Secretary etc); exhaust all internal grievance redressal mechanisms

- Become a whistleblower; complain to CVC/CBI/Lokpal/Lokayukta etc; activism; call the media, CSOs etc; approach the judiciary etc

- Do the right thing: harassment, victimization, transfers, adverse impact on career prospects, threat to yourself and family etc

7. Now-a-days, there is an increasing thrust on economic development all around the globe. At the same time, there is also an increasing concern about environmental degradation caused by development. Many a time, we face a direct conflict between developmental activity and environmental quality. It is neither feasible to stop or curtail the development process, nor it is advisable to keep degrading the environment, as it threatens our very survival.

Discuss some feasible strategies which could be adopted to eliminate this conflict and which could lead to sustainable development. (20 marks; 250 words)

Analysis

- This case pertains to the domain of 'Environmental Ethics'
- Conflict: Development v/s environment
- Examples: Impact of development (infrastructure dev, mining, power production, transport etc) on air quality, GHG emissions, biodiversity, forest cover, water quality etc; poverty is the biggest polluter

Strategies to eliminate conflict:

- Acceptance of the problem

Demand side measures: Creation of awareness to generate bottom up pressure

Supply side measures:

- International commitments: Paris climate change agreement; Cartagena Protocol, Nagoya Protocol, REDD-Plus etc
- National efforts: Sustainable development to be part of development planning at all levels 'Green Growth': Green GDP; development of renewable energy; increasing forest cover etc; *The 'Expert Group on Low Carbon Strategies for Inclusive Growth'*
- Individual efforts
- Conflict only in the short term; in the medium to long run, adopting the path of sustainable development

8. Suppose one of your close friends, who is also aspiring for civil services, comes to you for discussing some of the issues related to ethical conduct in public service. He raises the following points:

a) In the present times, when unethical environment is quite prevalent, individual attempts to stick to ethical principles may cause a lot of problems in one's career. It may also cause hardship to the family members as well as risk to one's life. Why should we not be pragmatic and follow the path of least resistance, and be happy with doing whatever good we can?

b) When so many people are adopting wrong means and are grossly harming the system, what difference would it make if only a small minority tries to be ethical? They are going to be rather ineffective and are bound to get frustrated.

c) If we become fussy about ethical considerations, will it not hamper the economic progress of our country? After all, in the present age of high competition, we cannot afford to be left behind in the race of development.

d) It is understandable that we should not get involved in grossly unethical practices, but giving and accepting small gratifications and doing small favours increases everybody's motivation. It also makes the system more efficient. What is wrong in adopting such practices?

Critically analyze the above viewpoints. On the basis of this analysis, what will be your advice to your friend? (20 marks; 250 words)

Analysis

This case study highlights common misconceptions/trends with respect to the need for and importance of ethical standards in public life

a) Unethical environment is quite prevalent: Examples and facts

Problems caused by sticking to ethical principles:

- Harassment and victimization; frequent transfers and postings; threat to life and limb (own self as well as family); jeopardizes professional development

- Examples and facts: Ashok Khemka, G.R Khairnar, Sanjeev Chaturvedi

Why should we not be pragmatic and follow the path of least resistance, and be happy with doing whatever good we can?

- Responsibilities as an ethical human being; conscience

- Public service values: Courage of conviction, fearlessness, integrity, leadership; examples

- Indian ethics: Dharma; Nishkama Karma

- Normative ethical theory: Categorical Imperative etc

b) Ethical fallacy; Moral Conventionalism; "History of the world is nothing but the story of few good men who believed in themselves"; examples – Gandhi *("First they ignore you, then they laugh at you, then they fight you, then you win");* Nelson Mandela, Martin Luther King Jr; T.N Seshan; Vinod Rai; S.R Sankaran etc

c) Ethical governance → Good Governance→ Better development outcomes; examples – countries at the top of Transparency International's CPI ranking performing well; in India, corruption is one of the main reasons for poor development outcomes; size of the black economy; service delivery capability; ease of doing business etc; decline in investment by 5% and GDP growth by 0.5-1%

d) **Why it is wrong?**

Intrinsically wrong: Deontology; Virtue Ethics; against Dharma etc

Instrumentally undesirable:

• Slippery slope; where to draw the line?

• It does not make the system more efficient; on the contrary, it slowly weakens and destroys the system from inside like a termite; it creates a culture of *'socially sanctioned corruption'*

- **Kalam's example:** *"When the almighty appoints a person to a position, he takes care of his provision. If a person takes anything beyond that, it is illegal gain"*

Conclusion:

- Reiterating and emphasizing the public service values and their significance

9. You are a no-nonsense, honest officer. You have been transferred to a remote district to head a department that is notorious for its inefficiency and callousness. You find that the main cause of the poor state of affairs is the indiscipline of a section of employees. They do not work themselves and also disrupt the working of others. You first warned the troublemakers to mend their ways or else face disciplinary action. When the warning had little effect, you issued a show cause notice to the ringleaders. As a retaliatory measure, these troublemakers instigated a woman employee amongst them to file a complaint of sexual harassment against you with the Women's Commission. The Commission promptly seeks your explanation. The matter is also publicized in the media to embarrass you further. Some of the options to handle this situation could be as follows :

- Give your explanation to the Commission and go soft on the disciplinary action.

- Ignore the Commission and proceed firmly with the disciplinary action.

- Brief your higher-ups, seek directions from them and act accordingly.

