Instructions to Candidate

• There are Five questions

• "Attempt All Questions"

• The number of marks carried by a question/part is indicated against it.

• Answers must be written in the medium authorized in the Admission Certificate which must be stated clearly on the cover of this Question-cum-Answer (QCA) Booklet in the space provided. No marks will be given for answers written in medium other than the authorized one.

• Word limit in questions, wherever specified, should be adhered to.

• Attempts of questions shall be counted in chronological order. Unless struck off, attempt of a question shall be counted even if attempted partly. Any page or portion of the page left blank in the Question-Cum-Answer booklet must be clearly struck off.

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1. Answer the following questions in about 150 words each: \(10 \times 5 = 50\)

(a) "Accountability requires being professional and moral at the same time."
(b) "Judicial control over administration if not subservient is neither superior to the legislative control."
(c) "Judicialization of politics and politicization of judiciary, have turned out to be the two faces of the same coin."
(d) "Administrative law is closer to sociology of law than philosophy of law."
(e) "Citizen charters are a new look towards publicness of public administration."

a) Accountability means giving an account of one's own activities to others.

**Professional component:**

1) It is ensured by rules, laws, regulations, etc.
2) It is legally enforceable.
3) Violation of professional accountability can lead to punishment or prosecution.

- Parliamentary committees
- CAG
- CBI
- Law enforcement agencies
- Vigilance commissions
- Departmental enquiries
- Judicial enquiries
Moral component & accountability:

i) Moral accountability is assessed by one's own ethics, values, integrity, courage & conviction etc.

ii) Moral accountability is the first line of defense. It supersedes professional accountability.

iii) Moral accountability is not out of fear of punishment but out of shame and guilt. Ex: probity, proactiveness, compassion etc.

In the end, both moral and professional accountability are related.

Remarks

Could consider "Friedrich" & "Finer" debate.
6) Judicial control over administration is exercised by
- Writ under article 321, 226.
- Judicial reviews of administrative action.
- Giving directions and guidelines and
  punishing for contempt if these are not implemented.

Parliamentary control happens via—
- Parliamentary committees such as Public Accounts committee.
- Daily answerability of the executive.
- Parliamentary procedures via question hour, zero hour, no-confidence motion etc.

The parliamentary control is insufficient because:

i) Parliament is hard pressed for time to look into each aspect of administration.

ii) Parliamentary discussion fractures along party lines instead of being objective.

Remarks

In case of first recent crisis...
iii) Brute majority of the style party.

iv) Inexperience in technical matters of administration.

Judicial control too suffers from many such issues like inexperience of over technical matters. Added to this there are other issues like—

i) Judicial control is always post-doe and damage is already done by then.

ii) Judiciary lacks effective mechanism to force compliance as can be seen in the guidelines of Prakash Singh case.

Nevertheless, the judiciary has expanded its domain. It has applied fairness and natural justice in pure administrative acts. For ex- auction of spectrum (26).

Thus, with judicial activism, judiciary promised to show its subservient role.
c) Judicialisation of politics implies active participation & judiciary in partisan politics. Recently it has seen a growth as:

i) Judiciary has blamed executive for non-appointment of judges.

ii) Many judges have even joined political party after retirement.

iii) The executive has chosen to reward judges for partisanship. Ex-appointment of former Chief Justice as a governor & minister.

On the other hand, politicisation of judiciary has taken place as:

i) Politicians have repeatedly blocked recommendations of collegium despite the Memorandum of procedures.

ii) Tribunals & benches of Supreme Court.

Remarks

V mop, NSAC, Appointee - W.M. Joseph
iii) Very impeachment motions as a tool to blunder judiciary.

Two faces of the same coin:

Ultimately, both these phenomena hamper the growth and institutions of democracy as they lead to:

i) Violation of separation of powers.

ii) Loss of trust by people on both judiciary and politics.

iii) Loss of legitimacy of the state itself.

iv) Frequent deadlocks and tussles thereby delaying an already slow justice system.

