

→ you're missing on the analysis.

7/12

① → Though Practical illustrations & Rizwan are your strong points

Pubadd

→ 2

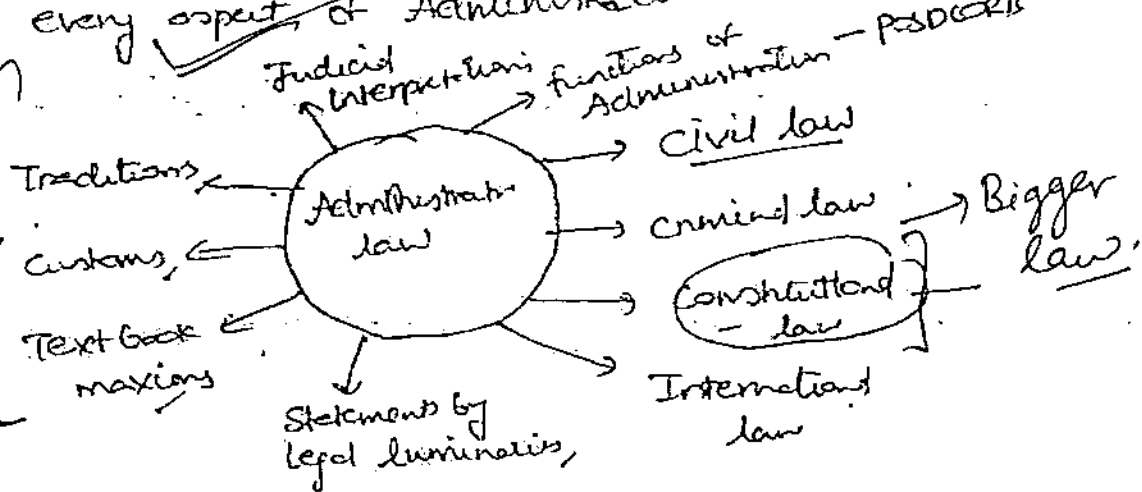
② Administrative law is a law that deals with power, duties, functions of administration, the manner in which they are exercised and remedies available against abuse of the Administration. [Also includes delegated legislation]

As the administration provides services to the people at large, it is concerned mostly about how the services are provided and grievances of the citizens with respect to services. It closely resembles to the functioning of the society. → is motivated/modifies.

Laws are framed to regulate the society like criminal laws, civil laws, constitutional laws for government to rule the people. Therefore these laws would come into action when the citizen violates rules in society and Administrative law in this case is mostly post facto mechanism. It is the power of the administration to reach the society which is the most priority. In this sociological aspect, it also includes traditions, customs etc. and law has the basis from society only.

Therefore, Administrative law comprises every aspect of Administration and society. ②

Public law



As the scope of public administration focuses on public good of the society, Administrative law, part of public administration too revolves closer to society.

Admin. law is an outcome of functional needs, unlike "judicial law" which is an outcome of Jurisprudence.

Idealism ← the legal philosophy. Accountability is enforcement of responsibility.

and answerability. Ever since the emergence

New rights philosophy, New public

management, good governance, there is importance

to peoples participation and answerability to

needs of citizens. There has been emphasis on

performance while judging the services to the citizens.

Every action of administration is questioned and performance is measured

for continuity and working of administration.

It is visible in Annual Confidential report of civil servants with Section 56(j) of the service rules considers performance as basis for continuity in administration.

③

The latest additions like RTI, Social audit, Performance audit by CAG, new budgeting techniques like outcome budgeting, PPBS, performance appraisal of each ministry published through Annual reports etc. all these ensure the accountability by measure of performance.

③

Without performance appraisal, the organisation turns as Empire building with incompetence, status-quo and suffers bureau pathology as promoted by Public Choice Theorists.

Therefore, Performance helps in evaluating the progress of the work, matching of skills with work, deadlines of work, continuity of the work in future and it will ensure efficiency and effectiveness of administration.

Hence, performance management is must for accountability.

But what are the elements of performance management sys.

(C).

