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Q4(a)

"The concept of Just and Unjust is contextual. What was just a year back, may turn out to be unjust in today's context. Changing context should be constantly under scrutiny to prevent miscarriage of justice." Examine the above statement with suitable examples

UPSC Civil Services Mains 2024 · 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) Just and unjust as context-sensitive; show change under scrutiny; warn against both frozen custom and cynical relativism
- (b) Form-addiction versus substance; a perceptive civil servant carries true intent without illegal licence

Revision summary

What counted as just can become unjust when facts, rights and harm are seen more clearly, as in sexuality, talaq, sedition and biometric exclusion.

Scrutiny by courts, audits and honest officers is what stops both frozen custom and cynical 'everyone did it'.

Addiction to form turns a stamp into a wall against a widow; substance is the purpose of the statute.

A perceptive civil servant uses lawful discretion and a speaking record to carry intent, not to gift a nephew a waiver.

Equity without jurisdiction is another injustice.

Introduction

Yesterday's **just** file can be today's **cruelty**. Part (a) asks the officer to **watch the context** so that **justice is not miscarried** by a dead habit. Part (b) asks the same officer not to worship **the form** - the stamp, the column, the literal word - while the **substance** of the law **dies in the queue**.

Body**(a) Just and unjust is contextual - under scrutiny**

Context is not a licence to call **atrocities** a culture. It is the honest admission that **facts, knowledge and constitutional meaning** move. **Section 377** as enforced against consenting adults was long treated as "public morality"; **Navtej Johar** read **dignity** and said the old

justice was **unjust**. **Triple talaq** as instant private power failed **equality**. **Sedition's** colonial use against a slogan sits badly beside a republic of **free speech**, which is why the Court paused it and the **BNS** recast the idea. **Aadhaar** as inclusion became **exclusion** when a biometric failure was treated as a moral failure of the hungry. **COVID lockdown** that saved lungs could still **starve a migrant**; the just aim needed a **just means** (food, trains, wages).

Scrutiny is the ethical engine: Parliament, courts, social audit, journalism, and an officer who **revisits a circular**. Without scrutiny, context-talk becomes **relativism** ("everyone took a cut that year"). With only rigidity, justice becomes **ancestor worship**. **Aristotle's equity** already knew that a general rule can **miss this person**. **Rawls** asks us to test institutions as if we might be the **least advantaged** in the new context. A civil servant prevents miscarriage by **recording why the old template no longer fits**, not by **quietly inventing a private Constitution**.

(b) Form, substance, and true intent

Form is the application window, the affidavit, the **GFR clause**, the **two-witness** box. It exists to **stop theft and whim**. **Mindless addiction** to it is when a **widow is turned away** because a **stamp is 2 mm small**, when **MGNREGA** is closed for a **portal glitch**, when **anticipatory bail** is a ritual and **liberty** is not. The **substance** is the **purpose**: food, work, a fair trial, a living river.

A **perceptive** civil servant **reads the intent** of the NFSA, FRA, or a disaster-relief order and **uses residual discretion** that the law **actually gives** - a **manual override with a record**, a **site inspection** instead of a paper pond, a **speaking order** that a court can test. This is **not "ignore the Act because I am kind"**. Kindness that **breaks a safeguard** is how a nephew's firm enters. The skill is **purposive interpretation** (as courts say), **equity within jurisdiction**, and **escalation** when the form is **unlawful**. **Kautilya** wanted **watchmen**; **Gandhi** wanted **the poorest face**. The perceptive officer holds **both: intent of the weak, form that still binds the strong**.

Flow diagram

Changing context -> Scrutiny
 Scrutiny -> Prevent miscarriage
 Literal form -> Injustice in queue
 True intent plus record -> Substance

Conclusion

Justice must be re-examined when knowledge, harm and constitutional meaning change, or yesterday's just rule becomes today's miscarriage. Form exists to stop theft; a perceptive officer still carries the law's true intent to the person in the queue, with a record, not a private pardon.

Facts & figures

Navtej Johar

The Supreme Court read down colonial criminalisation of consensual same-sex relations in the name of dignity and equality.

Equity

Aristotle's correction of a general law that would be unfair in a particular case; in office it is lawful discretion, not a whim.

Purposive interpretation

Reading a statute by its aim - food security, forest rights, disaster relief - rather than by a hostile literalness.

Exclusion error

A genuine poor household locked out by a form or a fingerprint; ethically as serious as a leak the other way.

Speaking order

A recorded reason that shows the officer applied mind to substance, which a court and a citizen can test.

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