- Suggest any other possible option(s). Evaluate all of them and suggest the best course of action, giving your reasons for it. (20 marks; 250 words)

Analysis

This is a case of harassment/victimization of an honest public servant

Ethical values: Courage of conviction; leadership; strength of character; fearlessness

1. *Give your explanation to the Commission and go soft on the disciplinary action.*

- **Evaluation:** Yes, I will give my explanation to the Commission but I won't go soft on disciplinary action; signal that I am vulnerable to intimidation

2. *Ignore the Commission and proceed firmly with the disciplinary action*

- **Evaluation:** Yes, I will proceed firmly with disciplinary action but I won't ignore the Commission; I have done nothing wrong; so I have nothing to fear; I will in fact cooperate with the Commission, present my case and have faith in it's wisdom

3. *Brief your higher-ups, seek directions from them and act accordingly*

- **Evaluation:** Yes, higher ups need to be briefed but ultimately their advice is subject to my conscience, reason and professional judgement

Best course of action:

- Go firm on disciplinary proceedings; signal that you won't be intimidated

- Cooperate with the Commission; have faith in it

- Apprise your superiors; network with honest officers in the organization who will take a stand for you in the deliberations of the Commission

10. Suppose you are the CEO of a company that manufactures specialized electronic equipment used by a government department. You have submitted your bid for the supply of this equipment to the department. Both the quality and cost of your offer are better than those of the competitors. Yet the concerned officer is demanding a hefty bribe for approving the tender. Getting the order is important both for you and for your company. Not getting the order would mean closing a production line. It may also affect your own career. However, as a value-conscious person, you do not want to give bribe.

Valid arguments can be advanced both for giving the bribe and getting the order, and for refusing to pay the bribe and risking the loss of the order. What those arguments could be? Could there be any better way to get out of this dilemma? If so outline the main elements of this third way, pointing out its merits. (20 marks; 250 words)

Analysis

This case is about coercive corruption in public procurement

Ethical questions/dilemma:

- Organizational interest v/s rule of law

- Professional advancement v/s integrity and courage of conviction

- Means v/s end

Stakeholders: Me, my organization, govt. officer, society/system

Arguments for giving the bribe:

- Me and my organization will benefit

- The govt. officer will be happy and he might help me in getting future contracts

- Since, the quality and cost of my offer are better than those of the competitors, so it won't be unfair to competitors also

Arguments against:

- At an individual level, I am a value conscious person; so, giving bribe will lead to cognitive dissonance; I will be robbed of my peace of my mind

- In case the incident is unearthed in the future, I can be prosecuted under PoC act; the credibility of the company will also be undermined
- It is not good for the system/society; corruption erodes the moral fibre of the society and destroys the system from inside; it will further bolster the corrupt individuals such as the govt. officer

Third way:

- Do not succumb to the pressure of govt. officer; try to convince/warn him to do the right thing; do not give the bribe
- Next, approach the superiors of the officer; apprise them of the situation and request them to hold the officer accountable
- Once, all the mechanisms within the organizational hierarchy exhausted, blow the whistle; approach the media or the police; conduct a sting operation to collect evidence (Delhi example) and get the govt. officer trapped

Reasons/justification:

Individual ethics; Karmaphala Sidhanta; Normative ethical theory

Merits: I will be able to protect my professional interest and the interest of my organization without compromising my values

11. Rameshwar successfully cleared the prestigious civil services examination and was excited about the opportunity that he would get through the civil services to serve the country. However, soon after joining the services, he realized that things are not as rosy as he had imagined.

He found a number of malpractices prevailing in the department assigned to him. For example, funds under various schemes and grants were being misappropriated. The official facilities were frequently being used for personal needs by the officers and staff. After some time, he noticed that the process of recruiting the staff was also not up to the mark. Prospective candidates were required to write an examination in which a lot of cheating was going on. Some candidates were provided external help in the examination. Rameshwar brought these incidents to the notice of his seniors. However, he was advised to keep his eyes, ears and mouth shut and ignore all these things which were taking place with the connivance of the higher-ups. Rameshwar felt highly disillusioned and uncomfortable. He comes to you seeking your advice.

Indicate various options that you think are available in this situation. How would you help him to evaluate these options and choose the most appropriate path to be adopted? (20 marks;250 words)

Analysis

This case study is about common unethical/illegal practices prevalent in govt. organizations and response to the same

Ethical values/questions:

- Courage of conviction v/s obedience to/advice of seniors
- Strength of character v/s professional development
- Fearlessness v/s risk of victimization and harassment

Options:

1. *He can also actively participate in whatever is happening in the organization and become a part of the existing system*

- *Merits:* He would make friends within the organization; build good relationships with seniors; will be able to earn money for himself and his family; good for future professional development

- *Demerits*: Cognitive dissonance at an individual level (since he is feeling disillusioned and uncomfortable); willful act of commission and violation of oath of office (public service values); if the issues come to light in the future, even professional career in danger

2. Do not participate in wrongdoings but keep his eyes, ears and mouth shut and ignore all the wrongdoings, as advised by his seniors

- ***Merits:*** He would not make enemies within the organization; no negative impact on career development; peaceful and smooth work life; conscience won't be disturbed as he is not involved in any wrongdoing personally

- ***Demerits:*** Willful act of omission; not desirable for the system; undermine the creation of an ethical ecosystem

3. Resign from the office or seek transfer or take leave

- ***Merits:*** The work culture in the new organization might be better; mental satisfaction that nothing wrong is taking place around him

- ***Demerits:*** Abdication of responsibility; lack of courage of conviction and leadership qualities; running away from the problem

4. My advice to Rameshwar:

The malpractices going on in the organization are of serious nature and should not be ignored

- Misappropriation of funds under various schemes is a violation of GFR and Appropriation Act

- Use of official facilities for personal needs is a violation of trusteeship doctrine

- Cheating and external help to candidates in the process of recruitment is a criminal offence and has implications not just for the organization but for the entire system/society

Course of action which should be followed by Rameshwar:

- Collect evidence against the delinquent officers and prepare an exhaustive report

- Talk to the honest peers and superiors within an organization and seek their support in holding the guilty accountable

- If there is no support within the organization and all internal mechanisms are exhausted, blow the whistle

- As per the Whistleblower Act, approach the CVC and submit the report, along with evidence

Why I will give this advice?

