

PREFACE

With its grounding in the “guiding pillars of Access, Equity, Equality, Affordability and Accountability,” the New Education Policy (NEP 2020) envisions flexible curricular structures and creative combinations for studies across disciplines. Accordingly, the UGC has revised the CBCS with a new Curriculum and Credit Framework for Undergraduate Programmes (CCFUP) to further empower the flexible choice based credit system with a multidisciplinary approach and multiple/ lateral entry-exit options. It is held that this entire exercise shall leverage the potential of higher education in three-fold ways – learner’s personal enlightenment; her/his constructive public engagement; productive social contribution. Cumulatively therefore, all academic endeavours taken up under the NEP 2020 framework are aimed at synergising individual attainments towards the enhancement of our national goals.

In this epochal moment of a paradigmatic transformation in the higher education scenario, the role of an Open University is crucial, not just in terms of improving the Gross Enrolment Ratio (GER) but also in upholding the qualitative parameters. It is time to acknowledge that the implementation of the National Higher Education Qualifications Framework (NHEQF), National Credit Framework (NCrF) and its syncing with the National Skills Qualification Framework (NSQF) are best optimised in the arena of Open and Distance Learning that is truly seamless in its horizons. As one of the largest Open Universities in Eastern India that has been accredited with ‘A’ grade by NAAC in 2021, has ranked second among Open Universities in the NIRF in 2024, and attained the much required UGC 12B status, Netaji Subhas Open University is committed to both quantity and quality in its mission to spread higher education. It was therefore imperative upon us to embrace NEP 2020, bring in dynamic revisions to our Undergraduate syllabi, and formulate these Self Learning Materials anew. Our new offering is synchronised with the CCFUP in integrating domain specific knowledge with multidisciplinary fields, honing of skills that are relevant to each domain, enhancement of abilities, and of course deep-diving into Indian Knowledge Systems.

Self Learning Materials (SLM’s) are the mainstay of Student Support Services (SSS) of an Open University. It is with a futuristic thought that we now offer our learners the choice of print or e-slm’s. From our mandate of offering quality higher education in the mother tongue, and from the logistic viewpoint of balancing scholastic needs, we strive to bring out learning materials in Bengali and English. All our faculty members are constantly engaged in this academic exercise that combines subject specific academic research with educational pedagogy. We are privileged in that the expertise of academics across institutions on a national level also comes together to augment our own faculty strength in developing these learning materials. We look forward to proactive feedback from all stakeholders whose participatory zeal in the teaching-learning process based on these study materials will enable us to only get better. On the whole it has been a very challenging task, and I congratulate everyone in the preparation of these SLM’s.

I wish the venture all success.

Professor Indrajit Lahiri
Vice-Chancellor

Netaji Subhas Open University
Four Year Undergraduate Degree Programme
Under National Higher Education Qualifications Framework (NHEQF)
& Curriculum and Credit Framework for Undergraduate Programmes
Bachelor of Arts (Honours) Public Administration
Programme Code : NPA
Course Type: Discipline Specific Elective (DSE)
Course Title: Conceptualizing Indian Administration
Course Code: NEC-PA-02

First Print: March, 2025

Memo No. SC/DTP/352 Dated: 28.11.2024

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**Netaji Subhas
Open University**

**UG: Public Administration
(NPA)**

COURSE: Conceptualizing Public Administration
[Course Code: NEC-PA-02]

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Module-I

Historical Background

Unit-1 □ Indian Administration in Pre-British Era

STRUCTURE

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1.1 Learning Objectives

After studying this unit, learners will be able to understand:

- Indian Administration: Its Evolution
- Administration during Maurya, Gupta and Mughal Era.
- Land and land Revenue.
- Administration of Justice.

1.2 Introduction

Administration is an art of maintaining a systematic practice of controlling the society. For a long time the Administration has been accepted as an art and skill to ensure the subordination as well as subjection of Subjects (later Citizen) to the laws and rules of the Supreme Law-Making Authority. India has got a long list of her traditional rulers like Maurya's, Gupta's and Mughal's who had their own administration skill, and were hailed as greatest artists in their own field by an admiring world.

1.3 Indian Administration: The Evolution

Indian administration can be traced to the Indus Valley Civilization which is about 5000 years old forms the basis of our civilization and culture. The available evidence shows that though for a long time the state in ancient India confined itself only to the constituent functions, the sphere of the state activity was very extensively extended between the vedic and Mauryan age. In the long history of Indian administration, a number of administrative organisations rose and fell. However, there are two basic features of the Indian administrative system which continued right down the ages the importance of the villages as a primary unit and co-ordination between the two opposite trends of centralisation and decentralisation. To put it in a nutshell the present administration is developed since from Vedic period. Abundant sources are available to get a clear picture of the history of Indian administration system. A lot of information regarding the organisation and functions of Indian administration is obtained from Vedic literature, Buddhist treatises, Jain literature, Dharmasastras, Indian Puranas, Ramayanas, Mahabharata, Manu Smriti, SukraNiti and Arthashastra. The powers of administering the states were centralised in the hands of the king during the ancient period in India. During the Vedic period the king was assisted in his work by many officers. He was surrounded by a circle of his friends and principal officers. There is a reference regarding this in the two epics of Ramayana and Mahabharata. A similar reference is also to be found in Manu Smriti and SukraNiti. Kautilya's Arthashastra, a political treatise on ancient Indian political institutions, written sometime from 321 to 296 B.C., examines statecraft, gives an account of State administration, and reflects the rule of the Mauryan kings.

The decentralisation process had started in ancient India. As a result of this, empires were administratively divided into provinces, provinces into districts and districts into urban and rural centers. During the ancient period state administration was divided into numerous departments. In Vedic times the number of such departments was limited. Gradually, the number of such departments increased and their jurisdiction extended. For this we get many references which can be obtained from Vedic literatures and subsequent sources. In ancient Indian administration there is also found a description of the principles of public administration. Thus, the principle of hierarchy had been given a practical shape, and seeds of co-ordination were present between different departments. Such a full-fledged administrative system existed in the reigns of Chandragupta Maurya and Ashoka. Great emphasis was placed on observation and inspection along with the principle of hierarchy.

