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GOVERNANCE and ETHICS IN GOVERNANCE

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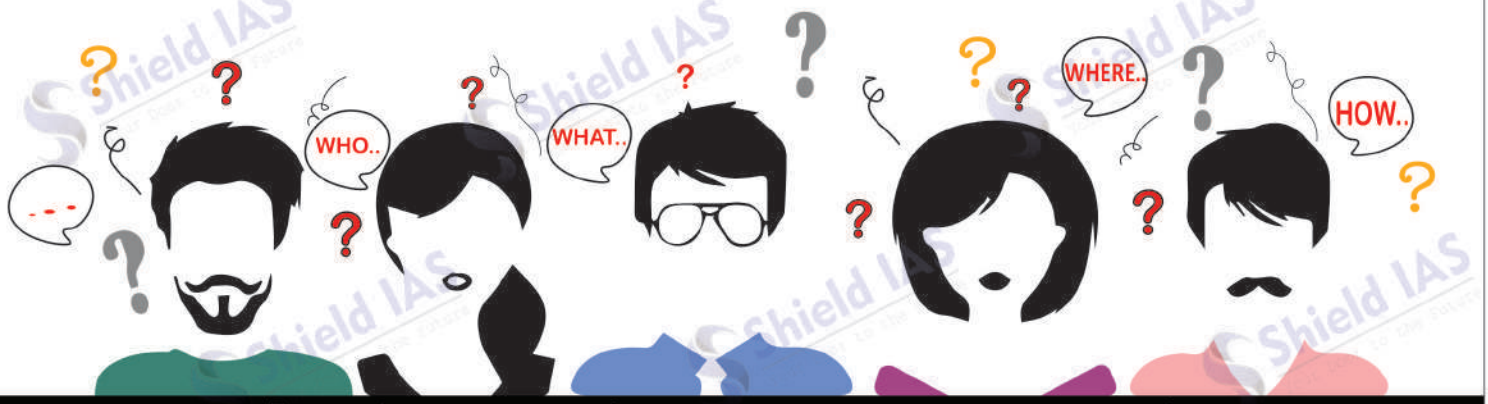

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GOVERNANCE AND ETHICS IN GOVERNANCE
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GOVERNANCE

CONCEPT

Governance has been defined to refer to structures and processes that are designed to ensure accountability, transparency, responsiveness, rule of law, stability, equity and inclusiveness, empowerment, and broad-based participation. Governance also represents the norms, values and rules of the game through which public affairs are managed in a manner that is transparent, participatory, inclusive and responsive. Governance therefore can be subtle and may not be easily observable. In a broad sense, governance is about the culture and institutional environment in which citizens and stakeholders interact among themselves and participate in public affairs. It is more than the organs of the government.

International agencies such as UNDP, the World Bank, the OECD Development Assistance Committee (DAC) and others define governance as the exercise of authority or power in order to manage a country's economic, political and administrative affairs. The 2009 Global Monitoring Report sees governance as 'power relationships,' 'formal and informal processes of formulating policies and allocating resources,' 'processes of decision-making' and 'mechanisms for holding governments accountable.'

Often there is a tendency to equate governance with management, the latter primarily referring to the planning, implementation and monitoring functions in order to achieve pre-defined results. Management encompasses processes, structures and arrangements that are designed to mobilize and transform the available physical, human and financial resources to achieve concrete outcomes. Management refers to individuals or groups of people who are given the authority to achieve the desired results. Governance systems set the parameters under which management and administrative systems will operate. Governance is about how power is distributed and shared, how policies are formulated, priorities set and stakeholders are made accountable.

In the development literature, the term 'good governance' is frequently used. In particular, the donors promote the notion of 'good governance' as a necessary pre-condition for creating an enabling environment for poverty reduction and sustainable human development. Good governance has also been accepted as one of the targets of the Millennium Development Goals (MDGs). The good governance agenda stems from the donor's concern with the effectiveness of the development efforts. Good governance is expected to be participatory, transparent, accountable, effective and equitable and promotes rule of law.

INDIAN SCENARIO

The concept of "governance" is not new. It is as old as human civilization. Simply put "governance" means the process of decision-making and the process by which decisions are implemented (or not implemented). Governance can be used in several contexts such as corporate governance, international governance, national governance and local governance.

Since governance is the process of decision-making and the process by which decisions are implemented, an analysis of governance focuses on the formal and informal actors involved in decision-making and implementing the decisions made and the formal and informal structures that have been set in place to arrive at and implement the decision.

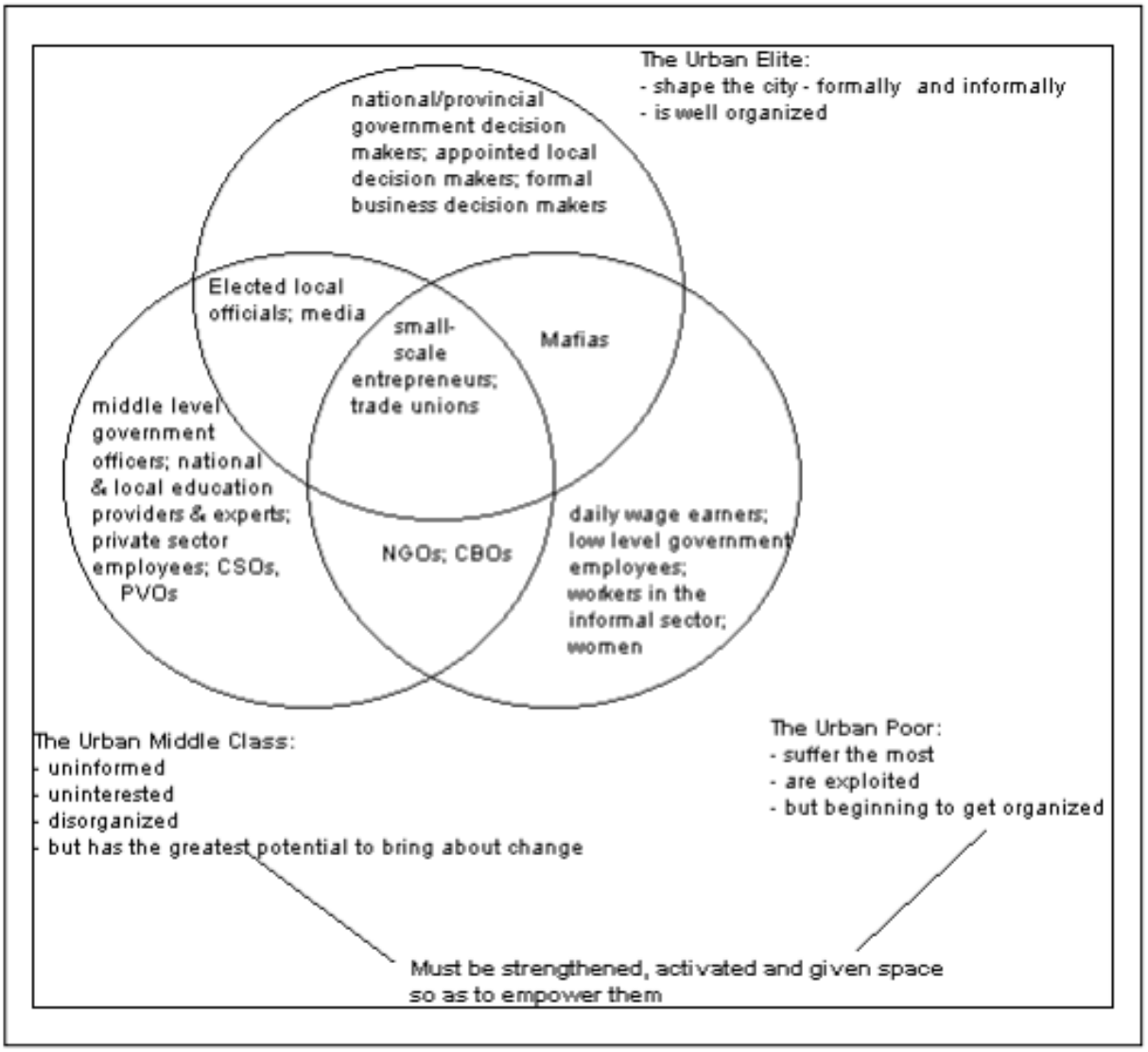
Government is one of the actors in governance. Other actors involved in governance vary depending on the level of government that is under discussion. In rural areas, for example, other actors may include influential land lords, associations of peasant farmers, cooperatives, NGOs, research institutes, religious leaders, finance institutions political parties, the military etc.

The situation in urban areas is much more complex. At the national level, in addition to the above actors, media, lobbyists, international donors, multi-national corporations, etc. may play a role in decision-making or in influencing the decision-making process.