- Conscientious thing to do; cognitive dissonance

- As trustees of people, it is our moral responsibility to raise our voice against such malpractices even at the cost of personal victimization and harassment; examples of courage of conviction, fearlessness and strength of character in public life

- Dharma; categorical imperative, rule utilitarianism etc

12. In our country, the migration of rural people to towns and cities is increasing drastically. This is causing serious problems both in the rural as well as in the urban areas. In fact, things are becoming really unmanageable. Can you analyze this problem in detail and indicate not only the socio-economic but also the emotional and attitudinal factors responsible for this problem? Also, distinctly bring out why—

- Educated rural youth are trying to shift to urban areas;

- Landless poor people are migrating to urban slums;

- Even some farmers are selling off their land and trying to settle in urban areas taking up petty jobs.

- What feasible steps can you suggest which will be effective in controlling this serious problem of our country? (20 marks; 250 words)

Analysis

Migration:

30 Indians move from rural areas to cities every minute

Socio-economic reasons:

- *Push factors:* Stagnation in agriculture and non farm activities leading to poverty and destitution, lack of livelihood opportunities, lack of health and education facilities etc

Attitudinal and emotional issues:

- *Pull factors:* Urban bias; the lure of greener pastures, modern lifestyle and 'urban; way of living; negative attitude towards people from rural areas; rural areas have gradually lost their pride and value system; urbanization has become synonymous with modernization

Suggestions:

1. Holistic, inclusive and sustainable development of rural areas:

- Restoring the self reliant character of rural areas (Gandhi's 'Village Republics')

- Reforms in agriculture to enhance agricultural productivity and to make agriculture a lucrative profession

- Providing non farm employment; livestock development etc

- Social sector programmes such as MGNREGA to prevent distress migration

- Providing urban amenities in rural areas: PURA, RURBAN Mission

2. Holistic, inclusive and sustainable development of urban areas:

- Migration as a natural part of development process; reforms in urban planning, urban governance, urban financial mgmt; reforms to deal with urban poverty and livelihood, urban housing, water supply, sewerage and sanitation, transport etc; SMART cities and Amrut

3. IEC campaigns to bring about **behavioral and attitudinal change** to restore the culture and pride of rural areas

13. You are the Sarpanch of a Panchayat. There is a primary school run by the government in your area. Midday meals are provided to the children attending the school. The Headmaster has now appointed a new cook in the school to prepare the meals. However, when it is found that the cook is from Dalit community, almost half of the children belonging to higher castes are not allowed to take meals by their parents. Consequently the attendance in the school falls sharply. This could result in the possibility of discontinuation of midday meal scheme, thereafter of teaching staff and subsequent closing down the school.

(a) Discuss some feasible strategies to overcome the conflict and to create right ambience.

(b) What should be the responsibilities of different social segments and agencies to create positive social ambience for accepting such changes? (20 marks; 250 words)

Analysis

This case pertains to undesirable social attitude of people towards certain marginalized sections of the society

Ethical questions/values:

- Equity v/s discrimination

- Social justice v/s developmental outcomes/livelihood

Feasible strategies and responsibilities of different social segments and agencies:

Attitudinal change/behavioral change-

Persuasion, social influence and coercion

Stakeholders/role of different social segments and agencies:

- Panchayat, District Admn, District Police, local NGOs, local progressive community leaders from higher caste, teachers and headmaster and political leaders

1. Persuasion:

- Cognitive route: Making them aware it is not only unethical but illegal

- Affective route

- Behavioral route: Incentives and disincentives

Setting an example: I will organize a public event and eat the food prepared by the Dalit cook; I will also request other important people such as DM, SP, political leaders etc to do the same do the same; Gopalganj DM and Aurangabad DM eat Mid Day Meal food prepared by Dalit cook to persuade villagers to send their children to school

IEC campaigns: Taking help of NGOs, local community leaders and local admn/police to launch a massive IEC campaign; street plays, radio, local newspapers etc; organizing melas and get togethers to strengthen social capital

Role of parents and schools: First agency of socialization; inculcation of right social values;

2. Social influence:

- Conformity: Convincing local community leaders/progressive people from higher caste to send their children to school; demonstration effect

- Foot in the door technique

3. Coercion:

- Enforcement of existing laws

- Maharashtra Social Boycott (Prevention, Prohibition and Redressal) Act, 2016

14. There is a disaster-prone State having frequent landslides, forest fires, cloudbursts, flash floods and earthquakes, etc. Some of these are seasonal and often unpredictable. The magnitude of the disaster is always unanticipated. During one of the seasons, a cloudburst caused devastating floods and landslides leading to high casualties. There was major damage to infrastructure like roads, bridges and power generating units. This led to more than 100000 pilgrims, tourists and other locals trapped across different routes and locations. The people trapped in your area of responsibility included senior citizens, patients in hospitals, women and children, hikers, tourists, ruling party's regional president along with his family, additional chief secretary of the neighbouring State and prisoners in jail.

As a civil services officer of the State, what would be the order in which you would rescue these people and why? Give justifications. (20 marks; 250 words)

Analysis

This case study is about prioritization and optimal utilization of limited resources in a crisis situation

Ethical values/questions:

- Equity and compassion

- Positive discrimination or preferential treatment for vulnerable sections of the society

Decision premise:

The order in which people are to be rescued should be decided on the basis of vulnerability of different groups/individuals and their ability to help themselves in the crisis situation

Sequence for rescue:

- **Patients in hospital:** Most vulnerable; helpless; not in a position to help themselves; definite location and limited number

- **Senior citizens:** Physically as well as mentally/emotionally vulnerable; limited ability to seek help

- **Women and children**

- **Tourists:** They may lack any specialized skill and training to rescue themselves; moreover, they might not be aware of local geography and conditions; tourists are expected to be in relatively better health and thus they can withstand adverse conditions till the time other vulnerable sections of the society are rescued

- **Prisoners**

- **Regional party president and his family:** He has the advantage of using his political linkages to rescue himself and his family; in the position to help himself; further, being a public servant, he is expected to serve others before himself/family

- **Chief Secretary of other state:** He has been well trained to handle such situations; in a position to help himself before other people are rescued

- **Hikers:** Requisite physical fitness and training; in fact they can help in rescuing others

15. A fresh engineering graduate gets a job in a prestigious chemical industry. She likes the work. The salary is also good. However, after a few months she accidentally discovers that a highly toxic waste is being secretly discharged into a river nearby. This is causing health problems to the villagers downstream who depend on the river for their water needs. She is perturbed and mentions her concern to her colleagues who have been with the company for longer periods. They advise her to keep quite as anyone who mentions the topic is summarily dismissed. She cannot risk losing her job as she is the sole bread-winner for her family and has to support her ailing parents and siblings. At first, she thinks that if her seniors are keeping quiet, why should she stick out her neck. But her conscience pricks her to do something to save the river and the people who depend upon it. At heart she feels that the advice of silence given by her friends is not correct though she cannot give reasons for it. She thinks you are a wise person and seeks your advice.