The way ahead comprises of restoring the balance. The judiciary should show restraint in the use of Article 142 and judicial activism. The politicians should respect the independent domain of judiciary.
d) Administrative law as a phenomenon or a field of public administration is difficult to define as its boundaries keep expanding. However, the boundaries reflect the sociology of law as:

i) AL is shaped by societal concerns such as growth of tribunals to deal with complex phenomena of society.

ii) Growth of delegated legislation to ensure flexibility and adaptability of societal concerns. (e.g., Essential Services Maintenance Act)

On the other hand, the philosophy of law, which comprises:

i) Epistemology of legal issues.

ii) Philosophical background of the theory of state and comparatively...
less relevant because:

i) All complex 'nation states' have administrative laws, irrespective of the nature of state. For e.g. liberal republic, monarchic etc.

ii) Philosophy is more ideal and less practical, more descriptive and less prescriptive. Whereas AL is more practical and prescriptive.

Therefore AL comes closer to sociology rather than philosophy of law.
e) Citizen charters (CC) aim to delineate the aims, objectives, vision or mission of all government departments, ministries or bodies.

- Promotes participation
- Improves efficiency
- Increases trust
- Empowers citizenry
- Quantifies commitment
- Fixes accountability
- Ensures transparency
- Gains information

However, despite their tall claims, CCs have failed to deliver as:

1) They are hardly revised with changes or circumstances.
2) They are non-participative and top-down in nature.
i) They fail to fix the quality of services being provided.

ii) They have no legal backing and can't be enforced.

Thus, to renew their publicness are needed to:

i) Move towards the Right to public service act. The much bill passed in 15th day Sabha (2011)


iii) Institutionalise the devotan model as recommended by 29th ARC.

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Remarks
2. Answer the following questions:

(a) Identify the reasons for emergence of citizen journalism in India. Is it a healthy trend for democracy or just a demon in the making? Comment. (250 Words) (25)

(b) Civil Society is often considered as a watch-dog of democracy, though of late it's growth is more attributable to confrontation than a constructive engagement with the State. Comment with illustrations and case studies. (250 Words) (25)

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Citizen Journalism implies a very distributed and decentralised model of Journalism.

- Fluid journalistic ethics
- Abundance of information
- Little institutionalisation
- No big corporates

Characteristics of Citizen Journalism

Use of blogs
Use of social media
Everyone is a journalist

Reasons for growth of citizen Journalism can be seen due to both push and pull factors:

Push factors include:

1) End of objectivity, media ethics and
neutrality of big media houses.

i) Corporatisation of big media has turned
into a profit oriented enterprise
than a service oriented enterprise.

ii) Political pressures about what news
its source and opinions to publish. For ex-
recently journalists of big media
have been fired due to covering politically
unwanted unappealing news.

iv) Decline of revenue due to decline of
print media.

Pull factors:

i) The relative anonymity of internet
means lesser restrictions on freedom
of speech.

ii) Growth in education, political awareness.

iii) Accusation to sensationalisation of every
news.

iv) Growth of social media and micro-
blogging sites like Twitter and

Remarks

Here consumer become producers
V) Growth reach and increasing internet penetration (≈ 30% now).
vi) Growth smart phone market

The healthy effects:

i) It has deepened democracy as everyone has access to information sharing platforms.

ii) It has decreased the hold of big corporates and political parties.

iii) More debate and discussion as people are better informed.

iv) Its importance can be felt as all political parties now maintain a social media way to influence it.

v) Improved service delivery.

Demons in the making:

i) Rise & fake news which are more for wanted has led to many false
and order situations - ex - internal/riot and mob lynchings (89 so far).

i) In the post-truth era, the growth of citizen journalism has totally erased the line between facts and value (phenomenological effect and post-modernism)

ii) The growing efforts to trend a topic and morph opinions, trolls and foreign meddling as seen in USA elections, all cast serious doubt about its effects.

The way ahead lies in ensuring journalistic ethics along with citizen journalism. In such a decentralised platform, self-regulation is the best regulation. Through peer reviews and flagging of false or violent content, this new trend can be capitalized on.
5) Civil society comprises of what is left after state and private sectors are considered. It comprises of many forms such as community based organisations, SHG's, NGOs, private trusts, societies etc.

Watchdog of democracy:

Role played by the civil society as a watchdog includes:

(i) Mobilising participation: Ex- SEWA for women.

(ii) Delivery services: Ex- Midday meal delivery and midday meals.

(iii) Rainy Awareness: Ex- Association of democratic reforms gives data on criminalisation of politics.

(iv) Ensuring legal rights: Tarun Mitra's work on forest rights.

(v) Supporting state activities: Ex- SHG linkage with NGO for skill development.

