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Q4

(a) "In doing a good thing, everything is permitted which is not prohibited expressly or by clear implication". Examine the statement with suitable examples in the context of a public servant discharging his/her duties. (b) With regard to the morality of actions, one view is that means is of paramount importance and the other view is that the ends justify the means. Which view do you think is more appropriate? Justify your answer.

UPSC Civil Services Mains 2018 · GS IV · 10 marks · Ethics and Human Interface

Ethics and Human Interface: Essence, determinants and consequences of Ethics in-human actions; dimensions of ethics; ethics - in private and public relationships. Human Values - lessons from the lives and teachings of great leaders, reformers and administrators; role of family, society and educational institutions in inculcating values.

Core demand of the question

- (a) "In doing a good thing, everything is permitted which is not prohibited expressly or by clear implication." Examine the statement with suitable examples in the context of a public servant discharging his/her duties
- (b) With regard to the morality of actions, one view is that means is of paramount importance and the other view is that the ends justify the means. Which view do you think is more appropriate? Justify your answer

Revision summary

Citizens may enjoy residual liberty; public servants may use only granted power.

"Not expressly prohibited" does not authorise extra cess, unlawful detention or a cooked tender for a good cause.

Implied limits include equality, dignity, natural justice and fiduciary duty.

Between means-first ethics and ends-justify-means, public office should treat means as paramount.

Necessity is a narrow, recorded exception, not a daily shortcut.

Introduction

- **Part (a) tests a dangerous comfort:** if the aim is good and no clause says no, the officer may do anything. Part (b) sets **Gandhi's** care for means against a purely result-based licence.

Body**(a) "Everything permitted unless prohibited"**

- **The statement is a lawyer's half-truth. Citizens often enjoy residual liberty:** what the law does not forbid, they may do.

- A public servant is not a private citizen at the desk. The officer holds delegated power and may do only what the Constitution, the statute and the rules authorise.
- **Ultra vires is the first limit:** there is no general permission to invent a tax, a detention or a land take because it would be "good".
- Example: collecting extra "development donation" at a tehsil for a real school roof is still illegal extraction if the Act does not allow it.
- Example: locking a suspected thief overnight without process because the colony wants safety is still an unlawful detention.
- Example: leaking a rival bidder's price to help a "better" local firm is still a crime against the tender, however patriotic the speech.
- Express prohibition is not the only brake. Clear implication includes natural justice, **Article 14** equality, **Article 21** dignity, fiduciary duty, and the doctrine that public power is a trust.
- Discretion, where the statute gives it, is not a blank cheque. It must be exercised for the purpose of the Act, with reasons, and without irrelevant considerations (as administrative law has long held).
- A "good thing" judged only by the officer - a temple, a statue, a favourite NGO - is often a private good wearing a public coat.
- **The safer rule for a public servant:** if the power is not granted, do not assume it. If the power is granted, still refuse cruelty, secrecy and self-dealing that the Constitution will not bear.
- Innovation in delivery (a camp on a holiday, a missing-document help-desk) is permitted when it stays inside the scheme and the budget. That is service, not a licence to rewrite the law.

(b) Means and ends

- **One view, close to Kant and to Gandhi, is that means are paramount:** a lie, a riot, or a fake encounter cannot be washed by a fine result.
- **The other view, a hard utilitarianism, is that ends justify means:** if the village is dry, forge the file; if the terrorist may escape, skip the warrant.
- For a constitutional public servant, means are more appropriate as the governing rule, with a narrow, recorded place for necessity.
- **Reasons:** the officer's tools are force, money and secrecy. If means are free, the republic becomes a successful crime.
- Ends are often claimed and rarely measured. "Development", "order" and "pride" have covered encounter killings and cooked data.
- **Gandhi's talisman and satyagraha treated impure means as a different end:** they produce a different kind of person and State.
- Consequence still matters. A lawful demolition that leaves a child on the street without shelter has used a permitted means toward a cruel end and must be refused or humanised within the law.
- Necessity and lesser evil apply in a landslide, a fire, or an imminent massacre - narrow, time-bound, documented - not as a daily philosophy of shortcuts.
- **Therefore the more appropriate view for public office is:** means first, because they are the only part the officer fully controls; judge ends by rights and the weakest person; never let a slogan buy a crime.

Flow diagram

Claimed good aim -> Is power authorised
Is power authorised -> Act with reasons and dignity
Is power authorised -> Do not invent power
Clean means -> Constitutional office

Conclusion

A public servant may not treat silence in a rule-book as a general yes. Power is granted, not assumed. Means are paramount in a republic that uses force; ends matter as a test of harm, not as a licence to cheat.

Facts & figures

Ultra vires

The administrative-law rule that an authority may not act beyond the power given by law; a good motive does not create jurisdiction.

Article 21, Constitution of India

Life and personal liberty, read with dignity and due process; a so-called good lock-up without law still fails this article.

Gandhi on means and ends

He held that impure means produce a different end; satyagraha refused the licence that victory washes any method.

Discretion in administrative law

Statutory discretion must serve the Act's purpose, ignore irrelevant considerations, and usually be reasoned.

Necessity as a narrow defence

Ethics and criminal law may excuse a tightly confined emergency act to save life; they do not excuse a habit of illegal good works.

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