(a) What arguments can you advance to show her that keeping quiet is not morally right?

(b) What course of action would you advise her to adopt and why? (250 words; 20 marks)

Analysis

This case highlights an incident of corporate misdemeanour and crisis of conscience of an employee of the organization

Ethical values/questions:

- Family interest v/s public safety/health
- Professional career development v/s integrity and courage of conviction
- Profits v/s rule of law
- Shareholders v/s stakeholders

Why keeping quiet is not morally right?

- As a responsible, ethical human being, it is our moral responsibility to speak out against a malpractice, especially if it has implications for large number of people; the health and lives of people are at stake; if she does not speak up now, she won't be able to forgive herself in the future; example – Bhopal Gas Tragedy

- Moreover, what the chemical form is doing is not just unethical but downright illegal; even the professional career can be in jeopardy in the future

- Indian ethics: Loksamgraha; we need to look beyond our immediate family and work for universal welfare; Karmaphala Siddhanta (Doctrine of Karma)

- Normative ethical theories: Categorical imperative; Care Ethics

My advise to her:

- First of all, collect evidence and prepare an exhaustive report

- Talk to your seniors in the organization; try to convince them that what they are doing is unethical/illegal and lives and health of large number of people at stake

- If the immediate seniors do not respond, communicate with their seniors etc

- Once, all the internal mechanisms exhausted, blow the whistle; go to the concerned authorities (CPCB, SPCB, Police, District Admn. etc) and submit all the evidence

- Getting a job should not be an issue; once her role in the entire incident comes in public domain, many organizations will be interested in hiring a conscientious and honest individual

16. Land needed for mining, dams and other large-scale projects is acquired mostly from Adivasis, hill dwellers and rural communities. The displaced persons are paid monetary compensation as per the legal provisions. However, the payment is often tardy. In any case, it cannot sustain the displaced families for long. These people do not possess marketable skills to engage in some other occupation. They end up as low paid migrant laborers. Moreover, their traditional ways of community living are destroyed. Thus, the benefits of development go to industries, industrialists and urban communities whereas the costs are passed on to these poor helpless people. This unjust distribution of costs and benefits is unethical.

Suppose you have been entrusted with the task of drafting a better compensation-cum-rehabilitation policy for such displaced persons, how would you approach the problem and what would be the main elements of your suggested policy? (250 words; 20 marks)

Analysis

Ethical issue: Development v/s displacement; development for whom and at what cost

Ethical values/questions:

- Rights of indigenous communities v/s doctrine of eminent domain

- Social and economic justice v/s imperatives of development

- Compassion and empathy v/s unfair distribution of costs and benefits

Explain the context: Historical injustices; percentage of people not compensated/rehabilitated post independence; one of the reasons for naxalism

The elements of the suggested compensation-cum-rehabilitation policy:

- To begin with, public purpose should be clearly defined; as far as possible, acquisition of private cultivable land should be avoided; preference should be given to either waste land or public land

- Once it becomes known that there is no alternative but to acquire private cultivable land, consent of the local population needs to be taken; Kondh tribes in Niyamgiri hills

- After consent, comprehensive **SIA and EIA** needs to be undertaken

- If possible, efforts should be made to compensate PAFs by giving them similar land in nearby areas; if not following needs to be done-

- The monetary compensation needs to be 2-4 times the market value of land

- At least one person from each PAF should be given alternative employment

- PAFs need to be made partners in development process; example: tribal cooperatives for mining; shareholders in the industry

- **Holistic rehabilitation:** Economic (livelihood/employment), socio-cultural (developing schools, hospitals, parks, community centres etc), environmental (filling of open cast mines, waste treatment etc), psychological

- **Land readjustment**

17. Suppose you are an officer in-charge of implementing a social service scheme to provide support to old and destitute women. An old and illiterate woman comes to you to avail the benefits of the scheme. However, she has no documents to show that she fulfills the eligibility criteria. But after meeting her and listening to her you feel that she certainly needs support. Your enquirers also show that she is really destitute and living in a pitiable condition. You are in a dilemma as to what to do. Putting her under the scheme without necessary documents would clearly be violation of rules. But denying her the support would be cruel and inhuman.

a) Can you think of a rational way to resolve this dilemma?

b) Give your reasons for it.

Analysis

Whether to be rule driven and mechanical Weberian bureaucrat or to make extra efforts to serve the people, especially the marginalized and underprivileged sections of the society

Ethical values:

- Adherence to rules v/s citizen centricity

- Value neutrality v/s empathy and compassion

- Rules and regulations v/s outcomes

How to resolve the dilemma?

