

Q 1 In a modern democratic polity, there is a separation of power between legislature, executive and judiciary. Elected people's representatives form the legislature and executive, and appointed judges form the judiciary. Ministers frame policy decisions and bureaucrats execute these. In the initial decades after independence, the relationship between the three organs was characterized by mutual understanding, respect and cooperation, without encroaching upon each other's domain.

However, in the subsequent decades, the situation has changed. There are instances of the political executive insisting upon the permanent executive to follow its agenda. Further, there are instances of the political executive insisting upon the judiciary to follow its agenda.

Under this scenario, there is a definite trend towards 'politicization of the judiciary'. The rising materialism and acquisitiveness in social life has also adversely impacted upon the ethical values.

What are the consequences of this 'politicization of judiciary'? Discuss.

(250 words) 20 marks.

our founding fathers have enshrined the values of
separation of power in constitution (Art; 50, 32, 226)
to ensure principle of checks & balances
and prevention of dictatorial and tyrannical
tendencies by concentration of too much power
in single agencies.

"Politicization of judiciary" pertains
to breach of separation between Judiciary and
Executive and encroachment of jurisdiction by
the judiciary to unjustified laws & actions of

executive.

Consequences of politicization of Judiciary

①

Separation of power is breached

1.1 Independent judiciary prevents despotic laws whereas politicised judiciary dances to the tunes of political masters.

1.2 Constitutional morality tarnished

②

Safeguards of citizens compromised

2.1 When States power increases and it is unchecked - it takes the form of authoritarianism.

2

therefore judiciary acts as defender of fundamental rights through Art 32 & 226.

2.2 Judicial Review an important feature stands to become less meaningful.

③

Behavioural shift of country

3.1 Citizens treats leaders and judges as role model - Complicit judiciary would propagate unethical behaviour

3.2 Wrong message of following unethical means for success in life such as job, promotion or getting the job done.

④

International outlook

4.1 Image or beacon of democracy gets tarnished

4.2 No more known for following rule of law

⑤

Unbuddled power of executive would frequent the welfare of sections which has ideological divergence and breed communalism and corruption.

⑥ Slippery slope - acceptance of initial temptations would further lead to more compromises → judgments in favour of political masters.

⑦ Sanctification of Corruption (Kaushik Basu)

↳ Since both executive & judiciary are involved in certain agenda - that would gain more acceptability.

But, such tendency is unbounded so far.
Further constitution provides adequate safeguard in such a scenario.

① Executive, Judiciary and Legislative are limited by the constitution.

② Checks & balances - role of opposition.
institutional safeguards such as Election

UPSC

commission, CBI to prevent politicization of judiciary.

③ public opinion - ousting of party from power

Lastly, to prevent any such situation ethics would be paramount as internal checks are superior to the external checks.

Que.
प्रश्न

For
Practice
Use Only
सिर्फ अभ्यास
के लिए

Q 2 Dr X is a leading medical practitioner in a city. He has set up a charitable trust through which he plans to establish a super-speciality hospital in the city to cater to the medical needs of all sections of the society. Incidentally, that part of the State had been neglected over the years. The proposed hospital would be a boon for the region.

You are heading the tax investigation agency of that region. During an inspection of the doctor's clinic, your officers have found out some major irregularities. A few of them are substantial which had resulted in considerable withholding of tax that should be paid by him now. The doctor is cooperative. He undertakes to pay the tax immediately.

However, there are certain other deficiencies in his tax compliance which are purely technical in nature. If these technical defaults are pursued by the agency, considerable time and energy of the doctor will be diverted to issues which are

not so serious, urgent or even helpful to the tax collection process. Further, in all probability, it will hamper the prospects of the hospital coming up.