(vi) Agitating against injustice: Ex- Narmada
vii) Help in policy making - Ex. for policy emerged from civil society

viii) Providing feedback - Ex. Centre for Science on climate change effects

However, late its confrontational activities have grown because:

i) Many civil society organisations (CSOs) have ulterior motive. They are working under the dictates of foreign governments.

ii) Government doesn't like it when CSOs expose its weakness and violations of rights on the international stage.

iii) Lack of transparency in funding has cast doubts over their bona fide.

The government in turn has taken steps like:
i) Amend the Foreign Contribution Regulations Act to make it difficult for them to attain funding.

ii) All CSOs have to register under the Home Ministry.

iii) They've blocked their access to sensitive areas, ex: Jammu and Kashmir.

iv) Arrest and deportations of foreign elements.

Illustrations/case studies:


ii) Protesters of Greenpeace were arrested when the PM was on his way to the inauguration of Kudankulam nuclear plant.
NITI Ayog in a report claimed that activities by CSO can cause an annual loss of 2% in GDP growth.

The way ahead:

It should be realised that in the new network of governance paradigm of Public Administration, CSO state is not capable of achieving its ends alone. Similarly, CSO needs state for its legitimacy, legal backing and regulatory framework. While constructive conflict is good as it can lead to integration (CM folkart), a total distrust can cripple democracy. The state has taken steps like N GoR daasan & NITI Ayog, to increase engagement. Civil society should too take similar steps.
3. Answer the following questions:

(a) "Dicey was not only wrong in his conception of Rule Of Law, but also in his criticism of Droit Administratif". Critically evaluate. (250 Words) (30)

(b) "Tribunalization of Justice in India and elsewhere is not a random event, but a conscious institutional response to social anarchy". Analyse. (200 Words) (20)

a) Dicey's definition of Rule of Law had 3 components:

i) Everyone is equal before the law.

ii) The law is what courts decide via various judgments and interpreting legislative acts.

iii) No person can be punished unless there is a specific breach of law.

Criticism of Dicey:

i) Dicey held no place for discretion in Rule of Law. However, as has been realised that modern administration can not be carried out without discretion.

ii) Unforeseeable circumstances.

iii) Rising complexities.

iv) Technical issues involved.
i) Dicey misunderstood the difference between discretion and arbitrary use of power. Every act of discretion is not arbitrary use if it is guided by certain broad guidelines.

ii) The conception that law is what courts interpret and decide is typically British and not applicable elsewhere.

iv) Similarly, special privileges and powers are not violative of rule of law. Ex: When given to presidents against arrest and safety.

v) Also, these discretions and privileges existed in Britain too, but Dicey overlooked them.

Based on the lacunae's & Dicey, modern constitutional experts Blake and Phillips have revised the definition of rule of law. It includes now scope for guided and discretion, power of legislature, communities etc.
Droit Administratif: is a collection of legal codes and principles which form the administrative law in France.

It comprises:

1) Principles evolved not by legislatures but administrators.

2) A Conseil D'Etat or a body of adjudicators.

3) It deals only with administrative law and citizens' grievances against administrators.

4) It is provided by administrators.

D'Auto thought that the very institution of Droit administratif violates rule of law because:

1) It gives special privileges to administrators.

2) Not bounded by a legal code.

3) Outside the jurisdiction of ordinary law courts.

However, Droit Administratif survived.
to be more efficient in controlling administration than ordinary law courts. Its special procedure meant that it was faster and more accessible.

Thus, Dicey's opinion that it was a hindrance to justice proved wrong. Later on, even England too adopted many special tribunals and courts for administrative law.
B) Tribunalisation of justice was pointed towards the growth of tribunals for almost all purposes of adjudication.

In India, Tribunals are provided for in Article 323A: Administrative tribunals at Union or state level.

Article 323B: Tribunals for other purposes such as trade, industry, commerce etc.

Reasons for the growth of Tribunals:

1) Growth of welfare state: It meant that the state stepped into new

Tribunal not bound by CrPC, Evidence Act etc.