The first form of the 'State' in India can be traced back to the times of Manu (original name Satyavrata) the first King and progenitor of mankind according to mythological record. People were fed up with anarchy as there was no neutral judge/arbitrator in between to solve issues of society, and so they appointed Manu as King and paid service fees as taxes for looking after them and ensuring mutual benefit and justice to everyone in society owing to his wisdom and philosophical attitude the King was divine and regarded as descended from God. This is believed to have come to the fore from Ramayana and Mahabharata. Later Vedic times it goes to portray the role of the King as the sole of administration are being helped by his principal officers who were the Purohit and Senani where the Purohit (Priest) wielded much more authority than the kshatriya (Warrior clan) kings. Other figures of administration were Treasurer, Steward, Spies and Messengers, Charioteer, Superintendent of Dices. This is also mentioned in Manu Smriti and SukraNiti.

1.4 Indian Administration: Maurya and Gupta Period

The Mauryan period was the era of major development in Indian Administration. Decentralisation was prevalent, as the village units played a very important role as the base of administration since ancient times. Empires were divided into provinces, provinces into districts, districts into rural and urban centers for efficient administration.

Kautilya's Arthashastra is a work on Varta (Science of Economics) & Dandaniti (statecraft/Management of State Administration) existing in the Mauryan rule. It was written sometime between 321 and 300 BC. It was retrieved in 1904 AD and published in 1909 AD by R. Shamastry. It touches upon topics like functions of the chief executive, hierarchy, bureaucracy, corruption, local administration, supervisory management, motivation, morale and Job description. The most noticeable aspect of the Arthashastra is its emphasis on Public Welfare even in an autocratic agrarian State. That is where its timelessness lies. It is composed in the form of brief statements called Sutras and is compiled in 15 books (Adhikarnas), 150 sections, 180 chapters (prakarnas), 6000 verses (sutras). One can identify links between Kautilyan Administration and Modern Personnel Administration and Public Administration.

(1) Personnel Administration: A system of recruitment was there and job description as well. Salaries were clearly spelled out of ministers and government officials. It also stated a view of job permanency and increment in salary or position (promotion) if the official concerned provided extraordinary service. Personnel were to be transferred from time to time as per Kautilya, because it would avoid corruption and misappropriation of government funds. Removal and tenure of officials and

ministers were at the pleasure of the King just like the Governor and Attorney General, etc. hold office at a term that specifies 'pleasure of the President'.

(2) Public Administration: The King is the sole source of authority and appoints and dismisses personnel and divides the work of govt. into different ministries under several ministers and officials. Kautilya stresses on the need for specialist and generalist personnel at different levels of administration with full accountability to the King, thus talks about division of labour and coordination between them for efficient administration.

Kautilya's Arthashastra is more about political science that is how to conduct State affairs rather than focusing on the philosophy that underlies it. He is very practical in his approach with a strict focus on morality so that the King's rule and administration are neutral without offending anyone, and also on rationality and an organized as well as efficient way of running a system with a great deal of focus on accountability and honesty and vigilance.

In the Mauryan administration, the State had to perform two types of functions. The constituent (component) functions related to maintenance of law and order, security of person and property and defence against aggression. The ministrant (welfare) functions had to do with provision of welfare services. All these functions were carried out by highly organised and elaborate governmental machinery. The empire was divided into a Home Province under the direct control of the central government and 4 to 5 outlying provinces, each under a Viceroy who was responsible to the Central Government. The provinces had considerable autonomy in this "feudal-federal type" of organisation. Provinces were divided into districts and districts into villages with a whole lot of officials in charge at various levels. An outstanding feature of Mauryan administration was that the State, through a new class of officials, known as 'dharma-mahamantras' carried out the policy of moral regeneration of the people. Ashoka's state carried out the policy of moral regeneration of his subjects through a new class of officials known as 'Dharm-mahamantras'. Today almost every country of the world has recognised the necessity of religious education in the broader sense of the term to be imparted in schools in order that the civilians of tomorrow would grow with a non-sectarian attitude and non-bias view towards all religions. Many educational institutions in the modern world have started the branch of religious study. Ashoka, the great Mauryan King, set up a new department of the 'ministry of morals' which is an innovative measure in the field of administration unparalleled elsewhere. What is

worthy of note is that they have been authorised not only to set right the violation of justice but also provide solicitude for the welfare of prisoners. His attitude can be compared with Kautilya's solicitude for the welfare of prisoners' (which is almost modern in spirit).⁰ The vision of being 'Chakravarthi Dharmika Dharmaraja' guided his activities. The integral and synthetical development of life as the aim of administration was put forward by Ashoka for the coming generations by his own example.

The Guptas sustained the legacy of the Mauryans in several respects. The divine character of the king was upheld and the king controlled all the stages of the administrative machinery. The empire was divided, like the Mauryan, for administrative purposes into units styled as 'Bhukti', 'Desa', 'Rashtra', and 'Mandala'. Villages had their own headmen and assemblies and towns and cities had special officers described 'nagarapatis' and even town councils. The king had the help of several functionaries to share the burden of administration. Separately from the confidential adviser, there were civil and military officials, feudatories, district officers and several others. The 2nd century AD king Rudradaman is also found to follow the footsteps of Ashoka and Kharavela and performing the functions of public benevolence. The Allahabad pillar inscription of 'Samudraguptaprasasti' is really the synthesis of the ideals of Hindu monarch, which reads..." where mind busied itself with the support of the initiation, etc., of the miserable, the poor, the helpless and afflicted who was the glorified personification of kindness to mankind. So the welfare of the people was always considered as the paramount principle which guided the rulers.