Media is considered as fourth pillar of democracy and it is government by discussion. It ensures the accountability of the government by providing news, views and gathering public opinion and questions the public policy. for example: - The recent coverage of India against corruption campaign led to formulation of Lokpal bill by government.

It covers the issues of the marginalized sections of society and views of the government and thus brings government closer to citizen. It questions the government, mobilises opinion (if needed) for and against government and checks the functioning. for example: - The recent Encryption policy of government was criticised heavily by media leading to withdrawal.

However, media moves freely with no checks. It leads to negative aspects of media into stimuli like 'Breaking news', 'Adversusment', 'for Corporates', 'paid news', etc. There is a need for regulation: -

1) recent recommendations of TRAI on limits of media ownership & corporate ownership is a welcome sign.

2) Need ethical & accountable media with regulations like Leveson report of UK.

3) As recommended by TRAI, an independent

Committee with eminent persons must look into 'paid news', 'media coverage' and regulate media which should be free from government. ⑤

Therefore, media needs to be made accountable body otherwise negative aspects would dominate. Self-regulation, independent editors etc could be used.

(d) Ever since the emergence of New rights philosophy, New public management, Good governance, there has been multiactor paradigm with focus on citizen as participant not merely a beneficiary in the relationship with administration.

However, this relationship has various concerns on mistrust & lack of faith.

1) There is a problem of elite attitude of administration and neglect of the poor people. This is seen in study of Pravara Bazar in block administration of Rajasthan.

RTI has led to citizens questioning the administration and fixed timeline for reply.

2) But the administration is heavily overburdened and RTI led to overburdened. This led to delay of services to citizens. For example there are over 10,000 cases of RTI pending before CIC.

3) Lack of definition of 'Public Interest' led to administration escaping the control of citizens by showing it as exception. This brings mistrust & citizens unhappy.

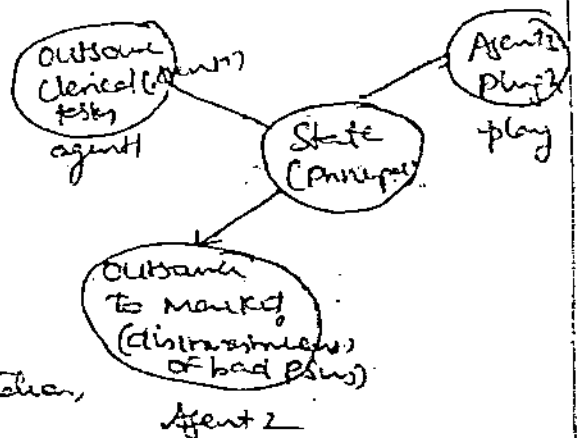
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 4) Problem of poor record management, lack of training of administration & infrastructure leads to administration giving unsatisfactory reply to citizens. Section 8 of RTI act is not clearly known to many of them. This creates distance between citizen & administration.

Despite of these issues, there are many instances where RTI has reached the expectation of people by exposing various scams, performance and made administration accountable.

(c) Public Choice

Principal-Agent model is used after the emergence of New public management which advocated state should be facilitator rather than enabler.

It focuses on outsourcing of tasks of government to private sector whenever needed and state is inefficient. In the cases where both state & market are efficient, state should take care.



However, there may be problems between state & agents like lack of coordination, lack of autonomy, incomplete access therefore leading to renegotiation of the contract between state & agents.

9/2  
The bureaucratic influence of state is said to be transferring of limited powers and then making agents suffer. Nobel laureate Tirole (Economics 2013) says there is a problem of 'Cost Overruns' due to incomplete action. Bureaucrats hesitate to transfer and approve resources leading to problem of stalling of projects in reality. This is conveyed by political scientists that politicians & bureaucrats being Self aggrandized does hamper the performance of Agents ✓.  
Refer to the answer.