All actors other than the government and the military are grouped as part of the "civil society." In some countries in addition to civil society, organized crime syndicates also influence decision-making, particularly in urban areas and at the national level.

Similarly, formal government structures are one means by which decisions are arrived at and implemented. At the national level, informal decision-making structures, such as "kitchen cabinets" or informal advisors may exist.

In urban areas, organized crime syndicates such as the "land Mafia" may influence decision-making. In some rural areas, locally powerful families may make or influence decision-making. Such, informal decision-making is often the result of corrupt practices or leads to corrupt practices.



GOOD GOVERNANCE

"The exercise of economic, political and administrative authority to manage a country's affairs at all levels. It comprises of the mechanisms, processes and institutions, through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences." - UNDP

Recently the terms "governance" and "good governance" are being increasingly used in development literature. Bad governance is being increasingly regarded as one of the root causes of all evil within our societies. Major donors and international financial institutions are increasingly basing their aid and loans on the condition that reforms that ensure "good governance" are undertaken.

The concept of "good governance" assumed significance in the 1990s with the publication of two reports by the World Bank. In the first report entitled "Sub-Saharan Africa: From Crisis to Sustainable Growth" (1989), the Bank emphasised the need for good governance. While in the second report entitled "Governance and Development" (1992), the Bank identified several aspects of good governance. These are political, legal and administrative in nature.

Features of Good Governance

CITIZEN CHARTER

A citizens' charter is a document of commitments made by a government agency to the citizens in respect of the services being provided to them. It empowers the citizens to demand the committed standards of service. However, it is not legally enforceable and hence, non-justiciable. Its objective is to build bridges between citizens and administration and to streamline administration in tune with the needs and concerns of citizens.

PRINCIPLES OF CITIZENS' CHARTER

The concept of a citizens' charter was first articulated and implemented in the United Kingdom by the Conservative Government of John Major in 1991 as a national programme with a simple aim: to continuously improve upon the quality of public services for the people of the country so that these services respond to the needs and wishes of the users. The programme was re-launched in 1998 by the Labour Government of Tony Blair which rechristened it "Services First".

The six principles of the citizens' charter movement, as originally framed, were:

(i) Quality: Improving the quality of services

(ii) Choice: For the users wherever possible

(iii) Standards: Specifying what to expect within a time frame and how to act if standards are not met

(iv) Value: For the taxpayers' money

(v) Accountability: Of the service provider (individual as well as an organisation) and

(vi) Transparency: In rules, procedures, schemes and grievances redressal.

These were later elaborated by the Labour Government as the following nine principles of Service Delivery (1998):

(i) Set standards of service

(ii) Be open and provide full information

(iii) Consult and involve

(iv) Encourage access and promote choice

(v) Treat all fairly

(vi) Put things right when they go wrong

(vii) Use resources effectively

(viii) Innovate and improve and

(ix) Work with other providers.

In 1992, the UK Government also introduced the Charter Mark Award Scheme for recognising excellence in delivering public services. Later in the year 2008, this scheme was replaced by a new scheme called, "Customer Service Excellence Award Scheme".

The UK's citizens' charter initiative aroused considerable interest around the world and several countries implemented similar programmes, e.g., Australia (Service Charter, 1997), Belgium (Public Service Users' Charter, 1992), Canada (Service Standards Initiative, 1995), France (Service Charter, 1992), India (Citizens' Charter, 1997), Jamaica (Citizens' Charter, 1994), Malaysia (Client Charter, 1993), Portugal (The Quality Charter in Public Services, 1993), Spain (The Quality Observatory, 1992) and so on.

CITIZENS' CHARTER INITIATIVE IN INDIA

In 1996, the Centre organised a Conference of Chief Secretaries of States and Union Territories on "Effective and Responsive Administration". The conference inter alia recommended the adoption of citizens' charters for all public service organisations. This recommendation was approved by the Centre, states and union territories in the Conference of Chief Ministers held in 1997.

Since 1997, when the scheme was introduced in India, the various ministries, departments, directorates and other agencies of the Central Government, state governments and union territory administrations have formulated a number of citizens' charters. At present (2010), there are 131 citizens' charters of the Central Government, and 729 of the state governments and union territory administrations.

A citizens' charter in India has the following components:

(i) Vision and Mission Statement of the Organisation

(ii) Details of Business transacted by the Organisation

(iii) Details of citizens or clients

(iv) Statement of services including standards, quality, time frame etc., provided to each citizen/client group separately and how/where to get the services

(v) Details of grievance redressal mechanism and how to access it and

(vi) Expectations from the citizens or clients.

SEVOTTAM MODEL

The citizens' charter is one of the three modules/components of the "Sevottam Model"—the other two being public grievance redressal and service delivery capability. Sevottam is a "Service Delivery Excellence Model" which provides an assessment-improvement framework to bring about excellence in public service delivery. The term "Sevottam" is formed by joining two Hindi words "seva" and "uttam" meaning "service" and "excellence" respectively.

The first component of the model requires effective citizens' charter implementation, thereby opening up a channel for receiving citizens' inputs into the way in which organisations determine service delivery requirements. Citizens' charters publicly declare the information on citizens' entitlements thereby making them better informed and hence empowering them to demand better services.

The second component of the model, "Public Grievance Redress" requires a good grievance redressal system operating in a manner that leaves the citizen more satisfied with how the organisation responds to complaints/grievances, irrespective of the final decision.

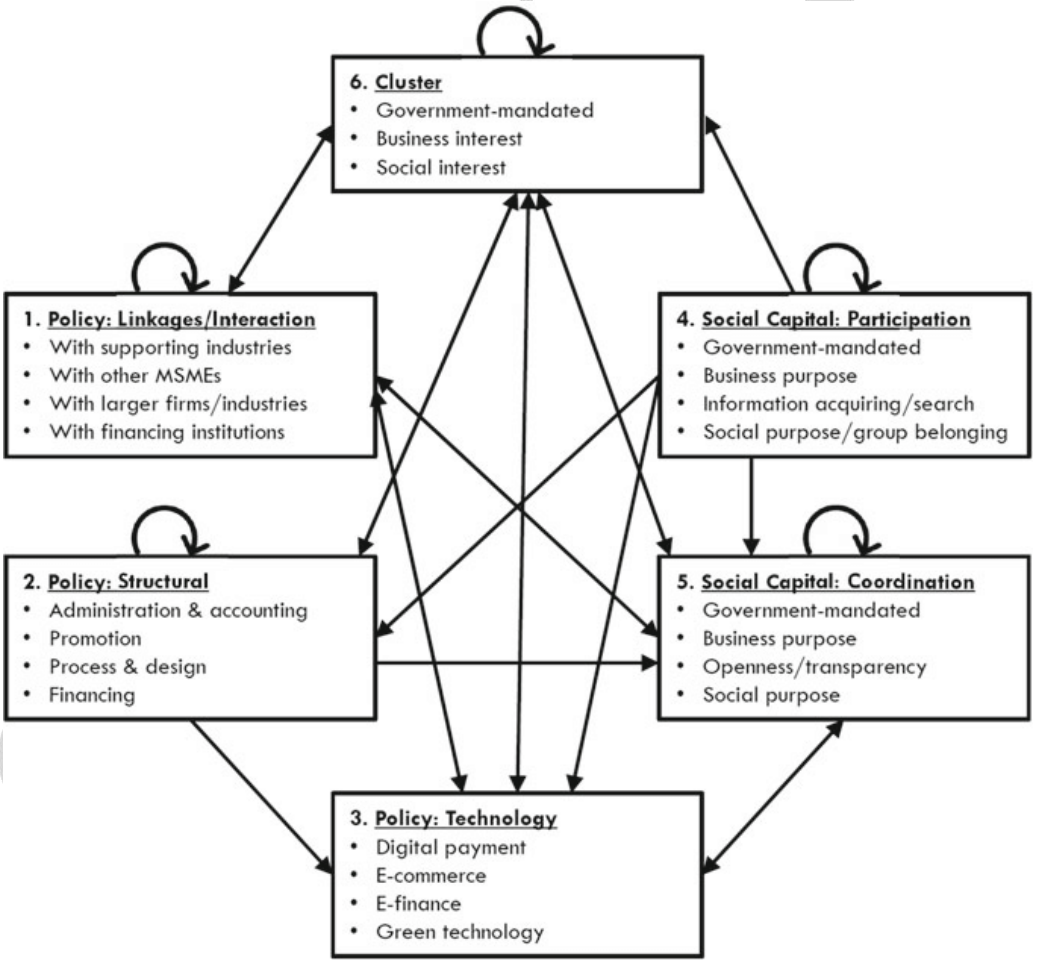
GOVERNMENT POLICIES FOR DEVELOPMENT AND ARISING ISSUES

REVIEW OF EMPLOYMENT PROGRAMS

There have been a number of evaluation studies of these wage employment programmes Funds were not utilized in full. Lack of planning; untimely release of funds, both Government to the District Rural Development Agencies (DRDAs) and from the DRDAs other factors such as inability of the states to generate matching resources were important contributed to low utilization of funds.

