



Mains Practice Question

Case study

You are a partner in a law firm. One of the clients of your firm is a man of high social reputation and has a flourishing business. This client has empanelled the firm for the last five years. However, this client has been involved in what is being dubbed as India's biggest bank fraud. The client is on the run and it is believed that he has escaped to a country which can extradite him only if provided with substantial proof. In connection with this case, investigating agencies raid your firm and find incriminating evidence against the client.

But you know that, there is still a lot of information available with the firm, which is vital for ascertaining guilt of the client. You realize that it is very important for the country to get hold of the client and bring him to justice.

Faced with this situation, what will you do? Critically examine various conflicts of interest and explain what are your responsibilities as a responsible citizen of the country. (250 Words)

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Approach

- Identify the various conflicts of interest in this case.
- Discuss your responsibility as a lawyer and as a citizen.
- Identify the course of action with its positive and negative sides.
- Conclude with the most appropriate course of action.

Answer

Conflict of interest

▪ Professional Vs public

◦ Professional

- Loyalty/protection of interests of the client and independent judgment are essential elements in the lawyer's relationship with a client.
- Client-attorney privilege

◦ Duty towards nation

- As a responsible citizen of the country it is our duty to aid the investigating agencies.

▪ Lawyer Vs moral agent

- Lawyer is a technician skilled in navigating the law solely for purposes of advancing a client's legal interests.
- The moral agent attorney sees the practice of law more in terms of truth and administration of justice. The lawyer is, after all, an officer of the court, not merely the

client's advocate.

Responsibility as a lawyer and as a responsible citizen of the country

- Responsibilities to the legal system and rule of law that are the foundation of our political economy and constitutional democracy, including contributing to access to justice, strengthening the rule of law and legal institutions, and supporting efforts by other lawyers to uphold their own professional responsibilities.
- Responsibilities to the institution in which lawyers work—e.g., corporations, law firms, and law schools—and to the people employed by such institutions, such as a corporation's global workforce or a law firm's or law school's employees.
- Responsibilities to secure other broader public goods and enhance sound private ordering—complementary to the rule of law—in order to create a safe, fair, and a just society in which individuals and institutions (including major corporations, major law firms, and major law schools) can thrive over the long-term.

Options I have

- With all might, I will try to save my client: It will be in accordance with Indian Evidence Act. The Attorney Client privilege is the fulcrum of the relationship between a client and his/her lawyer. It is one of the oldest forms of protection under the privacy doctrine and a fundamental right in all democracies. It is a permanent privilege which commences when the client initiates the process for seeking advice. Its intent is to enable a full and frank disclosure to his lawyer who in turn can discharge his duties towards his client.
 - In doing so, not only I will follow my professional ethics but also my duty towards my client will be fulfilled.
 - However, if the aforementioned crime is not under my scope of work, then I will not hesitate to share data with the government agencies.
- **I will wait for the court's decision:** In accordance with rule of law, if the judicial process demands submission of data, I will consult with my partners about the same. If they agree, the information will be submitted to the judicial process, if they don't agree then I will try to build consensus about the issue and will proceed accordingly.
- **Sending an anonymous letter:** I will send an anonymous letter to agencies with the available data. However, in doing so I will be violating my professional code of ethics. Seen in a deontological perspective, it wouldn't be right. But from a utilitarian perspective, it will serve the purpose of both saving my firm's reputation, as well as my obligation towards the nation.
- **Become a whistleblower:** Organizational and professional ethics are designed to encourage moral autonomy, individual responsibility, and organizational support for the well being of society as a whole. In such a case, it will be appropriate to share the data with agencies.

As a responsible citizen, it is the duty of any person to look for the well being of the country. In this well being premise, the economic system is very important. Incidences of such nature can shake the very foundation of a country. Moreover, not punishing such person will give impetus to other persons to commit crimes. In pursuance of these objectives, data of the offender must be shared by whatever means possible