1.5 Indian Administration: The Mughal Period

The Mughals upheld the earlier traditions in political and administrative matters. The Mughal emperor was a perfect autocrat and the administration was 'a centralized autocracy'. The king symbolised the state and was the source and centre of all power agencies. The Mughals did succeed in building up a 'monolithic administration'. When compared to the Mauryas, the Mughals moved in the direction of greater centralisation. They did not pay much attention to social services of health and welfare as also morals which were areas of special concern for the Mauryan kings. But the Mughals had an efficient civil service. They recognised merit and accepted Hindu intelligentsia in the higher civil service. Its only drawback was that it was 'land-based'. It means it was mainly concerned with revenue functions

and was a 'highly urbanised institutions'. A very detailed, reliable and brilliant account of Akbar's empire, society and administration have been in narrated famous detailed document/text by Abul Fazl titled Ain-i-Akbari (Constitution of Akbar). It narrated a lot of earlier tradition of administration were adopted by Mughals. The sovereign was the king who was paternalistic and he had supreme authority over everything. He did have a number of ministers to help, advise and assist him in the discharge of his functions, out of which the more important working executive were four-Diwan who was in charge of revenue and finance, Mir Bakshi at the head of the military department, Mir Saman in charge of factories and stores, and Sadr-us-Sudur who was the head of the ecclesiastical and judicial department. Administration was based on coercion in the name of the King by the officials.

- **Role of the King**-Administration was personalized. It has aptly been described as paternalistic. The whole administrative machinery revolved around the king who was viewed as a 'father figure' or a 'despot' to his people subjects. Mainly during the time the king was seen as a benevolent despot who worked for the welfare of his subjects. The theory upheld the concept of absolute monarchy based on the divine right to rule. The king was everything to his people. He was the source of all authority and the fountain-head of justice. The administrative system was highly centralized and personalized.
- **Bureaucracy**-Organisation of the administrative machinery was unstable. It depended on the whims and fancies of the king. Recruitment was on the basis of caste, kin, heredity, and personal loyalty to the king. Administration was based on fear of force. In the name of the king, the officials struck terror in the hearts of people. They wielded much awe and respect in the middle of the people. Officials were primarily engaged to maintain law and order, safeguard the interests of the king from internal uprisings and revolts, defend and extend the boundaries of the empire and collect revenue and other taxes. Every officer of the State held a mansab or official appointment of rank and profit and was expected to supply a sure number of troops for the military service of the State.
- **Army**-The necessity of army is understood largely in conditions of the Mansabdari system. In addition, there were the supplementary troops and a special category of—gentlemen troopers who were horsemen owing exclusive allegiance to the king. The army had cavalry which was the main significant unit, the infantry, made up of townsmen and peasants and artillery with guns and navy. The Gughal army was a mixture of diverse elements. As it grew in numbers it became too heterogeneous to be manageable. The soldiers did not owe direct allegiance to the Emperor but were more attached to their

immediate recruiters or bosses and as such were busy with their bitter rivalries and jealousies.

- **Police**-In the rural areas, policing was undertaken through the village headman and his subordinate watchmen. This system sustained well into the 19th century. In the cities and towns police duties were entrusted to Kotwals. In the middle of their several duties Kotwals had to arrest burglars, undertake watch and ward duties, regulate prices and check weights and measures.

1.6 Structure of the Mughal Administrative System

- **Central Administration**-Central administration, like administration in general, was personal and paternal. The system operated with a fair degree of efficiency as long as the king was able to exercise control from above. As soon as his grip loosened, the system fell to pieces, as seen in the reigns of Shahjahan and Aurangzeb. The two highest officials were the 'Vakil' and the 'Wazir'. The Vakil, in fact, was higher of the two. He functioned as regent of State and was in overall charge of the State. The 'Wazir' or high diwan was the highest officer of the revenue department. He was actually recognized as 'Wazir' when he acted as Prime Minister. The Chief Diwan supervised revenue collection and expenditure. He was head of the administrative wing of Government. He supervised the work of all the high officials. He controlled and guided provincial diwans who besides with their subordinates were in touch with him. He signed all types of documents and put his seal authenticating government transactions.
- **Provincial Administration**-Given the centralized and personalized character of Mughal administration, provincial authorities were only administrative agencies of the Centre. The Empire was divided into 'subas' or provinces. At the head of the province was the 'Subedar' or Governor. He was appointed through imperial order and was given the insignia of office and instrument of instructions which defined his powers, functions and responsibilities. As executive head, he was in charge of the provincial administrative staff and ensured law and order in the province. He tackled local civil and intelligence of staff with a firm hand and realized tributes from the local chiefs under him. The diwan also exercised functions of an auditor and exercised full control over public expenditure. His establishment incorporated the office superintendent, the head accountant, the treasurer, and clerks. The provincial 'bakshi' performed a role similar to that of the 'bakshi' at the Centre.

- **District and Local Administration**-The 'Suba' or province was divided into 'Sarkars' which were of two kinds. There were those ruled through officers appointed through the emperor and those under the tributary rajas. At the head of each sarkar was the Faujdar who he was the executive head. Separately from the 'Faujdar', the other head of the 'sarkar' was the 'amalguzar'. He was in charge of revenue. Each of them had their own set of subordinate officials. the 'kotwal' did policing of the town and its suburbs. A 'sarkar' was divided into 'parganas'. Each 'pargana' had a 'shiqqdar', and 'amin' and a 'qazi'. the 'shiqqdar' was executive head and combined in himself the functions of the 'Faujdar' and 'kotwal' of the 'sarkar'. He took care of law and order, criminal justice and general administration. The 'amin's' duties were similar to those of the amalguzar and the 'quazis' were judicial head. The 'parganas' were further divided into 'Chaklas', which were created to facilitate and improve the realization and assessment of revenue and had their own set of local officials like the 'Chakladars'. Each of the officials was responsible and accountable to those higher authorities.