GOVERNMENT POLICIES AND SOCIAL LINKAGES

The recognition that social policy is not just the outcome of simple welfare considerations, but rather a key instrument in the process of development, which works in association with economic policy as part of a broader strategy, is an important step towards working out mechanisms for its greater spread and effectiveness.



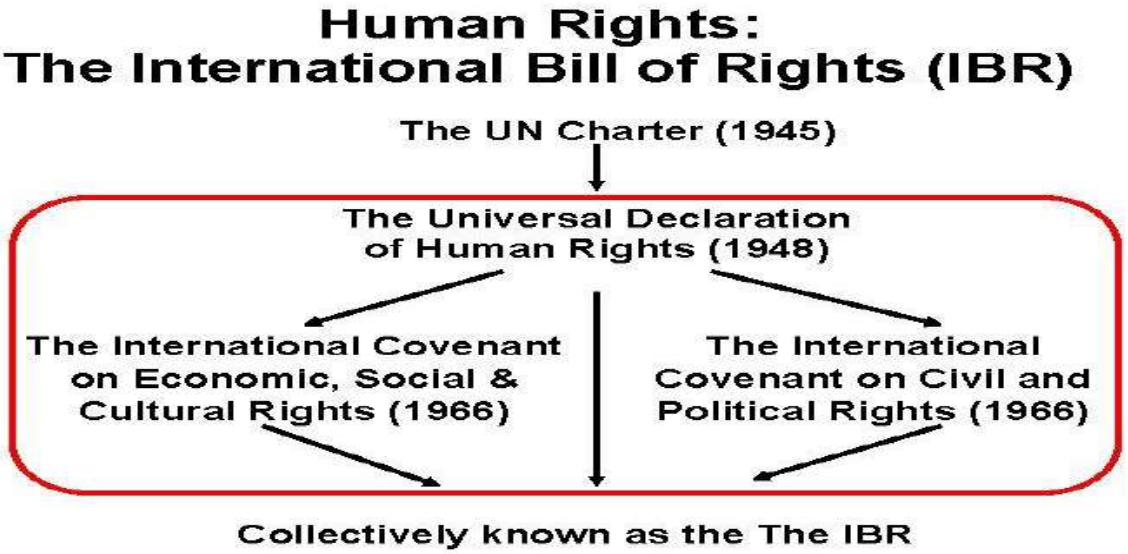
AFFIRMATIVE ACTION

The basic form of affirmative action as public policy in India has been in the form of reservations for government jobs and in public educational institutions for certain social groups denned as underprivileged. There have been no attempts to force or encourage private sector reservation of a similar type. For most of the post-Independence period, such reservation was confined to the Scheduled Castes and Scheduled Tribes, usually at just over one fifth of the total jobs/seats available. In the later 1980s, reservation was also introduced for social groups defined as Other Backward Classes., which were essentially socially lower castes who had achieved levels of political and economic voice far greater than their perceived social positions. These new reservations, which effectively meant that just above half the positions would be reserved, led to urban middle class outrage and protests at the time that they were introduced. Ironically, however, soon after the introduction of such new reservations, a freeze on new employment at the Central Government level and for most state governments, effectively meant that such reservations became irrelevant. However, they did make some difference in terms of access to institutions of higher education for students from such groups.

Overall, such affirmative action has had relatively little impact on the broader socio-economic position of the population belonging to the defined social groups. Nevertheless, it must be acknowledged that such social policy has long gestation period in terms of effects, and that it should be situated within a more evolutionary perspective on social dynamics, within which it can clearly play a positive role.

INTERNATIONAL BILL OF HUMAN RIGHTS

Later on, the Universal Declaration of Human Rights was bifurcated into two separate covenants, namely, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The human rights and freedoms contained in the Universal Declaration have been further developed and elaborated upon in these two covenants. Both the covenants were adopted by the UN General Assembly in 1966 and came into force in 1976.



RIGHT TO EDUCATION

CONSTITUTIONAL PROVISIONS

Article 21-A declares that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such a manner as the State may determine. Thus, this provision makes only elementary education a Fundamental Right and not higher or professional education.

This provision was added by the 86th Constitutional Amendment Act of 2002. This amendment is a major milestone in the country's aim to achieve 'education for all'. The government described this step as 'the dawn of the second revolution in the chapter of rights of citizens'.

Even before this amendment, the Constitution contained a provision for free and compulsory education for children under Article 45 in Part IV. However, being a directive principle, it was not enforceable by the courts. Now, there is scope for judicial intervention in this regard.

This amendment changed the subject matter of Article 45 in directive principles. It now reads

- **'The state shall endeavour to provide early childhood care and education for all children until they complete the age of six years.' It also added a new fundamental duty under Article 51-A that reads**
- **'It shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or ward between the age of six and fourteen years'.**

In 1993 itself, the Supreme Court recognised a Fundamental Right to primary education in the right to life under Article 21. It held that every child or citizen of this country has a right to free education until he completes the age of 14 years. Thereafter, his right to education is subject to the limits of economic capacity and development of the state. In this judgement, the Court overruled its earlier judgement (1992) which declared that there was a fundamental right to education up to any level including professional education like medicine and engineering.

RIGHT TO EDUCATION ACT (2009)

The Right of Children to Free and Compulsory Education (RTE) Act, 2009 was enacted to implement the constitutional provision under Article 21-A. The Act provides for free and compulsory education to all children of the age of six to fourteen years. The Central Government affixed 1st April, 2010 as the date of enforcement of the Act.

The Act provides children in the 6-14 age group the legal entitlement to free and compulsory education. It provides the legislative framework for Universalisation of Elementary Education.

The salient features (or provisions) of the Act are mentioned below:

1. It provides for the right of children to free and compulsory education till completion of elementary education in a neighbourhood school
2. It clarifies that 'compulsory education' means obligation of the appropriate government to provide free elementary education and ensure compulsory admission, attendance and completion of elementary education to every child in the six to fourteen age group. 'Free' means that no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education.
3. It makes provisions for a non-admitted child to be admitted to an age appropriate class.
4. It specifies the duties and responsibilities of appropriate governments, local authorities, parents, schools and teachers in providing free and compulsory education.

5. It specifies the sharing of financial and other responsibilities between the Central and State Governments.
6. It lays down the norms and standards relating inter alia to Pupil Teacher Ratios (PTRs), buildings and infrastructure, school working days, teacher working hours.
7. It provides for rational deployment of teachers by ensuring that the specified pupil teacher ratio is maintained for each school, rather than just as an average for the State or District or Block, thus ensuring that there is no urban–rural imbalance in teacher postings.
8. It provides for prohibition of deployment of teachers for non-educational work, other than decennial census, elections to local authority, state legislatures and Parliament, and disaster relief.
9. It provides for appointment of appropriately trained teachers, i.e., teachers with the requisite entry and academic qualifications.
10. It prohibits (i) physical punishment and mental harassment, (ii) screening procedures for admission of children, (iii) capitation fees, (iv) private tuition by teachers, and (v) running of schools without recognition.

SPACE FOR NOTES

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ROLE OF CIVIL SERVICES IN DEMOCRACY

In a democracy, the civil services play an extremely important role in the administration, policy formulation and implementation, and in taking the country forward towards progress and development.

Democracy is an egalitarian principle in which the governed elect the people who govern over them. There are three pillars of modern democracy:

- Legislature
- Executive
- Judiciary

BUREAUCRACY

The term bureaucracy derives from the following:

- Bureau (French): which means small desks.
- Kratein (Greek): which means to rule.

Thus, bureaucracy fundamentally refers to office-based governance. Max Weber, a German sociologist, was one of the first individuals in contemporary times to critically consider bureaucracy (1864-1920). He characterized the notion as a method for organizing a complicated firm rationally.

Bureaucracy involves coordinating a large number of individuals who are compelled to work together. Bureaucracy is a term that refers to "government by offices." Bureaucrats assign government policy to consider the laws enacted by elected authorities and carry them out successfully. These are permanent professional staff members of the executive branch of Government. These individuals' primary responsibility is to aid the operation of government agencies, although they report to the ministries.

Civil servants are appointed to permanent posts in government offices. They often join their administrations during their youth and remain as government employees until they reach retirement age, typically 50 to 60 years.

HOW A BUREAUCRACY WORKS

"Bureaucrat," "bureaucratic," and "bureaucracy" are often associated with negative connotations. Bureaucrats are government employees, and the word bureaucratic suggests that established procedures take precedence above efficiency. There is, however, a more balanced approach to view bureaucracy.