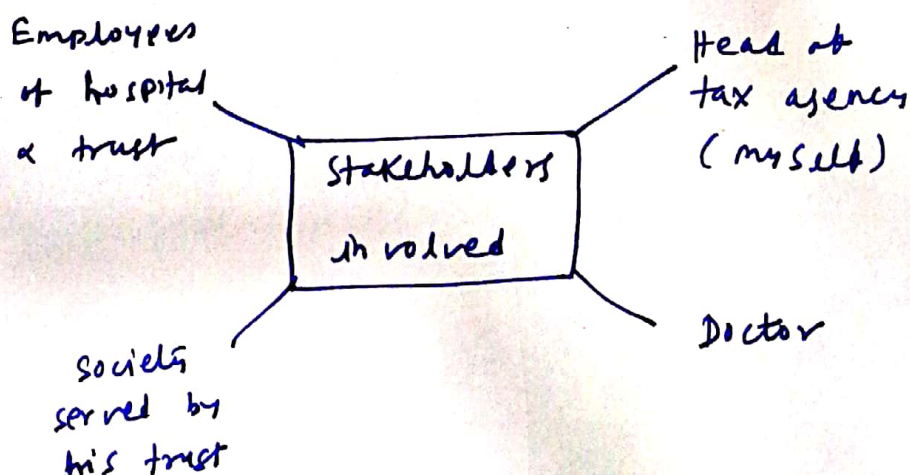
There are two options before you:

- 1) Taking a broader view, ensure substantial tax compliance and ignore defaults that are merely technical in nature.
- 2) Pursue the matter strictly and proceed on all fronts, whether substantial or merely technical.

As the head of the tax agency, which course of action will you opt and why? (250

words) Given case presents an ethical dilemma

wherein on one hand social need of a hospital stands and on the other official responsibility of tax officers.



findings of the case

- ① Substantial irregularities involving withholding of tax → doctor cooperative → greedy to pay immediately
- ② Technical defaults → there also he is not persistent but would take his time and energy.

option 1 analysis

↳ Broader view to ignore technical defaults

Pros	Cons
① No hurdle in works of charitable hospital ② People's health would be taken care of in under developed part of state	① Set a template which would be sought by others also. ② Any relaxation would cause moral dissonance for compromise on duty.

③ Externalities such as other ventures such as pharmacies, diagnostic centres would open
↓
Employment generation and prosperity

③ would be questioned by superiors about the lentent position take in the case.

option 2 analysis

↳ pursue both substantial and technical matter strictly

Pros	Cons
① Rule of law upheld ② Prima facie he knowingly withheld the taxes and on getting caught only did he ~~start~~ cooperates ↓ moral fabric weak of doctor	① charitable works of trust would get jeopardised including hospital. ② loss of social capital & compromise on citizen's welfare.

② Image of tax dept
held high
2
No intimation of
corruption

③ All stakeholder except
tax dept stands to
lose

on the basis of pros and cons study of both
options, I would choose the option which is
inline with the direction of my department.

↳ ① guidelines to establish course
of action - e.g. SOPs

↳ ② Govt Schemes such as immunity
for paying withheld dues.

↳ ③ mere technicality vs mens rea
↳ determining his intent

for the ~~for~~ above reasons I would choose option

~~two~~ one and take lenient position for the

technical problems but strictly deal with the

substantial irregularities. further, I would make

a full noting of the reasons for making this choice. This way, I would not deviate from my duty of treating fairly and would not be obstructing the welfare work.

Q 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?

③

child labour prohibition is enshrined in the constitution under Article 23. As India approaches its 75th independence day it's time to face up future of the country from this heinous injustice.

Ethical issues involved

- ① Right to dignified life - compromised
↳ by the compelled employment of children into cracker factories.
- ② violation of constitutional principles
↳ Article 23 and Article 21

③ Rule of law not upheld

↳ by allowing the cracker factory to operate under inappropriate certification.

④ Social morality overshadowing constitutional morality:

↳ child labour has social acceptance.

⑤ Ethical ~~dwarfism~~ dwarfism

Even on confronted the owner of cracker factory does not show remorse thereby profit motive superior to social responsibilities.

⑥ Failure of institutions

Such as police, petroleum and explosives authorities to properly inspect and find the misdeeds.

my selection

I would gather the relevant facts and inform nearest police station, child helpline as well as social workers of the area.

I will keep watch till the time they arrive to prevent any manipulations. I will provide my support in the investigation so that the miscreants can be caught and children can be free of the inhuman work.

I will accompany the social workers to the houses of children and counsel the parents to send the children to school where they would gain the education which would allow them to come out of cycle of parents' driven risky occupations.