- As necessary enquiries show that she is really a deserving person, it is my responsibility as an ethical human being as well as a responsible public servant to help marginalized sections of the society in whatever way I can. I will help her get the documents; depute a staff from my office

18. Saraswati was a successful IT professional in USA. Moved by the patriotic sense of doing something for the country she returned to India. Together with some other like minded friends, she formed an NGO to build a school for a poor rural community. The objective of the school was to provide the best quality modern education at a nominal cost. She soon discovered that she has to seek permission from a number of Government agencies. The rules and procedures were quite confusing and cumbersome. What frustrated her most was delays, callous attitude of officials and constant demand for bribes. Her experience and the experience of many others like her has deterred people from taking up social service projects. A measure of Government control over voluntary social work is necessary. But it should not be exercised in a coercive or corrupt manner. What measures can you suggest to ensure that due control is exercised but well meaning, honest NGO efforts are not thwarted? (300 words; 25 marks)

Analysis

This case is about tedious and apathetic regulatory framework for NGOs

Ethical values:

- State control v/s autonomy

- Patriotism v/s Inefficiency, corruption and non responsiveness of bureaucracy

Contextual analysis: In recent times, with the advent of idea of 'Networked Governance', NGOs are playing an important role in the process of inclusive and sustainable development

Need for exercise of due control: To ensure that NGOs are not misused for indulging in activities that are against national interest; examples – money laundering, funding of NGOs

Steps to ensure that well meaning, honest NGO efforts are not thwarted:

Governance reforms to create a robust, efficient and responsive regulatory framework for NGOs:

1. Legislative reforms: National Policy on Voluntary Sector and FCRA

2. Institutional reforms: A separate ministry to promote and regulate the functioning of NGOs; appellate body/tribunal to appeal against any unfair/illegal decision of the govt.

3. Systemic reforms:

- GPR

- Single window system

- Self certification and voluntary compliance; principle of positive silence

- Flatter structures to expedite decision making process

- Decentralization and devolution at organizational level

- E-governance (e-biz)

- Corruption: Ushering in transparency, accountability and citizen centricity in admn.

19. You are an honest and responsible civil servant. You often observe the following:

(a) There is a general perception that adhering to ethical conduct one may face difficulties to oneself and cause problems for the family, whereas unfair practices may help to reach the career goals.

(b) When the number of people adopting unfair means is large, a small minority having a penchant towards ethical means makes no difference.

(c) Sticking to ethical means is detrimental to the larger developmental goals

(d) While one may not involve oneself in large unethical practices, but giving and accepting small gifts makes the system more efficient.

Examine the above statements with their merits and demerits. (250 Words, 20 marks)

20. You are aspiring to become an IAS officer and you have cleared various stages and now you have been selected for the personal interview. On the day of the interview, on the way to the venue you saw an accident where a mother and child who happen to be your relatives were badly injured. They needed immediate help.

What would you have done in such a situation? Justify your action. (250 words; 20 marks)

Analysis

Ethical dilemma: Whether or not to put personal/professional interest over needs of others

Ethical values/questions:

- Human life v/s professional life

- Compassion/empathy v/s personal milestone

My reaction to the situation:

- My first effort will be to save the lives of mother and child, while at the same time, attend the interview

- To this end, I will first assess if they need to be taken to the hospital urgently or not; if not I will call the ambulance or the police at the accident site who will then take over the case; I will also call my parents and family of my relatives who can then handle situation while I may proceed to attend the interview

- However, if they need to be taken to the hospital without any delay and there is nobody around for help, I will take them to the hospital myself and not proceed for the interview

Why I will do what I will do:

- UPSC interview undoubtedly is a very important event in the life of any civil services aspirant. At the same time, nothing is more important than saving human lives, irrespective of the fact whether they are my relatives or not

- If I proceed to attend the interview, leaving an injured woman and child on the road, I won't be able to face myself or my conscience

- Dharma; Karmaphala Sidhanta; Loksamgraha; Categorical Imperative

- After admitting them to the hospital, I can make a request to UPSC to change my interview date, citing what happened and attaching proof of the incident. Last day of UPSC interview reserved for such cases.

- In the worst case, even if I have to miss my interview, I can try again next year. At the end of day, it's about serving people in whatever capacity we can, either as an IAS officer, or as a commoner.

21. A building permitted for three floors, while being extended illegally to 6 floors by a builder, collapses. As a consequence, a number of innocent labourers including women and children died. These labourers are migrants of different places. The government immediately announced cash relief to the aggrieved families and arrested the builder.

Give reasons for such incidents taking place across the country. Suggest measures to prevent their occurrence. (250 Words, 20)

Analysis

This case pertains to loss of innocent lives due to illegal construction of buildings

Ethical values/questions:

- Violation of existing building bye laws
- Corruption

Contextual analysis:

Illegal construction of buildings and subsequent collapse of the same has become a common phenomenon in urban areas

Reasons:

- Increased demand for housing in urban areas
- Lack of space in urban areas; poor urban planning
- Regulatory failure: Lack of monitoring by Municipal Corporation to ensure compliance with building bye laws and town and country planning acts
- Corruption, unholy nexus between builders, politicians and bureaucrats; use of poor quality construction material
- Weak criminal justice delivery system

Solutions/suggestions:

- Strict enforcement of building bye-laws and town and country planning acts

- Holistic urban planning

- Urban governance reforms

- Reforms in criminal justice delivery system to create deterrence

- Affordable urban housing

- Examples: G.R Khairnar

22. You are a Public Information Officer (PIO) in a government department. You are aware that the RTI Act 2005 envisages transparency and accountability in administration. The act has functioned as a check on the supposedly arbitrarily administrative behaviour and actions. However, as a PIO you have observed that there are citizens who filed RTI applications not for themselves but on behalf of such stakeholders who purportedly want to have access to information to further their own interests. At the same time there are these RTI activists who routinely file RTI applications and attempt to extort money from the decision makers. This type of RTI activism has affected the functioning of the administration adversely and also possibly jeopardises the genuineness of the applications which are essentially aimed at getting justice.

What measures would you suggest to separate genuine and non-genuine applications? Give merits and demerits of your suggestions. (250 Words, 20)

Analysis

This case pertains to misuse of a well meaning law aimed at bringing about transparency in governance

Ethical values/questions:

- Transparency v/s admn. efficiency

- Public interest v/s private interest

Stakeholders: Public organization, RTI applicants, Information Commissions, System/Society

Problem analysis: In recent times instances of frivolous or vexatious (or mala fide) have increased. Apart from filing RTI for extorting money, there are also cases in which public servants under a cloud and facing grave disciplinary charges have repeatedly attempted to use the act to intimidate, harass or at times even humiliate seniors with requests that have been vexatious. If safeguards are not provided in such situations, there could be three dangers.

