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Q5(b)

The soul of the new law, Bharatiya Nyaya Sanhita (BNS) is Justice, Equality and Impartiality based on Indian culture and ethos. Discuss this in the light of major shift from a doctrine of punishment to justice in the present judicial system.

UPSC Civil Services Mains 2024 · 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) Distinguish Code of Conduct and Code of Ethics; propose a model code for integrity, probity and transparency
- (b) BNS soul as justice, equality, impartiality in Indian ethos; discuss the shift from punishment-doctrine to justice

Revision summary

A code of conduct is enforceable do's and don'ts; a code of ethics states values and how to reason when the rule is silent.

India has conduct rules in operation; a living ethics code still needs leaders, cases and whistle protection.

A model for integrity, probity and transparency binds the Constitution, public money, reasons on file, impartial queues and data restraint.

BNS presents justice, equality and impartiality as its soul and adds victim-centric and community-service tools.

The shift from punishment to justice fails if new sections only warehouse the poor.

Introduction

India already tells the civil servant **what not to do on Tuesday** (Conduct Rules). It has been slower to write **what we believe on Monday** (a living **code of ethics**). Part (a) wants that model, aimed at **integrity, probity and sunlight**. Part (b) turns to the **Bharatiya Nyaya Sanhita**: a claim that the **soul** of the new criminal law is **justice, equality and impartiality**, and a **shift from punishment as the whole story to justice as the aim**.

Body**(a) Code of Conduct versus Code of Ethics - a model**

- A Code of Conduct **is** enforceable behaviour: gifts, political activity, criticism of government, sexual harassment, use of official information, property returns. In the Union it lives in the **CCS (Conduct) Rules, 1964** and All-India analogues. It is **necessary**. It is **not sufficient**: a person can **obey the letter** and still **hate the citizen, delay a Dalit's file, or help a nephew within**

"discretion".

- A Code of Ethics **is** values and reasoning: why we refuse the gift, whom we serve, what **constitutional morality** requires when the rule is silent. **Second ARC** and the **Nolan principles** (selflessness, integrity, objectivity, accountability, openness, honesty, leadership) are the usual furniture. Ethics without conduct is a **framed poster**. Conduct without ethics is a **clever compliance**.

A suitable model for integrity, probity and transparency: (1) Serve the **Constitution**, not a person. (2) **Integrity**: no private price for a public act; family and post-retirement doors counted as conflicts. (3) **Probity**: public money as **trust**; GeM, GFR, no split indents, no favourite vendor. (4) **Transparency**: reasons on the file, proactive disclosure, RTI in spirit. (5) **Objectivity and impartiality**: same queue for the MLA's driver and the widow. (6) **Empathy and courtesy** as professional duties, not extras. (7) **Speak-up**: protected channel to CVO; no revenge posting. (8) **Digital and data ethics**: no stalking a citizen through a portal. **Induction by cases, leaders who obey first, checked asset declarations, rotation of sensitive desks**. The model works only as a **culture of Tuesdays**.

(b) Bharatiya Nyaya Sanhita: from punishment to justice

- The IPC, 1860 **was** a colonial penal grammar: the sovereign's anger, **sedition** as a mood, procedure that could **forget the victim**. The **BNS, 2023** (in force 2024) claims a **soul of nyaya: justice, equality, impartiality** named as Indian **ethos** - not only **danda**. How far the soul is real is the ethical test, not the **Sanskrit title**.

Shift from doctrine of punishment to justice shows in design choices: **community service** as a sentence for some wrongs (repair, not only warehouse); **victim-centric** timelines and **recorded** processes; new naming of **mob lynching, organised crime, terrorism, hit-and-run** - harms that old chapters stretched; recasting **sedition-like** speech into a **sovereignty** offence that must not become a **slogan jail**. **Equality** demands that a powerful accused and a poor accused meet the **same code**, which is an old Indian wound. **Impartiality** is the **judge and the police** as **not a faction**. Indian culture here is **Ashoka's dhamma, Gandhi's means, the Gita's duty**, and also **Ambedkar's warning** that **forms need cultivation**. A **harsher** clause that only **fills prisons with the weak** would be **punishment in a new font**. Justice as soul means **proportion, fair hearing, reparation, and a State that does not enjoy pain**.

- The civil servant's ethics in this shift: register the FIR without a caste filter, **do not** use a new section as a toy, treat **community service** as work not humiliation, and remember the victim is not a footnote to the accused's politics.

Flow diagram

Code of conduct -> Forbidden acts
 Code of ethics -> Integrity probity sunlight
 Forbidden acts -> Ethical office
 Integrity probity sunlight -> Ethical office
 BNS nyaya nyaya -> Justice equality impartiality
 Punishment only -> Colonial danda

Conclusion

Conduct rules fence the worst acts; a code of ethics supplies the values, conflicts and sunlight that fences miss. BNS claims justice rather than colonial danda as its soul; that claim holds only if equality and impartiality reach the weak, and punishment is not simply renamed.

Facts & figures

CCS (Conduct) Rules, 1964

The principal Union code of conduct for civilian employees: gifts, politics, criticism, property, sexual harassment and related duties.

Nolan principles

Seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty, leadership.

Second ARC

The commission that pressed ethics in governance, codes, and institutional integrity beyond mere conduct lists.

BNS, 2023

The Bharatiya Nyaya Sanhita replaced the IPC; it came into force in 2024 with community service and several newly named harms.

Community service

A sentence meant to repair and reintegrate rather than only warehouse; ethically it must not become public shaming of the weak.

Sedition recast

The old IPC sedition clause was a colonial speech crime; BNS uses a sovereignty-endangerment frame that still needs strict, impartial use.

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