Benefits of Tribunals

- Faster
- Flexible
- Specialized

Some benefits
areas of subsidisation, service delivery etc. The legal issues arising out of this meant that justice needed to be delivered fast and swift.

i) Growth of independent regulatory commissions: - The philosophy of NPM and neo-liberalism led to IRCs. This inturn prompted tribunals. Ex- SEBI was established but it also led to the establishment of Securities Appellate Tribunal.

ii) Rising inequalities, social justice:-

The growth of capitalism and subordinate labour unions demanded justice. Thus Industrial dispute Tribunal, labour commissions etc. came into picture.

iv) Judicial activism: - The Supreme Court used its power under Article 142, to curb many environmental violations. As a free jury reaction to it the National Green Tribunal.
was established to control the activism.

v) Scams, regulatory failure and corruption:
The Satyam scam and many other major corporate scams have prompted the revision of Companies Act in 2013. Under this, the Companies Law Appellate Tribunal was established. (CLAT)

vi) Later with growing NPA's and the necessity of insolvency and Bankruptcy code in 2016, the jurisdiction of CLAT was expanded to include Insolvency.

vii) Moreover, the executive in its attempt to control the judicial very muddled and changed the conditions of appointed via finance bill in 2016 (Money bill).

viii) Lastly, the growth of IT, new
Technologies, specialised scientific fields, new tribunals had been established.

Thus, every social issue prompted the executive to establish Tribunals.
Moreover, Tribunals always have a departmental bias and are subservient to executive, so they are the preferred route.

While the Tribunals come under respective High Courts and under Special leave (Article 136) of Supreme Court, the emphasis has been to restrict that so as to ensure faster disposal of cases and lower the burden on judiciary.
4. Answer the following questions:

(a) "Although the ecological approach attempts to explain the transformation process within an existing system or within the functioning of a peculiar environment, it still largely ignores the ultimate concern of public administration, namely, the evaluation of policies and the realization of intended goals." Comment. (200 Words) (20)

(b) "Ferrell Heady's classification of political regimes and consequent bureaucratic behaviour provides a better insight into comparison of diversity of administrative systems." Elaborate. (300 Words) (30)

a) The ecological approach was espoused by Riggs in his studies of comparative public administration (CPA).

As per Riggs:—

i) Ecological approach aims to study the effect of environment on administration. Riggs considered 5 ecological components a) Economic b) Social c) Communicational d) Symbolic e) Political.

ii) Riggs also aimed at studying the effect of administration on developing the society i.e. development administration.
Process of Transformation

The process of transformation can be:

1) Exogenous - From outside forces leading to exo prismatic society.

2) Endogenous - From forces inside leading to endo prismatic society.

3) Equi-genetic - From both outside and inside, as suffered by Riggs.

Riggs also preferred integration along with diffraction.

Remarks
However, the Ecological approach:

i) Attemps to understand the policy cycle in different conditions of fused, prismatic and diffracted.

- Planning
- Appraisal
- Policy cycle
- Formulation
- Implementation
- Feedback

ii) Riggs also says

i) The Ecological approach also pays no attention to study change. It only follows a descriptive approach where current position is described.

Even

iiii) Riggs has not suggested any method of moving from a fused to diffracted approach.

iv) In other words, Ecological approach

Remarks
is a dynamic equilibrium approach.

* It is dynamic because there is always a constant interaction and influence.
* It is in "equilibrium" because the beginning and end state of the system remains the same.

v) There are no components of organizational development as has been suggested by Kurt Lewin and Chris Argyris.

vi) Nor is there any mechanism to achieve intended goals as the system remains in the same state.

Thus, the Ecological approach further led to Development administration which aimed at administrative development in order to set goals and achieve it.
b) Fruedl worked as a member of a comparative administrative group, studied 3-9 work countries. On the basis of his studies, he classified the countries based on their political regimes.

i) Bureaucracy - prominent political regimes

ii) Party prominent political regimes

Both of these regimes were examples of unbalanced politics. The regimes have further subtypes too.

i) Bureaucracy - prominent political regimes

- Consists of further subtypes like
  a) Traditional elite system
  b) Rendurn system
  c) Personalist bureaucratic elite system etc.
Most of these regimes have certain common characteristics like:

- They were inherited from colonial masters.
- The political regimes had strongman leadership.
- Sometimes they swing back and forth between 2 categories of system. Ex: Rendellam system.
- Break rule of law, powerful military and corruption.

Penary Dominant Political Regimes - 
- Comprises

- a) Polynarchal competitive systems.
- b) Communist totalitarian systems.
- c) Dominant party systems etc.

Remarks

Developed countries
Most of these regimes:
- Had strong ideological components.
- Mostly single party rule, e.g., China.
- Other parties are declared illegal.
- Oligarchy in nature as few party elites control the entire system.
- Party can get in conflict with the bureaucratic specially if it is a military-dominated bureaucracy, e.g., Pakistan.
- Spoils system is administration, etc.