1.7 Revenue Administration

- I. Land Revenue as the Primary Source of Income: The Revenue system needs to be closely studied because land revenue has been traditionally, the primary source of income of the State. The State and the cultivator were two parties to the contract. the right of the State to a share of the produce was recognized as a principle of political economy from times immemorial. What was disputed and had to be determined periodically was the fixing of the share of each. In ancient times, the State's share was defined through lawgivers as one-twelfth, one-eighth or even one-fourth. Though, about one-sixth was realized. While in the 14th century, the State took half, Akbar made it at one-third.
- II. Significant Revenue Reforms: Significant revenue reforms were introduced throughout the reign of Akbar when Todar Mal was appointed the Diwan-e-Ashraf. Todar mal recognized a standard system of revenue collection, with major highlights on survey and measurement of land, classification of land and fixation of rates. Hence, the overall success or failure of the revenue system depended on the king and the quality and nature of the centralized administration. Akbar is credited with having scientifically organized his land revenue system. It sustained till the 18th century though it slowly lost its vigor and was injurious to the interests of peasants.

- III. Modus Operadi of Revenue Collection: Mention has been made of the modus operandi of revenue collection. The Empire was 'divided' into 'subas', which were subdivided into 'sarkars' and 'sarkars' into 'parganas', The 'amalguzar' was the chief revenue collector in charge of a district and was assisted through a large subordinate staff. In the middle of other officials, it is necessary to mention the designation of the 'Qanungo' who kept revenue records, the 'Bitikchi' or accountant and the 'Potdar' or district treasurer.

1.8 Administration of Justice

Administration of Civil Justice-The Moghul State, being a Muslim State was based on Quranic law. The judges followed the Quranic precepts, the 'Fatwas' or previous interpretations of the Holy 'Law' through eminent jurists and the ordinances of the Emperors.

They did not disregard customary laws and sought to follow principles of equity. The Emperor's interpretations prevailed, provided they did not run counter to the sacred laws.

For the dispensation of justice, there were two kinds of tribunals: There was the Chief 'Qazi' with subordinate 'Qazi' who followed the Islamic law, both civil and criminal. Qazi was responsible for the administration of law in the land, and beside that was the chief judge in criminal suit which he tried according to Muslim law. The Sadar was the head of the department of religions affairs. He was the guaradian of Islamic law and the spokesman of the ulama. The other was the 'mir'adl', a secular officer who took care of suits not specifically provided for through the religious laws of the two communities. the king was the supreme court of both original and appellate jurisdiction.

1.9 Conclusion

The principles the public Administration throughtout The Moghul period could be listed as: Centralisation; personalized administration; civil service; dissimilar stages of administration; division of work; bureaucracy having military character; revenue administration based on well laid down principles; administration based on fear of force; administration based on regulations, traditions, and practices; and inadequate unity of command (one could find gaps through illustrations like the position of provincial Diwan, who was directly under the Imperial Diwan and not under the Governor, and the position of Faujdars, who were though under the Governors, yet could have direct communication with the imperial government). At

the advent of British rule, the administrative system was paternalistic, centralised and personalised. There was an elaborate network of officials at the centre constituting the central secretariat which was repeated at the provincial and local levels. The emperor had the total control of the state. Land revenue was the principal source of income and land tenures were complex, elaborate and a mix of rules, regulations, customs and traditions. The judicial system was under executive dominance and was poorly structured. Society was feudal, with the toiling masses often given a raw deal.

1.10 Summary

Thus in short, the basic traditional features of Indian Administration were:-

- Centralized.
- Primarily based on transfer of hereditary power and privileges.
- Legitimised by Military power.
- Bureaucracy had a military character.

1.11 Glossary

Arthashastra: An unfading work of Kautilya, deals with Social Economy and Administrative management of the State.

1.12 Model Questions

Long Question :

- Analyse the features of the administrative set up in Mauryan period.
- Explain in details the importance of Kautilya's Arthashastra.
- Discuss administrative set up in Mughal period.
- Elaborate the functioning of revenue system in Mughal administration.
- Analyse the role of the king in Mauryan administration.

Short Question :

- What are the implications of administrative system in Ancient India.
- Point out the role of Ministry of Morals.
- Write a note on administration of justice during Mughal period.
- Mention features of Gupta period administration in India.

1.13 References

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Unit-2 □ Indian Administration in British Era

STRUCTURE

- 2.1 Learning**
- 2.2 Introduction**
- 2.3 British Administration in India: Beginning**
- 2.4 British Administration: The First Phase (1757 To 1858)**
- 2.5 British Administration: The Second Phase (1859 To 1947)**
- 2.6 The Morley Minto Reform 1909**
- 2.7 Administrative Structure**
- 2.8 the Government of India Act 1935**
- 2.9 Conclusion**
- 2.10 Summary**
- 2.11 Glossary**
- 2.12 Model Questions**
- 2.13 References**

2.1 Learning

After studying this unit, learners will be able to understand:

- Emergence of British Administration and its effects during 200 Years Colonial Dominance.
- Character of Administrative Dominance of British era during pre and post Sepoy Mutiny.
- The Effect of Morley Minto Reform on Indian Administration after 1909.
- Government of India Act 1935, and its Constitutional effect in Post Colonial period in Indian Administration.

2.2 Introduction

Indian society is historically apolitical and very less concerned for Political development. Politics was mainly the concern of small elite and educated middle Class. The subaltern groups of the society were happy to remain at the receiving

end of political administration, rather than at the participating end. When the typical Indian tradition came in touch with the modernity, it was found that the modernity to “become Indian” has automatically absorb some in-built traits of Indian Tradition. Rajni Kothari in his “Politics in India” (Boston, Houghton Mifflin Co., 1970, pp. 85-87) has put in different expression, that “Modernity has made India assert its ‘Indianness’, reformulate his ‘Indianness’ and gave it a new to modern character”,

2.3 British Administration in India: Beginning

Though many of Indian administrative and political features evolved during period 1947 period but there still are certain features that we can see as a legacy of the British times continuing for the sake of its efficient practices and or finding no other better alternative to the same till now. British administration in India, till 1858 was ruled mainly by of the East India Company. The East India Company, established on 31 December 1600, was a monopolistic, mercantile Company, which was granted by the British crown the right-to trade in the eastern parts. A trading station, with a number of factors was called Factory. A settlement (number of factories) was under the rule of agent. Factory was the term applied to an agent transacting business as a substitute for another in mercantile affairs. Employees were graded as Supervisors, writer’s or Clerk (Babu). Factory workers and Merchants, Recruitment of officials, their nomenclature, terms and conditions of service were governed by rules and practices appropriate to commercial business. Generally, patronage was the method of recruitment and promotion in the services. Patronage was in the hands of the Proprietors or Directors of the Company.