④

(a)

Administrative tribunals have quasi-judicial functions to adjudicate the disputes of administration. There are put in place as:-

- 3 1/2
- a) coming of welfare state led to overburdened Judiciary ✓
  - b) Emergencies & agencies need speed justice ✓
  - c) Need expertise on the disputes between administration and citizens ✓

But these tribunals operate on 'principle of Natural Justice'. They don't have lawyers and Judicial members in tribunals thus leading to violation of rule of law as experts often violate rule of law in their cases.

National Green Tribunal (NGT)

for example: - recent NGT has ordered  
banning of diesel vehicles older than 10 years. (8)  
This is against the rights of citizens who  
can argue that pollution is <sup>also</sup> caused by recent  
models <sup>also</sup>. It is against Equality before law.

Also another example where NGT  
ordered prohibition of littering in open spaces.  
Some argue that there is no alternative for disposal  
in some cases. It is against rights of Tribal people.

Therefore, Tribunals with expertise in the process  
of Speedy justice often ignore rule of law.

(b)

Judiciary is the guardian of the Constitution  
and there is a question on accountability  
of the Judiciary itself. With no accountability,  
there is a problem of 'New despotism' (by  
Lord Hewart) and there is a need to ensure  
accountability.

a) Recent National Judicial Accountability (NJAC)  
bill is a step in this direction to ensure  
accountability. It ensures accountability in  
appointment with executive & eminent involved  
in Committee of selecting Judges.

b) recently Supreme Court has framed  
'Code of Ethics' for itself and mandatory



disclosure of assets of the Judges ✓

② However, the accountability of Judges still ③  
incomplete as they are not under purview of  
RTI and <sup>there</sup> ~~there~~ is no such appraisal mechanism  
for performance. They have <sup>many provisions like</sup> Contempt of Court ~~to~~  
ensure their independence.

Therefore, a Comprehensive accountable  
mechanism in all aspects without affecting the  
independence of Judiciary is needed.

→ The question demanded a generic answer  
not only related to Judiciary.

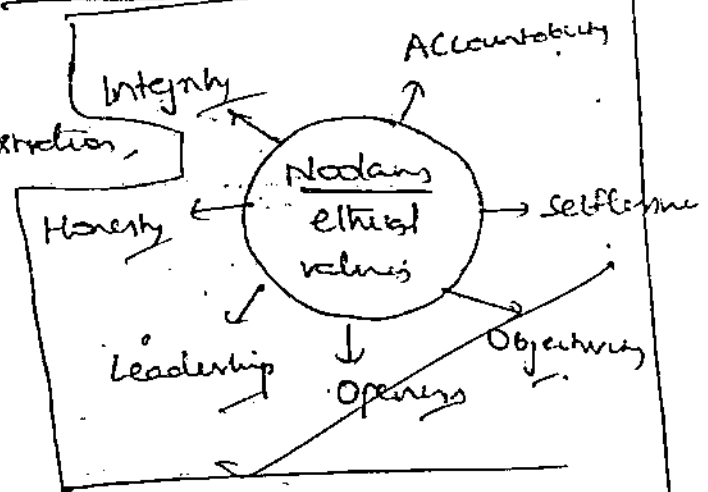
(C) Ethics in Public life ensures what is right &  
what is wrong for the society and promotes  
good governance. But the problem of ethics in  
public life is linked to administrative actions.

Analysis  
missing

Administrative ethics should focus on

2½ 'Public Interest' and they should be objectivity  
and must show Integrity, honesty, empathy  
and Courage of conviction etc when they do  
their duties.

Whenever the administration,  
violates these values there  
is a case of Unethical  
action of governments. If  
there is a lack of trust  
and <sup>attitude</sup> unethical, it will  
increases the distance between the citizen and  
administration.



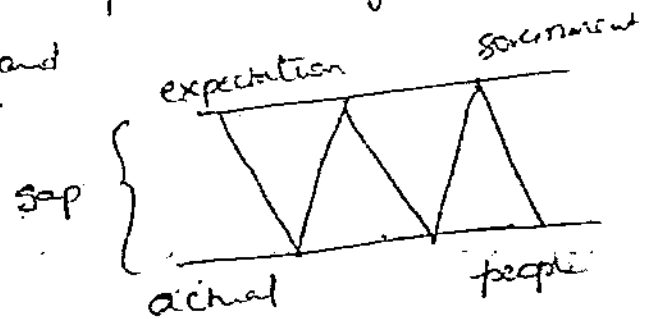
Therefore, government need to focus on the 'Public Interest' and provide diligent services to the people and reduce the gap.