These comparisons reflect the dually state of Begg's formulation.
5. Comment in not more than 150 words:

(a) "The biggest limitation of CPA was that it was behavioural".
(b) "As the change is exogenic the prismatic characteristics get pronounced".
(c) "Administrative culture is broadly a homogenous criterion of citizens' average perception of Governance".
(d) "Most of the developing societies suffer from imbalanced polities, though not necessarily bureaucratic politics".
(e) "Social Audit must be legalized to create the consequences it is designed to".

a) CPA emerged as a trend in PA after 2nd World War due to 2 major concerns:
   - Intellectual concerns: a science & administration concern
   - Intellectual problems faced by 3rd world countries etc.
   - Policy concerns: Marshall Plan
   - Involvement of US administrators in Eastern Europe
   - Cold war

However, in all its concerns, it remained behavioural as:

1) It relied on the behavioural technique of empiricism, experimentation and positivism.
2) It too followed an inductive
approach is observation → Hypothesis → Theory

iii) It is assumed that human behavior and motivations can be scientifically studied depending on the context (Riggs' Ecological approach).

iv) Lastly, it was rooted in Western idealism of liberal democracy and constitutionalism under which behavioralism too developed. Thus, it viewed all third world countries in a negative sense like unbalanced or prismatic or diffused.

The behavioralism grip proved to be the doom of CPA.

5) Riggs has formulated ways of change in a disintegrated society:

i) Changes due to outside forces — exogenous change

ii) Changes due to inside forces — endogenous change

iii) Changes due to balance of outside

Remarks
and inside forces — Equigenetic change.

Riggs views exogenic changes as problematic because:

1. Change is forced.
2. Internal change in society and values does not precede changes in institutions structurally.

This implies that deismatic components get more pronounced. This in turn leads to:

- Heterogeneity
- Formalism
- Overlapping

Heterogeneity leads to poly- normativism, poly-functionalism, Bazaar, and selectivism.

Thus, Riggs in turn has favoured an equigenetic change for developed development. In this stance is a correspondence level of integration along with diffraction.
Administrative culture refers to the unwritten, informal rules, conduct and behavioral patterns which the administrators follow and showcase.

Role of international institutions

Social culture

Determinants of administrative culture

Economic development

Political culture

Capacity of bureaucracy

Power distance in the society

Judiciam's role

Press/media influence

A citizen's inference of administrative culture is reflective of governance quality in the country. This involves characteristics like nepotism, proactivity of the administration, sensitivity towards citizens, transparency, accountability, etc.
d) Riggs has defined 3 constituents of a political system.
   i) Constitutive-party, legislature, electoral system etc.
   ii) Head of state
   iii) Bureaucracy-military/civil, permanent/temporary

Imbalanced polity: - If bureaucracy overpowers the constitutive system or vice versa.

Most developing societies have:
   i) A powerful bureaucracy, mostly of colonial origin.
   ii) If this bureaucracy is of military origin, it crushes the political system. Ex-Pakistan.
   iii) The bureaucracy via virtue of its knowledge, expertise, secrecy - concentrates all power and intervenes in the political system.

Corruption - nepotism
Anti-people & citizen...
However, this might not necessarily be bureaucratic politics as:

1) Many countries like India and Philippines have a balanced politics with dominant political institutions.
2) In countries like China, bureaucracy is totally subservient to the single party in command.

Thus, a lot of it depends on the history and culture. Those with balanced history and imbued culture of balance by colonial masters tend to remain so.

Social Audit as a process involves a participatory audit of an organisation's outcome and output by all the stakeholders involved.

In India - it has been operationalised at some places like in NREGA and MNREGA.
However, due to its continued lack of its legalisation, it has failed to achieve its purposes which include:

- Inculcate ownership
- Supplement financial audit
- Ensure accountability
- Feedback for planning
- Ensure transparency

Moreover, it has been helpful too as in Jharkhand Social Audit of MNREGA led to a benchmark and also using PM’s award for Excellence in Public Administration.

Thus, ensuring a legal backing would transform it from an passive to an active tool. Legalisation would help in...
the following ways:

1) Cast a legal duty which would be enforceable.

2) Define stakeholders.

3) Define the process broadly.

4) Define the scope of social audit etc.