- First, such frivolous or vexatious requests may overwhelm the system and defeat the very purpose of the act.

- Second, the even tenor of the administration may be paralysed, seriously undermining delivery of services.

- Third, if public servants facing serious charges successfully resort to such tactics directly or through proxies it may lead to breakdown of discipline, insubordination and disharmony in public institutions.

Measures to separate genuine and non genuine applications:

1. **Legal reforms:**

(a) Section 7 may be amended to insert sub section (10) as follows:

- "The PIO may refuse a request for information if the request is manifestly frivolous or vexatious.

- Further, it may be provided that information can be denied if the work involved in processing the request would substantially and unreasonably divert the resources of the public body.

(b) Imposing penalty on frivolous/non genuine complaints (on grounds of Whistleblower Act)

(c) RTI act may be amended to indicate grounds of asking a particular information

Merit: These reforms will empower public organizations to deal with non genuine RTI requests

Demerits: Scope of misuse

Accountability mechanisms: Such a refusal shall be communicated within 15 days of receipt of application, with the prior approval of the appellate authority. All such refusals shall stand transferred to CIC/SIC, as the case may be and the CIC/SIC shall dispose the case as if it is an appeal under section 19(3) of the RTI Act.

2. Constitution of an in-house multi-stakeholder committee to examine and separate such RTI cases

Merit: More acceptable and consensus oriented

Demerit: Slower decision making

Thank you

Case Studies

1. A Public Information Officer has received an application under RTI Act. Having gathered the information, the PIO discovers that the information pertains to some of the decisions taken by him, which were found to be not altogether right. There were other employees also who were party to these decisions. Disclosure of the information is likely to lead to disciplinary action with possibility of punishment against him as well as some of his colleagues. Non-disclosure or part disclosure or camouflaged disclosure of information will result into lesser punishment or no punishment. The PIO is otherwise an honest and conscientious person but this particular decision, on which the RTI application has been filed, turned out to be wrong. He comes to you for advice. The following are some suggested options. Please evaluate the merits and demerits of each of the options:

a) The PIO could refer the matter to his superior officer and seek his advice and act strictly in accordance with the advice, even though he is not completely in agreement with the advice of the superior.

b) The PIO could proceed on leave and leave the matter to be dealt by his successor in office or request for transfer of the application to another PIO.

c) The PIO could weigh the consequences of disclosing the information truthfully, including the effect on his career, and reply in a manner that would not place him or his career in jeopardy, but at the same time a little compromise can be made on the contents of the information.

d) The PIO could consult his other colleagues who are party to the decision and take action as per their advice.

e) Also please indicate (without necessarily restricting to the above options) what you would like to advise, giving proper reasons. (20 marks; 250 words)

2. You are working as an Executive Engineer in the construction cell of a Municipal Corporation and are presently in-charge of the construction of a flyover. There are two Junior Engineers under you who have the responsibility of day-to-day inspection of the site and are reporting to you, while you are finally reporting to the Chief Engineer who heads the cell. While the construction is heading towards completion, the Junior Engineers have been regularly reporting that all construction is taking place as per design specifications. However, in one of your surprise inspections, you have noticed some serious deviations and lacunae which, in your opinion, are likely to affect the safety of the flyover. Rectification of these lacunae at this stage would require a substantial amount of demolition and rework which will cause a tangible loss to the contractor and will also delay completion. There is a lot of public pressure on the Corporation to get this construction completed because of heavy traffic congestion in the area. When you brought this matter to the notice of the Chief Engineer, he advised you that in his opinion it is not a very serious lapse and may be ignored. He advised for further expediting the project for completion in time. However, you are convinced that this was a serious matter which might affect public safety and should not be left unaddressed.

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What will you do in such a situation? Some of the options are given below. Evaluate the merits and demerits of each of these options and finally suggest what course of action you would like to take, giving reasons. (20 marks; 250 words)

a) Follow the advice of the Chief Engineer and go ahead.

b) Make an exhaustive report of the situation bringing out all facts and analysis along with your own viewpoints stated clearly and seek for written orders from the Chief Engineer.

c) Call for explanation from the Junior Engineers and issue orders to the contractor for necessary correction within targeted time.

d) Highlight the issue so that it reaches superiors above the Chief Engineer.

e) Considering the rigid attitude of the Chief Engineer, seek transfer from the project or report sick.

3. Sivakasi in Tamil Nadu is known for its manufacturing clusters on firecrackers and matches. The local economy of the area is largely dependent on firecrackers industry. It has led to tangible economic development and improved standard of living in the area. So far as child labour norms for hazardous industries like firecrackers industry are concerned, International Labour Organization (ILO) has set the minimum age as 18 years. In India, however, this age is 14 years. The units in industrial clusters of firecrackers can be classified into registered and non-registered entities. One typical unit is household-based work. Though the law is clear on the use of child labour employment norms in registered/non-registered units, it does not include household-based works. Household-based work means children working under the supervision of their parents/relatives. To evade child labour norms, several units project themselves as household-based works but employ children from outside. Needless to say that employing children saves the costs for these units leading to higher profits to the owners.

On your visit to one of the units at Sivakasi, the owner takes you around the unit which has about 10-15 children below 14 years of age. The owner tells you that in his household-based unit, the children are all his relatives. You notice that several children smirk, when the owner tells you this. On deeper enquiry, you figure out that neither the owner nor the children are able to satisfactorily establish their relationship with each other. (25 marks; 300 words)

• Bring out and discuss the ethical issues involved in the above case.

• What would be your reaction after your above visit?