(10)

for example :- If the

benefits of MNREGA program

doesn't reach to beneficiaries and corruption is rampant out. This is regarded as government's failure as it failed to check the misuse.



Hence, Government should be pro-public always

in

Ever since the development like New rights philosophy and good governance emerged, there has been focus on decentralization, democratization and people's participation.

Solid audit is a tool to ensure the benefits reach to beneficiaries and people. It is a multi-stakeholder approach to measure, evaluate the social, ethical performance of the programs by people centred around Gram panchayat.

It bridges the gap between vision and reality and it includes the

beneficiaries, civil society, government functionaries

Structure & Participation of Social Audit

Social Consequences

to verify whether the government programs reach to intended beneficiaries or not ✓

(11)

The people beneficiaries are trained to evaluate the schemes and verify actual expenditure with projected ones <sup>along</sup> with emphasis on social outcome.

for eg:- Social audit conducted in Rajasthan shows the expenditure spent doesn't match with reality. There are no roads, mustered rolls, wage payments which lead to officials questioned by people.

It lead to beneficiaries aware of rights and better implementation of program. ✓

3

The Success of social audit led to recent announcement of CAG asking State auditors to train people for social audit & consider social audit in CAG audits.

Hence, Social audit is much beyond expenditure verification.

(C)

Judicial activism is Judiciary encroaching upon the role of legislature and executive and performs their duty. It is against the Montesquieu's separation of power which provides checks and balances to democracy.

However, this activism led to betterment of administration like quick disposal of cases and coverage of concerns in society like cleaning of Ganga lake; ordering officials to stop charans.

immersion into lakes and rivers, ordering officials to check trees around roads in Uttarpradesh etc. This activism led to better responsiveness and coverage of issues which are neglected.

9/2  
But there is a problem of over activism like Judiciary framing rules with no time limit given to administration, problem of not using expertise of administration properly, etc. This is visible in cases like framing of rules of government advertisements by itself, rules on sexual harassment case without including experts of ministry of women & child etc. All these make administration inactive.

Therefore, there is a need to ensure limits on Judicial activism and also use it as a safety valve in democracy.

→ Judgments, Trends, Need for Activism

③

→ Refer to the Answer. / facts are missing (13)

②

Whistleblowers play a important role in bringing reforms and correcting the government and administration.

But Whistleblower protection act despite recent reforms lacks the much needed

1) It doesn't ensure the protection of whistleblowers and security is not given provided in all cases.

for example :- many whistleblowers have been killed in Vijayam scam

2) The Act needs the identity of the person to be revealed to CVC. But there is always a case of anonymous persons who want to blow whistle which is not covered.

White specific provisions

3) There are just penal provisions on revealing the identity which is against life of the blower.

4) Act recent amendments proposed focus on security, integrity of Country. But there is no coverage of private sector which also works closely with government and <sup>can</sup> leak government information.

for eg :- recent leakage of budget files by outsider in Ministry of petroleum.

5) The Act doesn't provide rewards & pending wrongdoers. (14)

There should be motivation also for whistle blower. for eg:- Whistle blower in Panbaxy case became billionaire after revealing the irregularities.

Therefore, a strong whistle blower policy is needed for encouragement of <sup>whistle</sup> blowers.