The system of governance was commercial in character. It was basically government by Council. The Council had executive and legislative powers with the Governor or the Governor-General having the casting vote. With the acquisition of more territorial sovereignty and the need to take prompt decisions, more power came to be concentrated in the head or Chairman of the Council, but the fundamental principle of collective rule and responsibility remained. It was also a government by Boards. After the Board of trade, the next in importance was the Military board. But the Board of Revenue had the longest history and the most distinguished record of work. Later, there was also the Raiwlay Board. The Board made possible counselling, discussion, deliberation and even legislative and judicial activities. Questions of policy and principle, conduct, and action were settled in the Board. It was a government by record. When transactions were commercial, records were brief and manageable. But political dealings made record keeping cumbersome and voluminous. Notes, minutes, despatches and reports became an integral part of

British administration. All this was in a way necessary because only through written reports and records could control be exercised by officials in the governmental hierarchy. With the Company headquarters in far away England, record keeping helped absolutism and controlling the power. But this resulted in exploitation of the worst kind on the subjects (Indians) as maximum revenue was extracted from them. Though it was done in the name of the Company, which got a bad name on this account, the Nawab and his men pocketed a good portion of revenue and grew rich at the cost of the Company. So, in short the British East India Company paved the way for the British government to enter.

2.4 British Administration in India: The First Phase (1757-1858)

- **The Regulating Act 1773**-This Act deserves special mention because it was the first action on the part of the British Government to regulate the affairs of the Company in India. The Company, through a Charter, had only been given trading rights through the British Crown. When it acquired territories in India and slowly but surely converted itself into a ruling body, the Parliament could not accept and regularize this development. Moreover, it was whispered that whatever lands the Company acquired were in the name of and on behalf of the King. So, the administration of these territories had to be controlled through the Crown. Thus British Parliament took the administrative charge and sent one as Governor General of Bengal. The Governor of Bengal was now designated as the Governor-General of Bengal, and Governors of other provinces in India were subordinate to him. The Governor-General was assisted by a council of four members sent from England. Decisions were to be taken by majority vote, and the Governor-General Warren Hastings had a casting vote. The Regulating Act laid the foundation of a Central administration and instituted a system of Parliamentary control. It marked the beginning of the Company's transformation from a trading body to a Corporation of a new kind, entirely administrative in its object and subordinated to Parliament.
- **The Amending Act of 1781**-This Act amended the jurisdiction of the Supreme Court. It was deprived of its right to action arising in the collection of revenue. Landholders, farmers or other persons connected in land revenue work were not covered by the Supreme Court. In the same way, no person, just by virtue of being the Company's employee, could be subjected to the Court's jurisdiction. Even though the Court's jurisdiction extended over all the inhabitants of Calcutta, the Court had to take into account personal laws of Hindus in case

of Hindus and Quranic law in case of Muslims. The Amending Act recognised the appellate jurisdiction of the Governor-General and Council and confirmed their judicial authority to entertain all such pleas and appeals as they had done all along as a Court of record. The Governor General and Council were further invested with 'power and authority, from time to time, to frame regulations for the provincial courts and councils'. Their legislation under this Act, was not to be subject to registration in the Supreme Court of Judicature, but was required to be finally approved by the Crown. The shortcomings of the Amending Act soon became manifest. The urge for a change was very strong and it could not be suppressed for long.

Pitt's India Act provided for a body of six commissioners popularly known as the Board of Control. It consisted of one Secretary of State, the Chancellor of the Exchequer and four Privy Councillors appointed by the king and holding office during his pleasure. Three of the six formed a quorum and the President possessed a casting vote in case opinion was equally divided. The Secretary of State was to preside over the meetings of the Board, which in his absence, done was by the Chancellor of the Exchequer or a Senior Commissioner.

The Amending Act of 1786 took care of the problem related to the Councils of the Governor-General and Governors. The Act invested the Governor-General or Governor with power to override the decision of his Council and act without its concurrence in extraordinary cases involving in his judgment the interests of the Company or the safety and tranquillity of British India. If the Governor-General or Governor had to use this extraordinary power, to overrule the majority, both sides had to put in writing their respective positions on the issue under dispute. If the Governor-General or Governor finally chose to act in his own way, he was personally to bear the responsibility of the measure adopted without the concurrence of the Council. In 1784, the Central Secretariat had three main branches: General, Revenue and Commercial. Judicial branch was later recognized in 1793.

- **Reconstruction of Departments in 1818**-The organisation of the Secretariat was again revised in 1815 in conventionality with a plan proposed through the Governor-General. This was partly in conventionality with the necessities of the Charter Act of 1813 which had directed that separate accounts to be maintained of the Company territorial and commercial revenues. This separation had also been ordered through the Court of Directors and was necessitated through the policy laid down through the Parliament and the home authorities. Accordingly, a new Territorial Department was created. The office of the Commissioner and sectional arrangement in the Secretariat saw the light of the day under Lord Bentick's rule.

Under the Charter Act of 1833 the Governor General of Bengal was appointed

as the Governor General of India and policy formulation was centralized for all territories under the company at the council of the Governor General of India (Head of the British Administration in India). Also there was an establishment of communication between the Governor General's office which was the head quarter and its various field units and formal units of organisation was established like in 1844 established 4 departments of Finance, Home, Foreign and Military. In continuation of that process Lord Dalhousie established Post and Telegraph services. Railway Department, Public Works Department etc.

Administration in India till 1858 was in the hands of the East India Company which was then a monopoly trading body. During this time British Parliament two major Acts to manage the Indian affairs. The Regulating Act and Pitt's India Act. Subsequently, Acts of 1793, 1833 and 1853 were passed by which the Company was steadily deprived of its authority and power in India and its privileges curtailed. Finally, the Act for the better Government of India, 1858 passed after the Sepoy Mutiny, brought the governance of India directly under the Crown.