4. You are heading a leading technical institute of the country. The institute is planning to convene an interview panel shortly under your chairmanship for selection of the post of professors. A few days before the interview, you get a call from the Personal Secretary (PS) of a senior government functionary seeking your intervention in favour of the selection of a close relative of the functionary for this post. The PS also informs you that he is aware of the long pending and urgent proposals of your institute for grant of funds for modernization, which are

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awaiting the functionary's approval. He assures you that he would get these proposals cleared. (20 marks; 250 words)

- What are the options available to you?

- Evaluate each of these options and choose the option which you would adopt, giving reasons.

5. As a senior officer in the Finance Ministry, you have access to some confidential and crucial information about policy decisions that the Government is about to announce. These decisions are likely to have far-reaching impact on the housing and construction industry. If the builders have access to this information beforehand, they can make huge profits. One of the builders has done a lot of quality work for the Government and is known to be close to your immediate superior, who asks you to disclose this information to the said builder. (20 marks; 250 words)

- What are the options available to you?

- Evaluate each of these options and choose the option which you would adopt, giving reasons.

6. You are the Executive Director of an upcoming InfoTech Company which is making a name for itself in the market.

- Mr. A, who is a star performer, is heading the marketing team. In a short period of one year, he has helped in doubling the revenues as well as creating a high brand equity for the Company so much so that you are thinking of promoting him. However, you have been receiving information from many corners about his attitude towards the female colleagues; particularly his habit of making loose comments on women. In addition, he regularly sends indecent SMSs to all the team members including his female colleagues.

- One day, late in the evening, Mrs. X, who is one of Mr. A's team members, comes to you visibly disturbed. She complains against the continued misconduct of Mr. A, who has been making undesirable advances towards her and has even tried to touch her inappropriately in his cabin. She tenders her resignation and leaves your office. (20 marks; 250 words)

- What are the options available to you?

- Evaluate each of these options and choose the option you would adopt, giving reasons.

7. Now-a-days, there is an increasing thrust on economic development all around the globe. At the same time, there is also an increasing concern about environmental degradation caused by development. Many a time, we face a direct conflict between developmental activity and environmental quality. It is neither feasible to stop or curtail the development process, nor it is advisable to keep degrading the environment, as it threatens our very survival.

Discuss some feasible strategies which could be adopted to eliminate this conflict and which could lead to sustainable development. (20 marks; 250 words)

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8. Suppose one of your close friends, who is also aspiring for civil services, comes to you for discussing some of the issues related to ethical conduct in public service. He raises the following points:

a) In the present times, when unethical environment is quite prevalent, individual attempts to stick to ethical principles may cause a lot of problems in one's career. It may also cause hardship to the family members as well as risk to one's life. Why should we not be pragmatic and follow the path of least resistance, and be happy with doing whatever good we can?

b) When so many people are adopting wrong means and are grossly harming the system, what difference would it make if only a small minority tries to be ethical? They are going to be rather ineffective and are bound to get frustrated.

c) If we become fussy about ethical considerations, will it not hamper the economic progress of our country? After all, in the present age of high competition, we cannot afford to be left behind in the race of development.

d) It is understandable that we should not get involved in grossly unethical practices, but giving and accepting small gratifications and doing small favours increases everybody's motivation. It also makes the system more efficient. What is wrong in adopting such practices?

Critically analyze the above viewpoints. On the basis of this analysis, what will be your advice to your friend? (20 marks; 250 words)

9. You are a no-nonsense, honest officer. You have been transferred to a remote district to head a department that is notorious for its inefficiency and callousness. You find that the main cause of the poor state of affairs is the indiscipline of a section of employees. They do not work themselves and also disrupt the working of others. You first warned the troublemakers to mend their ways or else face disciplinary action. When the warning had little effect, you issued a show cause notice to the ringleaders. As a retaliatory measure, these troublemakers instigated a woman employee amongst them to file a complaint of sexual harassment against you with the Women's Commission. The Commission promptly seeks your explanation. The matter is also publicized in the media to embarrass you further. Some of the options to handle this situation could be as follows :

• Give your explanation to the Commission and go soft on the disciplinary action.

• Ignore the Commission and proceed firmly with the disciplinary action.

• Brief your higher-ups, seek directions from them and act accordingly.

• Suggest any other possible option(s). Evaluate all of them and suggest the best course of action, giving your reasons for it. (20 marks; 250 words)

10. Suppose you are the CEO of a company that manufactures specialized electronic equipment used by a government department. You have submitted your bid for the supply of this equipment

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to the department. Both the quality and cost of your offer are better than those of the competitors. Yet the concerned officer is demanding a hefty bribe for approving the tender. Getting the order is important both for you and for your company. Not getting the order would mean closing a production line. It may also affect your own career. However, as a value-conscious person, you do not want to give bribe.

Valid arguments can be advanced both for giving the bribe and getting the order, and for refusing to pay the bribe and risking the loss of the order. What those arguments could be? Could there be any better way to get out of this dilemma? If so outline the main elements of this third way, pointing out its merits. (20 marks; 250 words)

11. Rameshwar successfully cleared the prestigious civil services examination and was excited about the opportunity that he would get through the civil services to serve the country. However, soon after joining the services, he realized that things are not as rosy as he had imagined.

He found a number of malpractices prevailing in the department assigned to him. For example, funds under various schemes and grants were being misappropriated. The official facilities were frequently being used for personal needs by the officers and staff. After some time, he noticed that the process of recruiting the staff was also not up to the mark. Prospective candidates were required to write an examination in which a lot of cheating was going on. Some candidates were provided external help in the examination. Rameshwar brought these incidents to the notice of his seniors. However, he was advised to keep his eyes, ears and mouth shut and ignore all these things which were taking place with the connivance of the higher-ups. Rameshwar felt highly disillusioned and uncomfortable. He comes to you seeking your advice.

Indicate various options that you think are available in this situation. How would you help him to evaluate these options and choose the most appropriate path to be adopted? (20 marks;250 words)

12. In our country, the migration of rural people to towns and cities is increasing drastically. This is causing serious problems both in the rural as well as in the urban areas. In fact, things are becoming really unmanageable. Can you analyze this problem in detail and indicate not only the socio-economic but also the emotional and attitudinal factors responsible for this problem? Also, distinctly bring out why—

• Educated rural youth are trying to shift to urban areas;

• Landless poor people are migrating to urban slums;

• Even some farmers are selling off their land and trying to settle in urban areas taking up petty jobs.