The administrative process is suitable for criticism. It frequently matches redundancy, absurdity, and inefficiencies. One widely cited mocking description of bureaucracy is "politicizing the imaginable."

Bureaucracy is driven by the desire to govern business via closed channels. Closed systems are formal and rigorous to maintain order. Procedural precision is crucial in bureaucracy. Perhaps a bureaucracy's most defining trait is its dependence on hierarchical systems to simplify or replace autonomous decision-making.

A bureaucracy hypothesizes an organization and its surroundings. One such assumption is that the organization cannot continue by depending on an open operating system that is either too sophisticated or unpredictable. Instead, a logically closed, the revised system should be established and maintained.

BUREAUCRACY VS. GOVERNANCE OR ADMINISTRATION

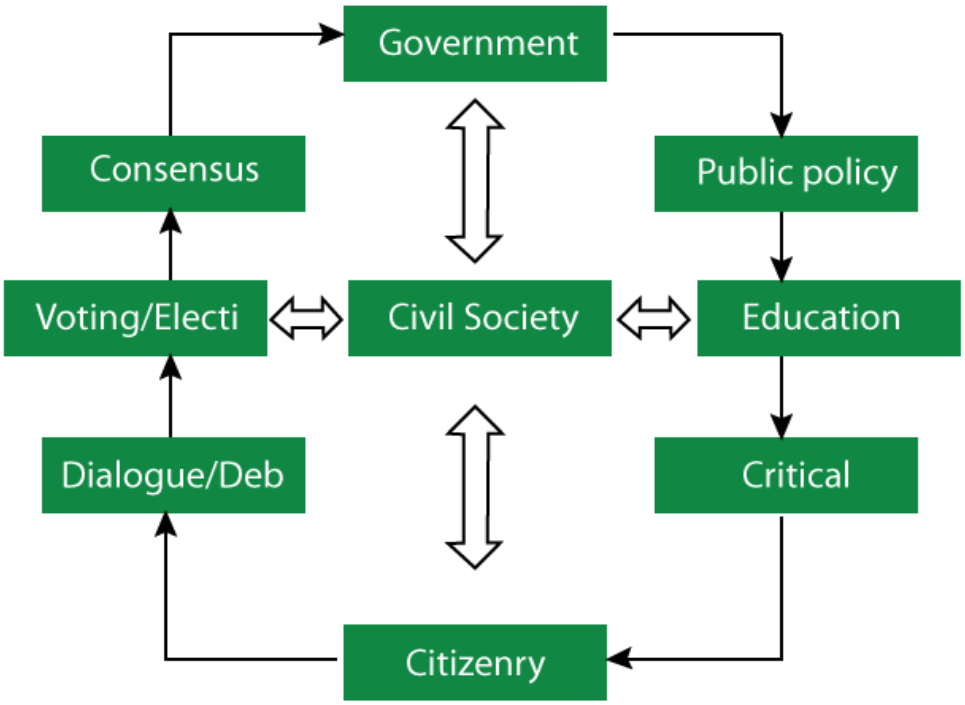
The term "bureaucracy" is not synonymous with "government" or "administration." Specific administrative organizations are not bureaucratic, while many bureaucracies exist independently of administrative structures. The distinctions are in the systems' aims.

An administration directs organizational resources toward a specific aim, such as profit generation or service administration. Bureaucracies guarantee that procedures are followed regardless of the circumstances or objectives.

Dual bureaucracies between private firms and government regulatory agencies are typical in modern industrial nations like the United States. Wherever a regulatory bureaucracy exists to enforce restrictions on commercial activity, a private corporation may establish one to avoid infringing such restrictions

CIVIL SERVICES

The civil service is a subdivision of government which is usually grouped with the Executive, and without which governments cannot function. These are men and women who establish the permanent staff of the departments of governments. They are expert administrators. Some academicians refer jointly to these employees as public administration or the bureaucracy, or public service. Olaopa (2008) stated that civil service, although commonly used, is usually misinterpreted.



According to Lawson, (1974), the civil service is the term used to designate servants of the state or the central government employed as civilians. It does not include ministers or cabinet members or the Judiciary. In some countries, it usually does not cover local government employees nor the staff of public enterprises. In this framework, the civil service will embrace civilian employees of state and federal governments only, excluding cabinet ministers and the judiciary. Idode, (1986), explained civil service as the "array of administrative and professional staff employed, on permanent and pensionable basis to established posts, by the state, to advise on and execute its policies.

PUBLIC SECTOR REFORMS

MEANING OF REFORMS

To improve the overall performance of the Indian Economy, the Central Government announced in 1991 the New Industrial Policy. It came to be known as the 'New Economic Policy' as it made a 'radical' departure from the Nehruvian Economic Philosophy contained in the 1956 policy. In essence, it heralded the era of liberalisation which led to privatisation and globalisation.

Liberalisation means free-market economy. It marks a change from a restrictionist regime to a free regime. It implies reducing, relaxing and dismantling of government's controls and regulation in economic activities. These measures include delicensing of a good number of industries, raising of licensing limits, relaxations under the MRTP Act, broad banding, relaxations under the FERA (now FEMA) regulations, legalisation of additional capacities, relaxations in export-import policy and so forth. Thus, the private sector is permitted to function freely in respect of investment, production and products.

Privatisation means (i) denationalisation, that is, changing the ownership of public enterprises fully or partially to the private parties, (ii) deregulation, that is, allowing the entry of private sector into areas hitherto exclusively reserved for the public sector and (iii) operating contract, that is, entrusting the management and control of public enterprises to the private parties on agreed remuneration.

Globalisation means progressive integration of Indian economy with the world economy. This implies opening up the Indian economy to foreign direct investment. It removes constraints to the entry of Multi National Companies (MNCs) in India. Thus, the Indian Economy is made a part and parcel of the world economy.

REASONS FOR REFORMS

The various reasons for this change in the government's policy towards public sector are as follows:

1. The dismal financial performance of the public sector.
2. Low returns against heavy investments in public enterprises.
3. Government is no longer in a position to provide budgetary support to sick enterprises.
4. The need to create competition for the public enterprises so that they are forced to earn profits through improved efficiency.
5. The global trend towards liberalisation, privatisation, and globalisation.
6. The private sector is coming forward to invest in huge amounts in infrastructure areas.
7. External factors influencing the government like advanced countries, MNCs, World Bank, IMF and so on.

Domain expertise

The first ARC classified higher civil service posts into two categories: (a) posts in the field, and (b) posts at headquarters. The field posts were held by the members of the 'functional' services which included not only the various engineering services but also services such as accounts and income tax. The first ARC noted

that the only service that was not functional but occupied most of the higher posts in the civil services was the IAS.

The ARC recommended that the IAS should be converted into a functional service, consistent with its philosophy of organizing the administrative machinery along functional lines and inducting talent from all sources, the ARC recommended eight broad areas of specialization:

- Economic Administration
- Industrial Administration
- Agricultural and Rural Development Administration
- Social and Educational Administration
- Personnel Administration

GRADING REFORM

The first ARC recommended a unified grading structure so that posts entailing similar qualifications, difficulties and responsibilities are grouped in the same grade. The principle of equal pay for equal work was sought to be recognized for the entire country for both the Union and the State Governments and even the local bodies. It was of the view that in the absence of a careful evaluation of the work content of jobs at certain levels and the matching of scales of pay thereto, the principle of equal pay for equal work cannot be implemented. The imbalance in remuneration attached to headquarters posts and field posts and the multiplicity of pay scales for different groups was sought to be addressed by this unified grading system. For grading, it recommended that the following considerations be taken into account;

- *In services that provide for postings in the secretariat and at the field level, the liability for service all over the country should be reflected in the grading system.*
- *For services that provide only for field postings or postings only in secretariats but not in both, the grades would have to be related to the duties and responsibilities of these posts.*
- *The fact that the members of the State civil services are required to work only within the State and not outside, should be reflected in their grades.*
- *Posts involving higher research should be graded high, even though such posts carry little or no administrative responsibility.*

The Commission recommended that the number of grades should range between 20 and 25.

CIVIL SERVICE REFORMS AND SOCIO-ECONOMIC DEVELOPMENT

Civil Service Reform aims at strengthening administrative capacity to perform core government functions. These reforms raise the quality of services to the citizens that are essential to the promotion of sustainable economic and social development. CSR can contribute to macroeconomic stabilization by restoring budgetary stability, strengthening revenue collection, managing aid effectively, and improving development performance through proper implementation of investment frameworks and the management of public expenditure plans and programmes. The reform can contribute to the design and implementation of an equitable programme of social development. Enhancing the capacity of civil servants and improving their morale are critical to all these functions.