2.5 British Administration in India: The Second Phase (1859-1947)

The Revolt of 1857 then shook up this system and that led to the end of the British East India Company's rule in India. The Government of India Act 1858 passed in the British Parliament led to the company's dissolution and all powers transferred to the British Crown which then created an India Office in India and a Secretary of State post was established with Indian governance and policy formulation matters. The Governor General was converted to Viceroy General of India (Chief Administrator of the British Crown in India) who implemented the policies devised by the India office which actually only had the role of passing on orders of the British Parliament.

- **The Indian Councils Act 1861**-The advance made through the Indian Councils Act 1861 Act was mainly in the inclusion of a number of non-official members in the Executive Council of the Governor-General. The Governor General's executive council consisted of five members. And for the purpose of legislation, the council was reinforced through six to twelve nominated members for a two-year term. Half of these were to be non-officials, both European and Indian not in the service of the Crown. There were similar councils at the provinces. The powers of the Governor-General increased more in the field of legislation. The Council was presided over through the Governor-General. His prior approval was necessary to introduce measures affecting public finance, religion, discipline and maintenance of military and naval forces and relations for the Government with foreign princes and States.

- **The Indian Councils Act 1892**-The Indian Councils Act 1861 naturally could not satisfy the progressive public opinion in India. In its very first session the Indian National Congress passed resolution to create these councils broad based, elected body with powers, over budget and powers to interpellate the Executive. To move too fast is dangerous, but to lag behind is more dangerous. Still Lord Ripon, Lord Dalhousie's policy of providing for legislation on the basis of petitions from individuals and their associations contributed to the organisation of opinion for reforms. Constitutionalism and consultative machinery therefore moved towards a government based on popular representation. Lord Dufferin's Egyptian experience in the establishment of elected provincial councils was encouraging. He wanted to experiment the same in India. The main recommendations of the Dufferin Committee (1888) were:
 - I. The expansion of Presidency councils and enlarging their functions;
 - II. Providing representation to significant interest;
 - III. Representation to Muslims in proportion to their population;

2.6 The Morley Minto Reforms 1909

- **The Main Provisions**-The Indian Councils Act (1909) considerably increased the strength of legislative councils-the Imperial and provincial. For the Imperial benefit, the Supreme Council, added the number of additional members. It was raised from 16 to 60. For major provincial councils, the number was raised to 50 and for minor provinces it was fixed to 30. The additional members were both nominated and elected. The principle of election was functional representation. In the Supreme Legislative Council, the official majority was maintained through the provincial councils, the non-officials shaped the majority. The Act definitely expanded the functions of the legislative councils. They were concerned in discussions on the budget (The Annual Financial Statement), discussion on any matter of general public interest and thirdly the power of asking questions. The Act also increased the number of Executive Councillors in the three major Presidencies-Bombay, Madras and Bengal. Indians were now appointed as members of the Secretary of States' Council (1907) and members of the Governor-Generals' Council (1909).

2.7 The Administrative Structure

- **Reorganization of Department**-Constitutional reforms were reflected in the changing structure of the governmental machinery as the government moved

towards the federal form. Creation of new departments, their reorganization and setting procedures for smooth conduct of department business naturally became inevitable. Departmental organisation not only creates administration smooth but also streamlines its processes and secures economy in its operation. In the beginning, administration was grouped under two broad segments one covering General, Foreign and Finance and the second covering Secret, Revenue and Judicial departments.

- **Financial Administration**-A centralized financial system was introduced in 1833 as the earlier structure was too diffused for effective control and economy. Lord Ellenborough created the post of a Finance Secretary at the Central stage and brought all financial operations under the review of the Government of India. It realized effective control and economy but ended in delay in final approval. Ellenborough really wanted to have a Finance Member on his council. For Central control the office of the Comptroller General of Accounts was created and he remained in charge of appropriation audit.
- **Police Administration**-The law and order was previously maintained by the community function and was administered through a non-official force controlled through individual zamindars. Lord Cornwallis introduced the daroga system in 1792, replacing zamindari thanedars, under the direct control of the district head and on its payroll. At the village stage, village patels performed, both revenue and police functions. With the experiment in Sindh through Sir Charles Napier, a separate self contained expert police force came into subsistence.
- **Local Administration**-Local government institutions are both natural and useful. Village community, Government was existed in India with a village headman performing both civil and judicial functions. But the present system of local government is entirely a British creation. The principle of election and the concept of representativeness were foreign to the old local government system. The Mayo resolution of 1870 stressed the need for introducing self government in local areas to raise local possessions to administer locally significant services and also to give local interest and care in the management of their funds.

The Govt. Of India Act in 1919, created the All India Services replacing the imperial civil services format. This act also advocated the setting up of Public Service Commissions in India. The provincial civil services were under the control of the provincial governments. Lee Commission and the Royal Commission on superior civil services specially recommended for the establishment of central services. Subordinate services were advocated for removal from the classification of civil services and transferred to the regional levels for conducting examination and filling up of positions only by Indians. So, basically it was a system to prevent Indians from entering the higher civil services as everybody could not afford to go

to England for training and examination purpose and the lower levels were more approachable and attainable by the Indians. The Montague Chelmsford reform in 1919 made it a transferred subject under the dyarchy that led to the establishment of a number of panchayats in all villages to have a proper and efficient local self government or administration as well as revenue collection for the British but was still under the total control of the District collector and red tapism and corruption plagued it. Constant funds crunch was always there as a deliberate attempt by the British to stranglehold the provincial Indian governments from having control over them and so had to depend on the centre/British government for everything.