(b)

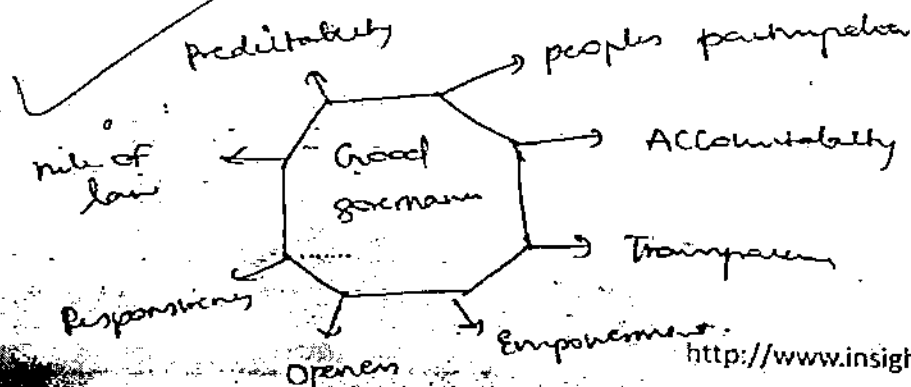
Good governance refers to the <sup>better</sup> condition of the society promoted by the government.

All the processes and decisions of the government need to take care of better society.

62  
Identification:- The definition has different connotations with respect to society and evolution. In the early stage of post-world war II, it focussed on social & economic condition of developing. But now it needs different focus on the needs of society and democracy..

Parameter:-

Good governance is variably linked to the attributes of government:-



<http://www.insightsonindia.com>

Therefore, good governance needs government dependent on good organization when the (15) attributes, processes and strategies are developed with society at large in focus. It should involve people



→ Need for - Institutions. [Bring some theoretical perspectives also like Blackburg etc]

- (C) Classical organizations primarily focus on efficiency and they are mechanistic and closed systems. There is a Superior-Subordinate mechanism to ensure accountability of the subordinates.

Even in scientific management of F.W. Taylor the accountability of workers is internal which is done by functional foremanship. Worker is accountable to its work by Speed boss, Inspection boss, Time clerk, Shop disciplinarian, repair boss etc. All their monitoring is done internally.

It is reflected in concept of Scalar chain by Gullik and Urwick and Henry Fayol when workers are reported to him.

levels. Any deviation to work hinders their Wages System which is shown in Differential piece rate system of Taylor. (16)

These system resemble Theory X of McGregor and they don't like to work and Carrot & Stick policy is used to make them work. These Organisation ~~are~~ focus on monetary aspects for motivation and workers perform based on this extrinsic factor alone.

(12) This is visible in Febrion bureaucratic system and prevalent in India where Annual Confidential report is subjected to whims and fancies of Superior Civil Servant. Surendra Nath Committee has recommended for performance rating system and Seventh pay Commission also wants to link performance with salary which is a promising sign.

Thus, classical organisations were non-ecological and intensely accountable.

→ Why classical organisations were focused on internal mechanisms.  
↓ What are the newer models.



⑥

Co-operative System focuses solely on formal co-ordination and are non-ecological (17)  
 Resembling an a closed system whereas  
 Co-operative concrete system are all way  
 communication system with ecological approach  
 resembling an open system.

Open  
~~closed~~ System

- 1) They represent Theory 'Y' organisation features like all way communication, linked pin model, bottom up approach.
- 2) They represent Burn & Stalkers Humanlike systems with unstable environment
- 3) They resemble Alvin Toffler's Adhocracy & Bennis 'Organic - Adaptive model' where environment influences organisation
- 4) Motivated by Intrinsic & Extrinsic factors
- 5) Job engagement with Management by objective works well
- 6) Human centered like Mayo's Informal organisation & Likert's System-4 (democratic participative)