SPACE FOR NOTES

ETHICS IN GOVERNANCE

Any discussion on an ethical framework for governance in a democracy must necessarily begin with ethical values in politics. Politics and those engaged in it, play a vital role in the legislative and executive wings of the State whose acts of commission and omission in working the Constitution and the rule of law become the point of intervention for the judiciary. While it is unrealistic and simplistic to expect perfection in politics in an ethically imperfect environment, there is no denying the fact that the standards set in politics profoundly influence those in other aspects of governance. Those in politics have a clear and onerous responsibility. India was fortunate that high standards of ethical conduct were an integral part of the freedom struggle. Unfortunately, ethical capital started getting eroded after the transfer of power. Excesses in elections (in campaign-funding, use of illegitimate money, quantum of expenditure, imperfect electoral rolls, impersonation, booth-capturing, violence, inducements and intimidation), floor-crossing after elections to get into power and abuse of power in public office became major afflictions of the political process over the years. Political parties, governments and more importantly the Election Commission and the Supreme Court have taken several steps since the late 1980s in an attempt to eliminate the gross abuses that had virtually become the norm. Yet, there is a widespread view that much more needs to be done to cleanse our political system. Along with that of corruption, this issue was raised in every public hearing held by the Commission during its visits to the States.

CODES OF ETHICS AND CODES OF CONDUCT

We need to examine the idea of an ethical code in a little detail, and differentiate it from a code of conduct There is a tendency to use the two terms interchangeably. Codes of ethics usually contain general values while codes of conduct clearly spell out the principles which are derived from values. In the words of Jeremy Bentham, a principle is "a general law or rule that guides behaviour or decisions," whereas values articulate "an aspiration of an ideal moral state."

On the connection between values and principles in the domain of public administration, Ter Cooper says:

“An ethical principle is a statement concerning the conduct or state of being that is required for the fulfilment of a value; it explicitly links a value with a general mode of action. For example, justice may be considered a signifies value, but the term itself does not tell us what rule for conduct or state of society would follow if we include justice in our value system. We would need a principle of justice to show us what pattern of action would reflect justice as a value. A common form of the justice principle is "Treat equals equally and unequal’s unequally”

We might interpret this principle as meaning that all adult citizens have to be treated alike with the same political rights and obligations. If one is allowed to vote, then all must be allowed to vote.

Nowadays many companies post ethical codes on their websites. They do not often distinguish between a code of ethics and a code of conduct. A code of ethics will first specify values that underlie the code and will describe a company's obligations to its stakeholders. It will describe how the company conducts its business. It will describe the manner in which the company proposes to implement its values and vision. It will guide the staff about the company's ethical standards and on how to achieve them. In contrast, a code

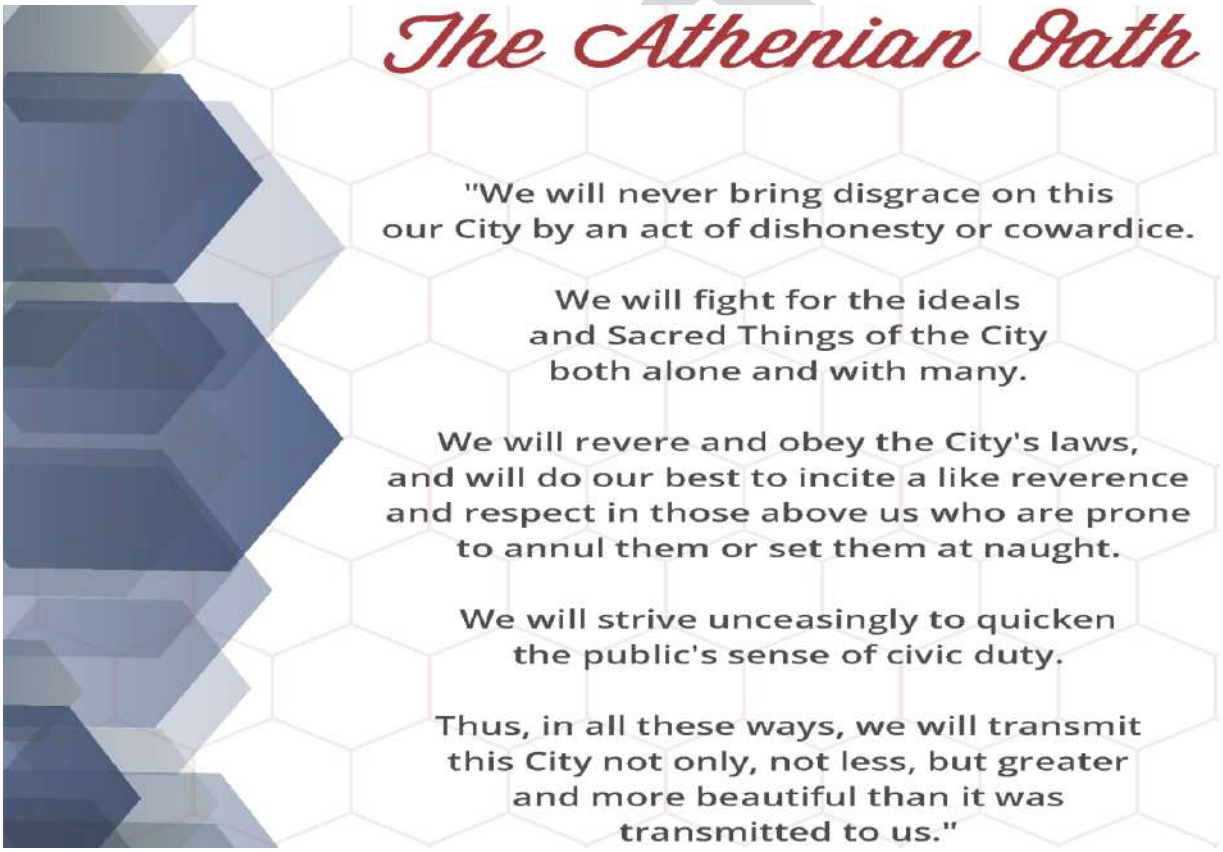
of conduct is generally addressed to and meant for the use of employees alone. It usually lists unacceptable behaviours or actions; employees have to obey the code; and it may be silent on values.

Values are general moral obligations; principles are the expected ethical conditions or behaviours which follow from values. Values refer to political and social visions and exalted goals which societies seek to achieve. In contrast, codes of conduct have a narrow focus. Codes of conduct are particular rules of conduct either imposed from higher levels of an organization or voluntarily accepted as the requirements of a profession or occupation.

A code of ethics differs from a code of conduct in another way. A code of ethics or a code of morality has a wide canvas. It may virtually cover all aspects of a man's life. It will contain prescriptions and prohibitions which cover one's personal, social, economic, political and religious life. Codes of ethics apply to the culture, education, and religion of a whole society. Codes of conduct generally cover an individual's official or professional conduct.

CODES AND LAWS

The term 'code' is sometimes used to signify a law. Thus we can speak of the Indian Penal Code, the Code of Criminal Procedure, or the Bombay Land Revenue Code. These are examples of laws. They are distinct from ethical codes and codes of conduct. In the ancient times, there was a famous Hammurabi Code. It was a collection of laws and edicts of the ancient Babylonian king Hammurabi. It contained legal procedure and penalties covering unjust accusations, false testimony, miscarriage of justice and other rules which sought to establish "stable government and good rule," so that "the strong may not oppress the weak". However, neither codes of ethics nor codes of conduct are laws.