- **Machinery of Dyarchy at the Provinces**-The division of subjects into Central and Provincial (Federalism) and the further division at the provincial stage flanked by Reserved and Transferred subjects was a novel characteristic of the Mont-Ford Reforms. Dyarchy means double government at the provinces. The 'Reserved' subjects in charge of councilors, 'nominated' through the Governor and transferred subjects in charge of councilors-Ministers were 'appointed' through him. The reserved subjects were really 'key' to the departments while transferred subjects were felt safe even if placed in the Indian hands. The councilor in charge of reserved subject was not responsible to the Secretary of State and the British Parliament. The ministers in charge of transferred subjects were responsible to the provincial legislature.
- **The Simon Commission (1927)**-The Commission was appointed in 1927 with Sir John Simon as its Chairman. The Simon report recommended the discontinuation of the dyarchy and leave provincial government in the hands of ministers responsible to provincial legislatures. Some safeguards, though, were retained in the interest of minorities in the grant of special powers to the Governor. It recommended a Federation like structure at the Centre—a Council of Grater India 'representing' both the interests of the British India and the princely States.

2.8 The Government of India Act 1935

The Government of India Act 1935 was introduced in provinces. It was expected that the All India Federation would follow and provinces would get status of Federal units. But the All India Federation did ultimately not materialize; the Governor General Council exercised the executive authority on behalf of His Majesty. Even though the Federation did not come into subsistence, Federal Court, Federal Public Service Commission and Federal Railway Authority started functioning. Unilateral decision on the part of the British Government of India's participation in the Second World War on behalf of the Allies provoked Congress. It wanted

the British Government to declare that India would be free after the war. The Government declared that it would undertake the review of 1935 Act immediately after consulting with several representatives of communities and Princely States. Participation in the Advisory Consultative Group although suggested through the Governor-General but it was felt inadequate because the Governor-General would accept its advice at his will. Under these circumstances, Congress ministries by adopting the resolution in the Working Committee, resigned from their offices in October 1939 creating a political deadlock. Declaration of constitutional breakdown through the Governors was no solution to this situation.

2.9 Conclusion

Indian administration till 1858 was in the hands of the East India Company which is a monopoly trading body. To regulate its management of Indian affairs, the British parliament passed two major Acts, the regulating Act and Pitt's India Act. The act for better government of India, 1858 passed after Sepoy Munity brought the governance of India directly under the crown. British governmentn was trying to reconcile between the interests of the empire and national interests of the Indian people. The constitutional experiments beginning with the Indian Council Acts which tried threfore to obstruct the transfer of effective power to the Indian people by making the governor General autocratic and Legislative Council dominated by official element and divided in it. The Round Table Conferences indicated the nature of the new constitutional reforms. The 1935 Act is not only acted as an interim constitution but also provided a basis of the Constitution of free India. The Acts along with earlier constitutional reforms gave direction to the process of change as well as influence its contents.

2.10 Summary

- The British administration was district-centered. It was headed through a generalist head with an overriding authority.
- The year 1773 was a landmark in the growth of Indian Administration. Before 1773 there was no central authority in the country. The 1773 Act restricted the powers of the presidencies from making war or treaties without the sanction of the Governor-General in Council.
- This confirmed the British Parliament's control over East India Company's affairs. The Pitt's India Act of 1784 placed Indian Affairs under the direct control of the British Government, by establishing a Board of Control representing the British Cabinet, over the court of Directors.

- This system with some modifications remained in operation till 1858.
- The present administrative system in India was evolved during the East India Company's rule in the country.

2.11 Glossary

Factor: Trading Station of East India Company, where number of Trading work or factors happened.

2.12 Model Questions

Long Question :

- Analyse the administrative set up during East India Company.
- Explain the various Acts by British government to evolve administration in India.
- Discuss the administrative set up during 1858-1947.
- Elaborate the features of Morley Minto and Montague-Chelmsford reforms in field of administration.
- Analyse the importance of principle of Diarchy.

Short Question :

- Trace the implications of Government of India Act of 1858 and 1935.
- Point out the features of Pitts' India Act.
- Write a note on Indian Councils Act of 1861 and 1892.
- What was the administrative structure during British era.

2.13 References

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Unit-3 □ Indian Administration After Independence: Continuity and Change

STRUCTURE

- 3.1 Learning Objectives**
- 3.2 Introduction**
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3.1 Learning Objectives

After studying this unit, learners will be able to understand:

- To understand the process of planting Nationalist Spirit in Indian Administration.
- To understand the process of internalising the Administration in newly framed Constitution.
- New innovation of the process of Administration in a “Rural predominated” Country.
- To understand the process of changing perception of (Indian) Administrator, from former “subject” to present “citizen”.
- To understand Federal and Decentralized structure of Administration, that made after Independence.

3.2 Introduction

By nature Administration is a long lasting permanent institution in the socio-political process of any country. For that the external political change, does immediately not effect the habit of continuity in the Administrative Institution.

This is an universal truth, and Indian Administration is not an exception. Normally the basic function of the Administration is to act as an instrument, designed by the Constitution, following the social character, to give an effective and economic objectification of the decision of the Government. The framers of the Constitution were the believer in 'consensual' style of decision making as well as implementation. There is no doubt that the British rulers in India, in the course of their rule primarily designed the Administration in harmony with their Colonial purpose and interest. But "We the people in India" elevates a new status of citizenship in place of subjectship. This obviously demands a new developmental and egalitarian values, which bring the Administrator to the status of "public servant" in place of "rulling executive". As Rulling Executive, the Administrators were neither subordinate nor responsible to the legislature. Actually Administer under British hegemony did never bear the social responsibility. Their prime functions were to maintain law and order, collection of Taxes and dispensation of justice. But that has completely got topsy-turby, after Independence. So the prime target fixed for the Administration, after Independence, is to adjust and accommodate the changing pattern of socio-political context.