• What feasible steps can you suggest which will be effective in controlling this serious problem of our country? (20 marks; 250 words)

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13. You are the Sarpanch of a Panchayat. There is a primary school run by the government in your area. Midday meals are provided to the children attending the school. The Headmaster has now appointed a new cook in the school to prepare the meals. However, when it is found that the cook is from Dalit community, almost half of the children belonging to higher castes are not allowed to take meals by their parents. Consequently the attendance in the school falls sharply. This could result in the possibility of discontinuation of midday meal scheme, thereafter of teaching staff and subsequent closing down the school.

(a) Discuss some feasible strategies to overcome the conflict and to create right ambience.

(b) What should be the responsibilities of different social segments and agencies to create positive social ambience for accepting such changes? (20 marks; 250 words)

14. There is a disaster-prone State having frequent landslides, forest fires, cloudbursts, flash floods and earthquakes, etc. Some of these are seasonal and often unpredictable. The magnitude of the disaster is always unanticipated. During one of the seasons, a cloudburst caused devastating floods and landslides leading to high casualties. There was major damage to infrastructure like roads, bridges and power generating units. This led to more than 100000 pilgrims, tourists and other locals trapped across different routes and locations. The people trapped in your area of responsibility included senior citizens, patients in hospitals, women and children, hikers, tourists, ruling party's regional president along with his family, additional chief secretary of the neighbouring State and prisoners in jail.

As a civil services officer of the State, what would be the order in which you would rescue these people and why? Give justifications. (20 marks; 250 words)

15. A fresh engineering graduate gets a job in a prestigious chemical industry. She likes the work. The salary is also good. However, after a few months she accidentally discovers that a highly toxic waste is being secretly discharged into a river nearby. This is causing health problems to the villagers downstream who depend on the river for their water needs. She is perturbed and mentions her concern to her colleagues who have been with the company for longer periods. They advise her to keep quite as anyone who mentions the topic is summarily dismissed. She cannot risk losing her job as she is the sole bread-winner for her family and has to support her ailing parents and siblings. At first, she thinks that if her seniors are keeping quiet, why should she stick out her neck. But her conscience pricks her to do something to save the river and the people who depend upon it. At heart she feels that the advice of silence given by her friends is not correct though she cannot give reasons for it. She thinks you are a wise person and seeks your advice.

(a) What arguments can you advance to show her that keeping quiet is not morally right?
(b) What course of action would you advise her to adopt and why? (250 words; 20 marks)

16. Land needed for mining, dams and other large-scale projects is acquired mostly from Adivasis, hill dwellers and rural communities. The displaced persons are paid monetary compensation as per the legal provisions. However, the payment is often tardy. In any case, hit

cannot sustain the displaced families for long. These people do not possess marketable skills to engage in some other occupation. They end up as low paid migrant laborers. Moreover, their traditional ways of community living are destroyed. Thus, the benefits of development go to industries, industrialists and urban communities whereas the costs are passed on to these poor helpless people. This unjust distribution of costs and benefits is unethical.

Suppose you have been entrusted with the task of drafting a better compensation-cum-rehabilitation policy for such displaced persons, how would you approach the problem and what would be the main elements of your suggested policy? (250 words; 20 marks)

17. Suppose you are an officer in-charge of implementing a social service scheme to provide support to old and destitute women. An old and illiterate woman comes to you to avail the benefits of the scheme. However, she has no documents to show that she fulfills the eligibility criteria. But after meeting her and listening to her you feel that she certainly needs support. Your enquirers also show that she is really destitute and living in a pitiable condition. You are in a dilemma as to what to do. Putting her under the scheme without necessary documents would clearly be violation of rules. But denying her the support would be cruel and inhuman.

a) Can you think of a rational way to resolve this dilemma?

b) Give your reasons for it.

18. Saraswati was a successful IT professional in USA. Moved by the patriotic sense of doing something for the country she returned to India. Together with some other like minded friends, she formed an NGO to build a school for a poor rural community. The objective of the school was to provide the best quality modern education at a nominal cost. She soon discovered that she has to seek permission from a number of Government agencies. The rules and procedures were quite confusing and cumbersome. What frustrated her most was delays, callous attitude of officials and constant demand for bribes. Her experience and the experience of many others like her has deterred people from taking up social service projects. A measure of Government control over voluntary social work is necessary. But it should not be exercised in a coercive or corrupt manner. What measures can you suggest to ensure that due control is exercised but well meaning, honest NGO efforts are not thwarted? (300 words; 25 marks)

19. You are an honest and responsible civil servant. You often observe the following:

(a) There is a general perception that adhering to ethical conduct one may face difficulties to oneself and cause problems for the family, whereas unfair practices may help to reach the career goals.

(b) When the number of people adopting unfair means is large, a small minority having a penchant towards ethical means makes no difference.

(c) Sticking to ethical means is detrimental to the larger developmental goals

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(d) While one may not involve oneself in large unethical practices, but giving and accepting small gifts makes the system more efficient.

Examine the above statements with their merits and demerits. (250 Words, 20 marks)

20. You are aspiring to become an IAS officer and you have cleared various stages and now you have been selected for the personal interview. On the day of the interview, on the way to the venue you saw an accident where a mother and child who happen to be your relatives were badly injured. They needed immediate help.

 What would you have done in such a situation? Justify your action. (250 words; 20 marks)

21. A building permitted for three floors, while being extended illegally to 6 floors by a builder, collapses. As a consequence, a number of innocent labourers including women and children died. These labourers are migrants of different places. The government immediately announced cash relief to the aggrieved families and arrested the builder.

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    What measures would you suggest to separate genuine and non-genuine applications? Give merits and demerits of your suggestions. (250 Words, 20)