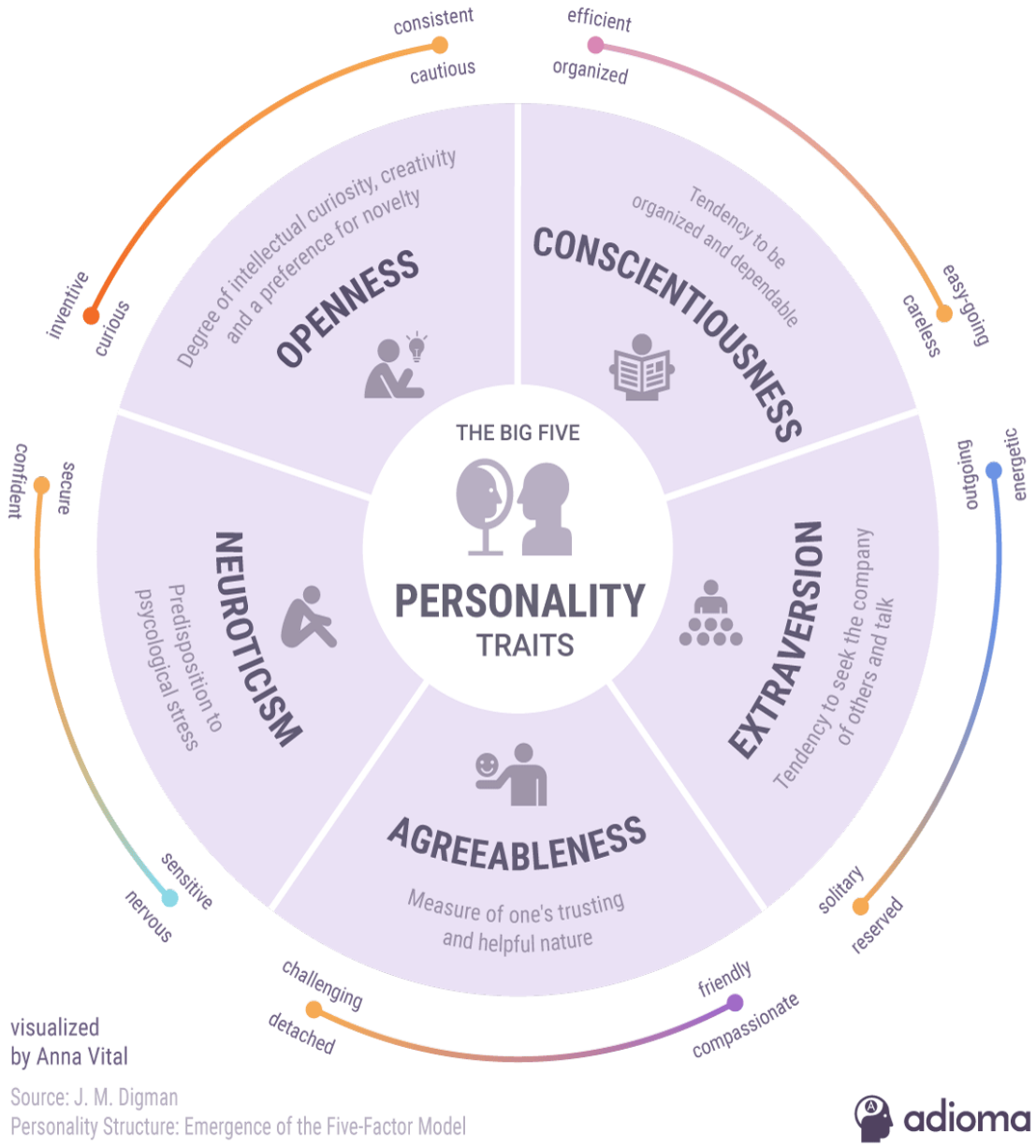


let us note an ancient example of code of ethics. This is from the ancient city of Athens, and its great ruler Pericles proclaimed it. Incidentally, Pericles created the first system state of merit based public service with salary payments.

This oath is a value system. It sets out a general vision and differs from a code of conduct. Thinking of Indian polity, we can regard the provisions included in the Directive Principles of the Constitution as forming an ethical political code.

Agreeableness

This personality dimension includes attributes such as trust, altruism, kindness, affection and other pro-social behaviours. People who are high in agreeableness tend to be more cooperative while those low in this regard tend to be more competitive and even manipulative.



CASE STUDIES

Cases can be divided into two broad types. The first type consists of cases which confront an individual who has no position of authority or official obligation. This is the situation of every human being who is called upon to decide upon a course of action in a given situation and the situation is not linked with any office or position of authority. The second category of cases results from official environment. Here the ethical decision maker is not merely an individual (often called moral agent in Ethics) but has an official duty cast upon him. Clearly, the second type of situation is more complex because there is a call of duty to be answered in addition to one's moral inclinations. Professional duty brings more matters into consideration than private moral behaviour.

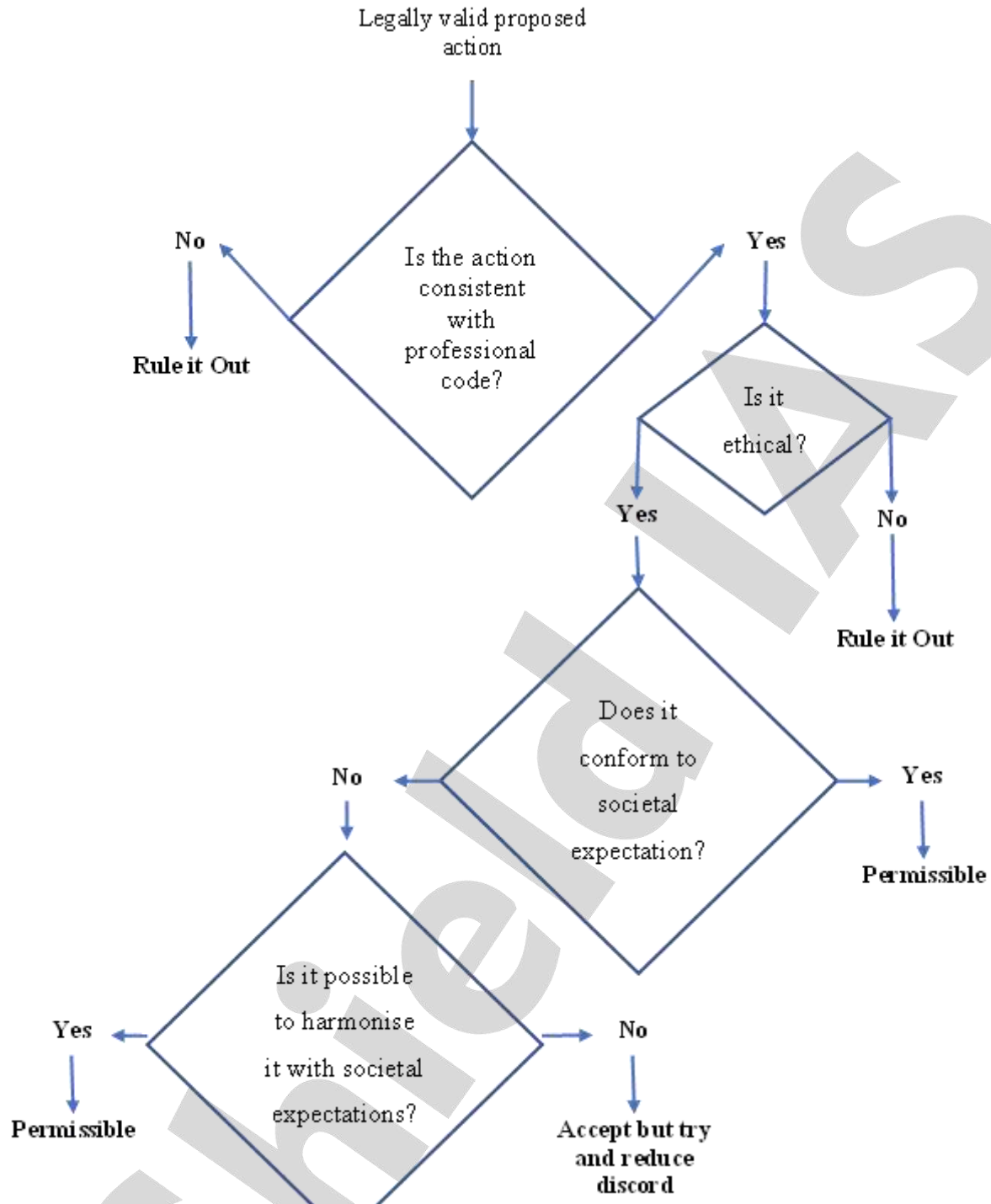
TEST OF ETHICAL SOUNDNESS OF AN ACTION

Social Situation

As a social being, you have to take the following steps for analysing any decision choice. First examine, whether the suggested decision or the decision which comes to your mind is legal at all. You do not need a great deal of expertise in law to understand what kinds of acts are illegal. Punishable offences under IPC are well known - murder, injury to other persons, rape, cheating, misappropriation and fraud, etc. fall in this class. It is unlikely that any suggested alternative in examinations will present any 0f these. There are other lands of laws too: laws pertaining to prohibition, smuggling, taking of dowry, dealing in drugs and the like. These matters are commonly understood and do not need elaboration. Laws of a sovereign have ethical sanction in the context of that society. No doubt what is illegal in one country may occasionally be legal in another country. But you have to imagine the context of the particular- situation which is country specific. Unless you are specifically called upon to discuss legitimacy of the law itself, the rale is straightforward: Follow the Law of the Land. Thus, any course of action that suggests or implies transgression of law is unethical in the context of that state or location.

Thus, though enjoying a mug of beer in any season is normal in Germany, in Gujarat even in summer one cannot do that without a permit. The sanction in Gujarat is strictly speaking not derived from purely ethical canons, but from a perception of public good or well-being in Gujarat society. By an extension of the notion of what is good or bad, the restriction becomes a binding principle so long as one resides within the state. Since law is mandatory, there is no practical sense in questioning its legitimacy - though such questions may be perfectly legitimate in academic or intellectual contexts.

