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Q5

(a) " Refugees should not be turned back to the country where they would face prosecution or human rights violation." Examine the statement with reference to the ethical dimension being violated by the nation claiming to be democratic with an open society. (b) Should impartial and being non-partisan be considered indispensable qualities to make a successful civil servant? Discuss with illustrations.

UPSC Civil Services Mains 2021 · GS IV · 10 marks · Probity in Governance

Probity in Governance: Concept of public service; Philosophical basis of governance and probity; Information sharing and transparency in government, Right to Information, Codes of Ethics, Codes of Conduct, Citizen's Charters, Work culture, Quality of service delivery, Utilization of public funds, challenges of corruption.

Core demand of the question

- (a) "Refugees should not be turned back to the country where they would face persecution or human right violation." Examine the statement with reference to the ethical dimension being violated by the nation claiming to be democratic with open society
- (b) Should impartial and being non-partisan be considered as indispensable qualities to make a successful civil servant? Discuss with illustrations

Revision summary

Non-refoulement forbids return to persecution or serious harm; it is the ethical core of refugee law.

A democracy that pushbacks without hearing violates dignity, justice, truth and openness.

Security screening with process is allowed; a mob or a night dump is not.

Impartiality and non-partisanship are indispensable to constitutional success.

A partisan returning officer or a selective FIR is career success only inside a faction.

Introduction

Part (a) tests non-refoulement against a democracy that calls itself open. Part (b) asks whether a civil servant can succeed without impartiality and non-partisanship, or only seem to succeed.

Body**(a) Non-refoulement and a democratic open society**

- **The statement is the principle of non-refoulement:** do not push a person back to a place of persecution, torture or threat to life and freedom.
- It is the ethical core of the 1951 Refugee Convention and its 1967 Protocol, and is widely treated as customary international law even for States that have not signed.

- India is not a party to the 1951 Convention, yet it has hosted Tibetans, Sri Lankan Tamils, Afghans and others, and **Article 21** has been read to restrain arbitrary expulsion.
- A nation that claims democracy and an open society violates several ethical dimensions when it turns such people back as a crowd.
- **Dignity:** Kant's person-as-end is broken if a human is treated as a demographic threat without an individual hearing.
- **Justice:** the already persecuted pay twice; the comfortable citizen does not.
- **Truth:** calling a genuine refugee an "infiltrator" without process is a lie that a free press and an independent court exist to resist.
- Fraternity and **Article 51**'s respect for international law sit uneasily with a pushback that ignores UNHCR screening.
- Open society, in Popper's sense, is one that can criticise itself. Secret night pushbacks close that society.
- **Limit:** non-refoulement is not an open invitation without security screening. A State may detain, identify and exclude a person who is a genuine combatant or a mass-crime suspect, with process, not with a mob.
- Rohingya and other hard cases require individual status determination, humane holding, and burden-sharing - not a slogan of either "all in" or "all out".
- **Ethical close:** a democracy that returns people to torture to please a vote has used openness as a brand and closed the door on the weakest stranger.

(b) Impartial and non-partisan as indispensable

- Impartiality is equal application of the rule regardless of caste, class, religion, kin or party. Non-partisanship is not using the office to win an election for anyone, including yesterday's minister.
- They are indispensable to a successful civil servant if success means constitutional delivery, not a fast promotion.
- **Illustration:** a returning officer who tilts a booth for the ruling party has succeeded as a courtier and failed as a civil servant under the **Representation of the People Act, 1951**.
- **Illustration:** a District Magistrate who registers an FIR against a ruling worker and a protestor by the same standard is impartial; one who files only against the protestor is a partisan in khaki files.
- **Illustration:** disaster relief that skips an opposition mandal, or a lockdown pass for donors only, is success in a WhatsApp group and failure under **Article 14**.
- The **All India Services (Conduct) Rules, 1968** require political neutrality. The **Second ARC** treated it as a condition of a professional service.
- **A partisan officer may look "successful" in a captured State:** postings, houses, a post-retirement board. That is not success; it is a deferred scandal.
- **Limit:** non-partisan does not mean politically illiterate. The officer must understand a manifesto enough to implement a lawful policy, then stop at the unlawful oral extra.
- Impartiality is not both-sides-ism that treats a lynch mob and a victim as equal claimants. It is the same law, including protection of the weaker.
- Without these two qualities the civil service becomes a faction with a gazette. They are therefore indispensable to real success.

Flow diagram

Refugee at border -> Individual hearing
Individual hearing -> Non-refoulement if persecution
Individual hearing -> Lawful exclude if genuine threat
Crowd pushback -> Dignity justice truth fail
Impartial non-partisan -> Real civil-service success
Partisan tilt -> Courtier not servant

Conclusion

Pushing refugees back to persecution violates dignity, justice and the openness a democracy advertises; screening is not the same as refoulement. Impartiality and non-partisanship are indispensable to a civil servant whose success is the Constitution, not a party's gratitude.

Facts & figures

1951 Refugee Convention and 1967 Protocol

The core international instruments on refugee status; **Article 33** embodies non-refoulement. India is not a party but often hosts large populations in practice.

Customary non-refoulement

Widely argued to bind even non-signatories against return to torture or persecution; UNHCR treats it as a fundamental principle.

Article 21, Constitution of India

Used in Indian jurisprudence to require that expulsion or detention of a foreigner not be arbitrary, even without a domestic refugee statute.

All India Services (Conduct) Rules, 1968

Require political neutrality and integrity of IAS, IPS and IFoS officers.

Representation of the People Act, 1951

The statutory frame for elections; a returning officer's impartiality is a legal, not optional, virtue.

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