closed  
~~open~~ system

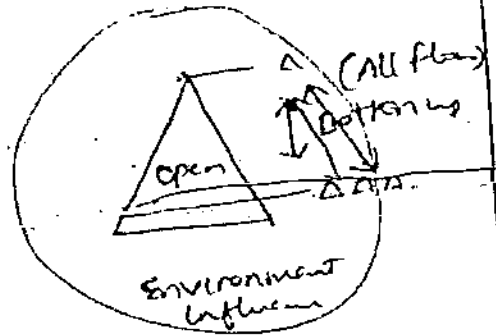
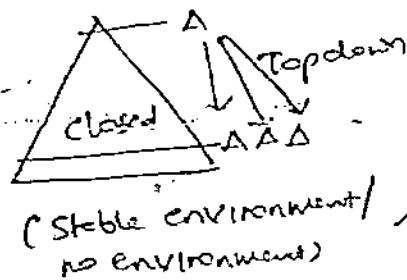
- 1) They represent Theory 'X' type with strict Superordinate Subordinate and Top-down approach.
- 2) They are Weberian and represent Burn & Stalkers Mechanistic system with stable environment
- 3) They represent rigid, static, status quo systems approach with Asidians
- 4) Primarily monetary benefits oriented
- 5) Carrot & Stick
- 6) Strict focus on rules, impersonal, hierarchy

Analysis missing:

Illustration

⑧

Apart from these, there is a mixture of both open & closed system like Nicholas Henry's Synthetic model (18)



Thus Contingency model are more adaptive to environment  $\rightarrow$  Cooperative systems

(b) Independent regulatory Commission (IRCs) are special agencies free from control of Legislature & executive present in USA. They are considered as Islands of Autonomy & Headless. They are quasi-administrative, quasi-judicial, quasi-legislative thus resembling cores both formulation, interpretation and implementation. They have autonomy in functioning.

These organisations are different from departmental pattern when they are controlled by Top-down hierarchy and just formed based on specialisation. These departmental pattern are not autonomous and depends on the line of command and just function as separate body with

purely administration and speculation. ✓

(15)

Role :-

These organisations, escape control of president and partly dependent on legislature for finances. This independency led to better administration of citizens with respect to grievances of private organisations.

In Indian context, Federal Commerce Centers ~~are~~ USA influence the trade affairs of the country. The Special 301 report is published by this IEC which affects the intellectual property rights of the Indian Companies. They have put pressure on the Indian government.

Launch of Globalisation led to interpretation of International bodies when they act in relation to domestic industry. So these IECs command & provide sanctions to affected countries violated countries.

↓ Further elaboration needed.  
What problems emerge?

↓ Could have taken up the case by nature consequence study.

(5)

(2)

Public interest litigation (PILs) have gained popularity since 1980s with Judiciary concerned about the needs of citizens and society.

This has led to various judgments like <sup>fundamental</sup> rights of prisoners, rights of tribals

affected by mining and exposing of various Scams like 2G Scam, Coal Scam, <sup>in relation to</sup> auctioning of natural resources etc. All these has led

to betterment of democracy where marginalized are left off.

However, there are PILs which are turning into personal litigation. Violating the purpose of their introduction. For example PIL on what the Prime Minister eats, PIL on political parties PIL on national anthem's mandatory etc. These are not relevant to genuine concerns of people.

1) These PILs turning personal overburdens the already burdened Judiciary.

2) It wastes court time & undermines important cases.

3) Speedy Justice is needed but unnecessary PILs leads to controversies & politics.

Therefore it is better PILs needs to be

strictly evaluated by Judiciary & proper  
penalties should be imposed in case of irrelevant  
PIIs. A list of what constitutes Public Interest  
would help as well.

as advocated by S.C. ?? Adm.

⑥ The ~~entire~~ failure of welfare state in 1960s  
led to rights based approach where peoples  
are not merely treated as beneficiary but  
their rights need to be protected as well.

Child  
Rights

Child res.

This is effective grievance redressal  
mechanism as it differentiates the rights of  
sections of Public and thus help in  
quick resolution as per needs of the  
each section based on respective grievances.

gk  
23  
for example:- Earlier, issue of  
children are ignored during welfare approach  
with rights approach their basic rights are  
streamlined in big picture which led to Right  
to Education (6-14 years), and nutrition needs  
of children (Integrated Child development  
Scheme for 0-6 years & SABLA for 6-14 years)  
So this helps in better handling of rights specific  
to Age.

12th five year plan has promoted  
the rights based approach in planning.  
which is a promising initiative.