After this test of legal conformity is cleared, one enters a more complex domain where guiding principles come from two powerful and potent sources. The first source undoubtedly is ethics, and the second consists of all manner of cultural norms including religion. While reading this book you have acquainted yourself with the various approaches or guidelines to test the ethical soundness of an action. To repeat: these tests follow the trades of utilitarianism, deontology, virtue ethics, and all the deeply ingrained universal values such as truthfulness, compassion, and empathy among others. Our general approach is that if an action clears the talisman of morality, it should be acceptable. Whether such an action complies with cultural guidance or norms is a secondary consideration. If it does so much the better; if it does not, the ethical consideration would prevail. In short, cultural norms yield to ethics in case of conflict between the two.



Let us give a simple example. In all societies that we know, there is a last rites custom to pay respects to the deceased. Customs differ, but generally speaking, friends and close relatives (often only male members) accompany the mortal remains of the departed soul to the cremation ground whatever be the method of cremation. Consider the case of a socially reputed but an ordinary business person X. X is passing through a bad patch and has suffered substantial loss in his business recently. On top of it, he has just lost his wife. To make things more difficult for him, he has two marriageable daughters and the marriage of the elder daughter has been fixed and he has to prepare for it socially and financially. X comes from a conservative Bengali Hindu family wherein according to custom the family not only performs last rites, but also has to

do a Shraddha (a manner of religious prayer cum ceremonial offerings to Gods) followed by a feast for at least all those who had paid last respects to the departed. X is in a fix; if he spends money for elaborate Shraddha and feast, his financial condition be further weakened. However, slapping the practice is not easy because social convention does not enjoin non-compliance. If he does skip many friends and family members will be talking unpleasant. things behind his back. On the other hand, social compliance will compel him to take loans for daughter's marriage. So X is in a dilemma.

Clearly, slapping feast and scaling down Shraddha ceremony is ethically permissible. In fact, taking loan for daughter's marriage may later exhaust his bankability to finance his business thus, jeopardise his livelihood. As a father he has ethical responsibility to his family. Thus, an ethical course of action would be to do Shraddha at the minimal level and skip feast altogether. However, he should address the perception issue of society by talking honestly to good friends and family members and only hope they would understand and sympathise.

Now we have come to a stage where we can describe the tests of moral action in a logical scheme which you can use in most situations. To appreciate the scheme you may have a look at the flow diagram below.

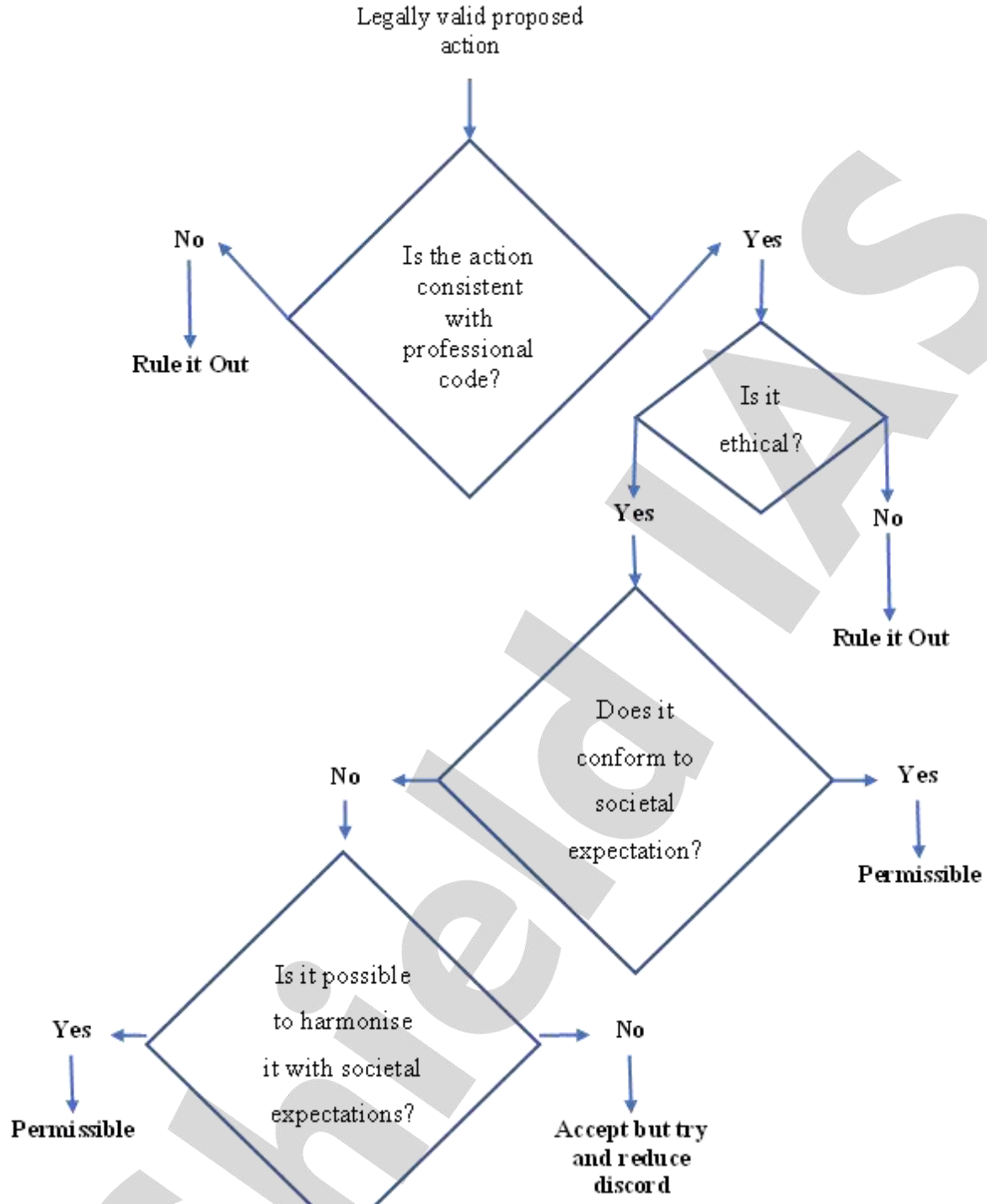
The diagram tells you to make the proposed action pass through the sequential tests in the cylindrical rest rooms so to say. Each test asks a straightforward question which is already written there. After first test, there are two outcomes 'yes' or 'no'. You begin at the top and sequentially go down. If the first test throws up 'no' answer i.e. the proposed action is not legal, you have to simply rule out that action. If the test yields 'yes' result, then you go down for the next test and so on. At the end, you will always get an answer.

Now in essay type examination, two types of possibilities arise. First, try answer choice is given in black and white and the examinee has no flexibility. In that situation, in case of conflict between ethical principles and cultural practice, the first dominates. One has to choose answer on that basis. However, if the examinee has flexibility in selecting or modifying the answer choice he/she should try to select a course of action where the conflict is narrowed in scope or severity. Like in the given example, Mr. X should explain in advance to family members and close friends why he is compelled to scale down Shraddha ceremony.

Professional Situation

Now let us turn to the category of situations where the decision maker holds some position of power or control over others. This does not mean that the moral agent we are thinking is necessarily a civil servant or a corporate manger. He can be a doctor or nurse as well because they have some measure of influence and control on the behaviour of patients. The applicable professional code depends on the profession and policy of the institution in which the moral agent is working. In the case of government servant in India, there are codes made by both the Central and state governments. The spirit and the flavour of the codes whether made by the government of India or a state government run parallel and so do the important principles; they differ in respect of minor operational details. These details are not relevant from the standpoint of civil services examination.

Similarly, corporate managers also follow the codes determined by the respective company. Those codes, though may differ from one company to another, share common values which are ethical in nature such as courage, trust, teamwork, commitment, integrity and so forth. Code of a company may lay special emphasis on sharing sensitive information so that information having commercial potential is not lost to competition. Code may elaborate on sexual harassment also. We hope you get the theme and an appreciation of what a code generally stipulates.



CASE STUDY 1

Babu Rao is an officer on special duty in the project analysis wing of the Finance department. His job is to look at the financial and economic viability of projects. Given the available budget, the projects with higher returns are picked up for funding or seeking aid from external donors. Although the procedure is involved, its principles are simple. The analysts calculate for each year of the project's useful life the expected

expenditures and revenues. As these flows occur in different years, they have to be made comparable. For this purpose, the revenue and expenditure flows are discounted using a particular interest rate. Discounting means that their magnitudes are reduced by using a factor based on the interest rate. Due to discounting, the actual numbers of future streams of expenditure and income become smaller. The same numbers of expenditure and income of say year 5 will become smaller than those of year 3. The present values of future income and expenditure depend on two factors: interest rate and the future year in which they occur. In this process, the present value of the numbers of later years in future becomes less than that of earlier years in future. These income (benefit) and expenditure (cost) streams, which are reduced to their present values, are added and compared. In short, the projects which have higher benefit-cost ratios in terms of present values are selected for funding.

In this process, a pet project of a powerful minister is dropped. The incensed minister calls Babu Rao for discussion. Babu Rao tries to explain things. But the minister berates him for slashing the solid Rs 100 crore revenue of seventh year to almost Rs 15 crore. After some discussion, the minister suggested that if the-interest rate used for discounting expenditure and revenue flows is reduced, the 16 -PCX will become viable. He asks Babu Rao to cut that rate. Babu Rao refuses saying dialetheias prescribed by the Department of Economic Affairs.

QUESTION

What should Babu Rao do in the above circumstances?

a) Follow minister's orders.

b) Babu Rao should give up his narrow accounting perspective and adopt a wider social point of view.

c) He should politely express his inability to follow the minister's instructions.

d) He should tell the minister that he would write to the Department of Economic Affairs seeking a lowering of the rate of interest.

DISCUSSION

Babu Rao is a professional in finance area. He has to follow the prescribed procedures of project analysis. Professionals like doctors and engineers have to follow the relevant technical codes in their work area. Babu Rao cannot be guided by the minister's unprofessional advice in this matter. So this option is wrong.

The second alternative confuses two distinct matters. Babu Rao, while discharging his functions as a finance professional, has. to go by his professional training in accounting and related subjects. As a citizen, he can of course adopt whatever social philosophy appeals to him. His role as a finance specialist should not be confused with his role as a citizen. Hence this choice is inappropriate.

The third option is the correct one. Babu Rao has to provide professional inputs into decision making based on his knowledge and best judgement. He cannot substitute the minister's judgement in place of his judgement. The Department of Economic Affairs gave the discount rate which Babu Rao used. Incidentally, the rate measures the relative scarcity of capital in Indian economy and is a measure of the value or cost of capital. While evaluating projects, this uniform rate has to be used. It cannot be changed at the minister's bidding. But Babu Rao should not quarrel with the minister, but simply indicate that he is bound to use that rate.

The last alternative is also inappropriate. He cannot write to the Department of Economic Affairs to change the rate. It is decided after detailed consultations with monetary and fiscal authorities and expert agencies. In addition, it is not within his province to make such proposals.

Written Orders

There is a rule which prescribes that when oral orders are given, they should soon thereafter be authenticated by the officer who issued them. This rule is a fall out of the Emergency period under Shrimati Indira Gandhi. Justice Shah Commission inquired into various controversial happenings du ring Emergency. Many officers then took the plea that they followed the orders of higher officers. The higher officials, as it usually happens in such contingencies, washed their hands of the matters.

To avoid this problem and fix accountability, Shah Commission recommended that officers whose oral orders should confirm them later in writing. There is another rider to this rule which says that they should not be used to toss up matters which lie within one's assigned powers. The point here is a civil servant should not evade responsibility.

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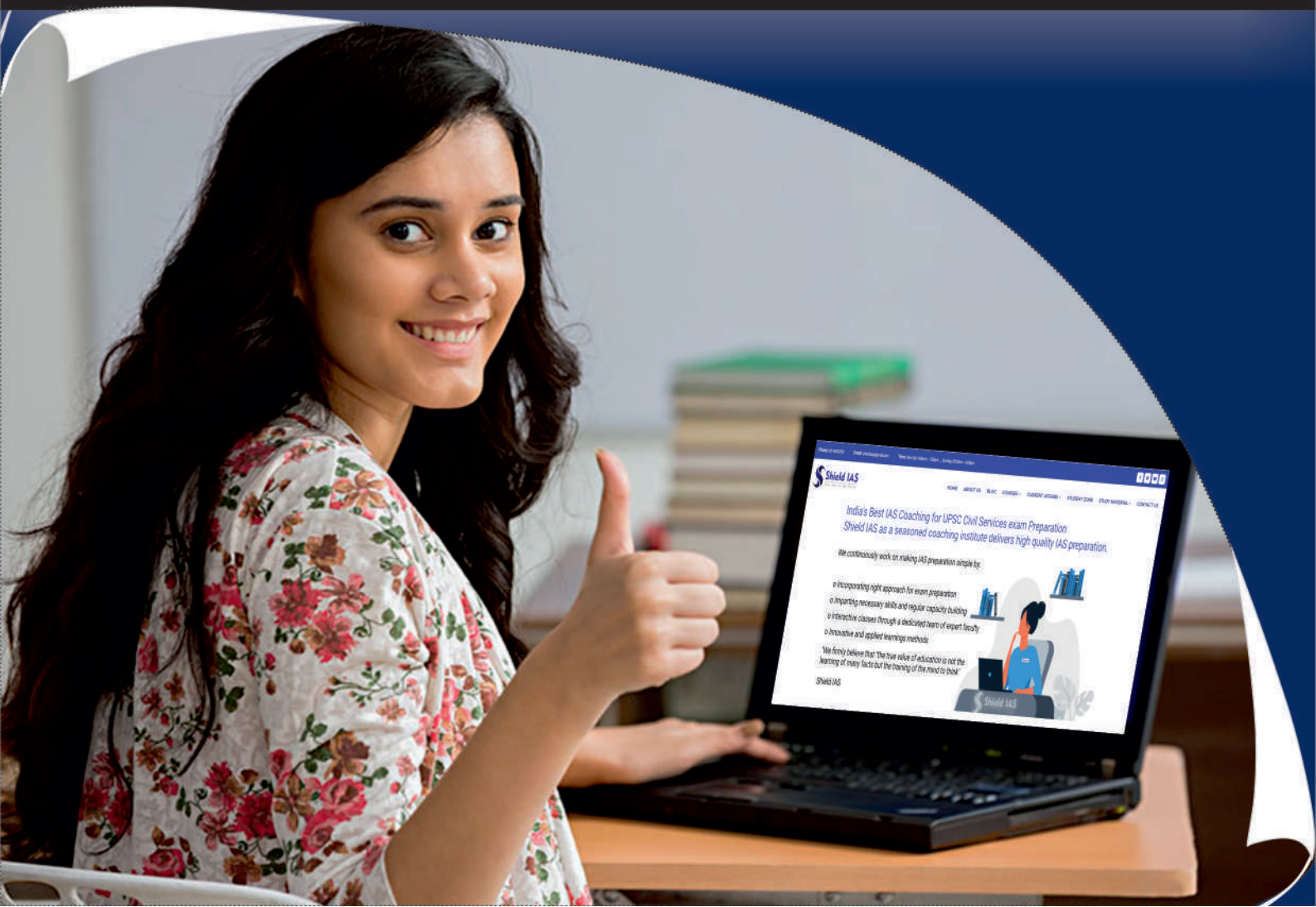

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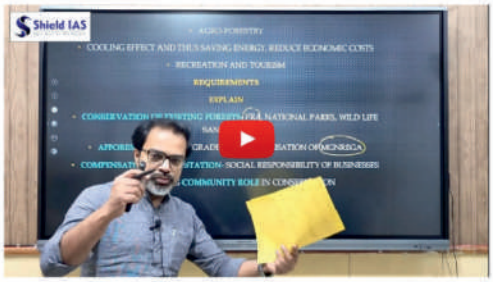

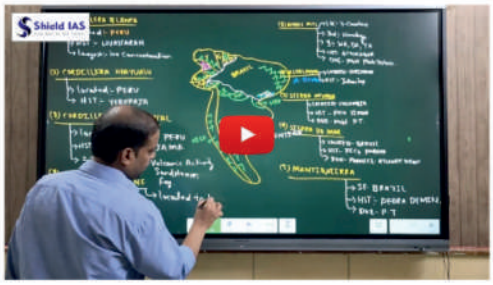
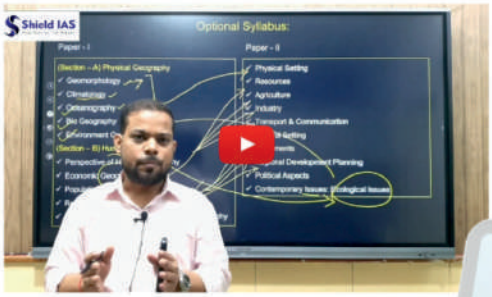

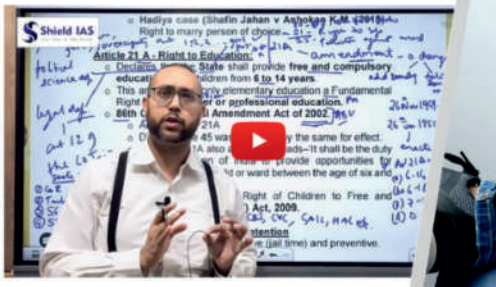

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