(C)

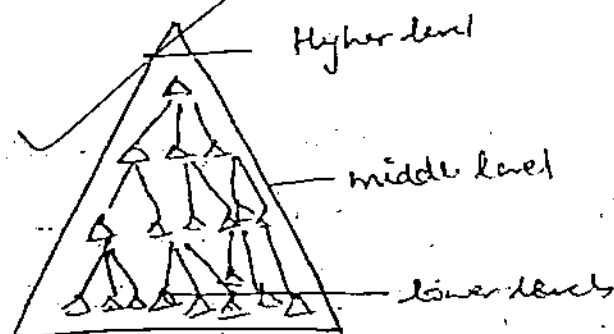
Systems approach - Consider <sup>an</sup> organisation

as system under principles of

- 1) Interdependence
- 2) Equilibrium & change
- 3) Dynamic Equilibrium & ~~change~~ Entropy
- 4) Adaptation & Maintenance
- 5) Equi-finality

This is different from bureaucratic idealistic approach which views only macro dimensions but systems approach focuses on macro & micro with differentiation between functional and non-functional aspects of the organisation.

for example :- Corruption in Administration



Systems approach views lower levels having less salary and they are in need of money resort to more corruption. But the middle level is unaware of the tactics of lower

level due to interdependence. Therefore they 23  
take ~~ex~~ show of the bite like collusive corruption  
and higher authority would know the problems  
of the organisation due to dynamic equilibrium  
from change of lower level.

In order to adapt & maintain, higher  
levels let off the lower levels as it is needed  
for achieving goals of organisation because  
<sup>lower levels</sup> they are actual performers. Even high level  
also resort for covering up to.

Environmental  
factors

(d)

Bureaucratic populism

Bureaucratic populism means bureaucracy  
due to its elite nature focuses on few section  
of people for benefits and ignore the other  
sections. This leads to better services to  
the prioritised people and deficit of services  
to public who are ~~ignored~~, other things

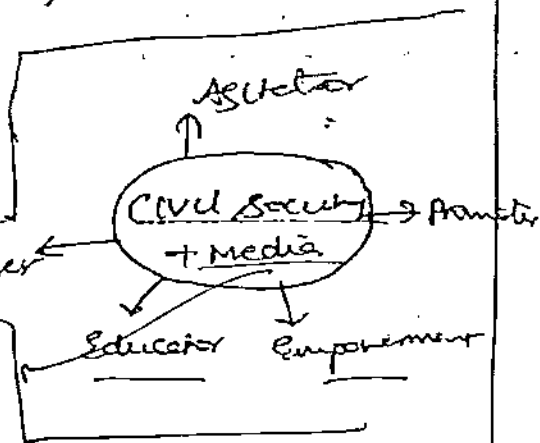
This would bring restoration of  
trust if bureaucrats focus on poor &  
marginalised instead of high & well off sections.  
like elites. There should be empathy &  
compassion to the poor people.

Refer to the answer

(e)

Media and civil society play a major role in ensuring accountability of public authorities to citizens.

They play various role as depicted in this figure to ensuring the administrative accountable and ethical.



ensuring

Political culture is perception of people vis-à-vis politics and Administrative culture is perception of people on Administration. Both with government in rule, there is change of ruling party play influencing administrative decision.

For example :- Transfer of IAS civil servants on new rule in government. Ashok Khemka transferred 45 times in career.

Durga Shakti Nagpal was suspended due to religious construction by states.

In both these cases, media and civil societies has exposed the case to the public. This ensures rights of ethical.

Officers are protected. For eg:- extra coverage led to ~~states~~ reinstatement of



Durgashakti Nigpal in her duties and it  
~~pressured~~ State and Central governments. This  
~~shows~~ Administration value public interest not  
 political interest ✓

for example:- recently one of the  
 collectors in Tamilnadu (<sup>Mr.</sup> S. S. Sathayam) has  
 slept in the funeral site to expose the scam  
 of a politician which revealed ~~the~~ killings  
 of children. Media and civil society has  
 published and ~~promoted~~ this action leading  
 to citizens that public interest cannot be  
 compromised. ✓