3.3 Indian Administration: the Nationalist Spirit

There has been continuity in the Indian Administration after 1947 from the pattern that existed before independence. At the same time the political background and the psychological atmosphere and the objectives of administration have changed completely after independence. Mainly of the cadres in Administration got depleted as mainly of the Muslims and European Civil Servants resigned and left the country. So there were neither the possessions nor the people to set up new administrative machinery. A stable and well-founded administrative organisation comprising departments and civil services was the critical need of the hour. So, the then existing administrative framework sustained after independence. Though, free India adopted its own Constitution within three years after Independence. The objectives and nature of this Constitution are altogether dissimilar from those of the constitutional Acts prevailing under the British rule. Corrobroated with Free India's has been a democratic constitutin-free periodic elections to the national Parliament and the State legislatures, adoption of laws, amendements of the Constitution, control over the executive and expression of popular opinion The Constitution contains the ideal of welfare, socialist State. A federal political system based on the

Union (Central) Government and State Governments, set up by the Constitution. Local Governments, urban and rural, looking after the civic and also developmental functions, as are provided for by the Constitution. Public Service Commission's at the Union and the State levels ensuring the selection of meritorious public services are established by the Constitution. These and other provisions of the Constitution have increased the responsibilities of Public Administration in the country. Moreover, the public services are accountable to the Parliament and State legislatures. They also have to be sensitive to the aspirations and grievances of the people who elect the government in the country. The pre-independence era saw the administrative organisations of the Central and the State (then called 'Provincial') governments intact. This was a factor contributing the undisturbed transfer of power from the British to the Indian hands. The administration of the country's security, law and order, finances, communication system, educational organisation and other elements of the infrastructure after 1947 continued as before.

At the time of independence on 15 August 1947, the following eighteen departments (re-designated as 'Ministries') functioned under the Government of India: (1) External Affairs and Commonwealth Relations, (2) Defence, (3) Finance, (4) Home, (5) States, (6) Legislative (Law), (7) Commerce, (8) Industries and Supplies, (9) Railways, (10) Transport, (11) Communications, (12) Labour, (13) Agriculture, (14) Food, (15) Education, (16) Health, (17) Information and Broadcasting, (18) Works, Mines and Power. From five departments in 1858, at the time of transfer of the government in India from the charge of the East India Company to the control of the British Parliament (actually handled through British Government), to eighteen in 1947 indicated an enormous augment in the administrative activity. In terms of internal organisation and relationships within the departments, the working of the Departments has not changed much after independence. Hierarchy and impose of written word and communication have continued. Red-tapism laid the issue pending still haunted the administration. Pre-independence manuals, prepared during the colonial rule, still remain in most of the older departments with slight modification here and there. The Chief Secretary of provincial administration before 1947 continues today; but at the Centre, the Cabinet Secretary, de facto head of administration, is an innovation. Another recent development is the growth of independent regulatory agencies like TRAI in telecommunication, SEBI in shares and stock exchanges, etc. These agencies have been set up to lend a degree of independence, away from normal executive departments, to quasi-judicial arbitration, rate-fixation and conflict resolution functions of the government.

3.4 Indian Administration: The Innovations

The post-independence administration in India was fairly stable due to the continued tenures of the public services which were in office before independence. The Indian Civil Service and the Indian Police Service were the two All India Services that helped the country to hold together. The other All India Services included the medical, engineering, forest, educational and others. The Indian Civil Services was the most pivotal and prized of these services. Its members occupied positions in the executive councils of the Governor General of India and the provincial Governors. Most of the posts of Secretaries to the departments in the Central and provincial governments and of head of executive departments were held by them. ICS men were district collectors and magistrates deputy commissioners. Before independence, the officers of the ICS and other All India Services were appointed by the Secretary of State for India. After independence, under the India Independence Act, 1947, the ICS and other officers in All India Services, who continued in office, became officers in the service of the Government of India. At independence about two hundred and fifty (250) European ICS officers retired, while about fifty (50) of them opted to be in office here. Vallabhbhai Patel, India's Home Minister realised the dire need of the Indian members of the ICS continuing in service here after 1947. He assured to honour the existing terms and security of their tenure. They did contribute to the stability and continuity of the Indian administration. After independence the Indian Civil Services was replaced by the Indian Administrative services. A larger number of the officers in the IAS and the Indian Police Service (that replaced the Imperial Police Service) were required to replace the former services. They had to man the posts in the recently merged princely states. Much more than that, the character of these All India Services had changed after independence. India became a democracy after independence. The services had no to serve the people of the country, and not the imperial masters. The ICS men were not only officials; they were a part of the colonial government. The officials in independent India were no more rulers, they had to imbibe the democratic temper of its polity. This marked a change from the pre-1947 scene.

After Independence, the welfare and development content of the administration has become very prominent. It might be said that this content has become predominant over the law and order and regulatory content. It does not happen that throughout the British rule the development and welfare characteristic did not exist at all. It was there, but it was subordinated to the chief motivation of the foreigners to rule over this country and its people. Health and medical facilities at

an elementary stage were started. Agricultural research was commenced. After the First World War, fiscal incentives were given for industrial development through individual initiative. But the Public Administration under the British was not deeply involved in the development of the country and welfare of the people. The Preamble of the Constitution seeks to secure to all citizens social and economic justice and equality of status and of opportunity. This object is further elaborated in Part-IV of the Constitution which deals with Directive Principles of the state policy. These principles provide guidance to the government in creating laws and administering them. Therefore, the following are mainly significant in the middle of these Directive Principles. The State is to strive to minimize the inequalities in income and to eliminate inequalities in status, facilities and opportunities among the individuals and groups-territorial and vocational. Both men and women have an equal right to an adequate means of livelihood values among people. Equal pay for equal work is another Directive given through the Constitution. The moral and material health of children and youth is protected. Equal justice and free legal aid are assured. Within the limits of the economic capability and development of the state, the right to work, education and public assistance in old age, unemployment, etc., is secured. Humane circumstances of work and maternity relief are provided for. A living wage and a decent standard of life would be sought to attain. Workers' participation in industrial management would be promoted. Free and compulsory education for children up to the age of 14 years would be provided. The welfare of the scheduled caste and scheduled tribes and other weaker sections would be advanced. Though, these directives cannot be enforced through resort to courts or law but it paved the way for new public testing for state. The pressures of the people in a democratic set up have brought the welfare state. Planning has guided the economic development of the country since the beginning of the first five year plan from 1st April 1951. Plans formulated through the Planning Commission set up in March 1950, aimed at the rapid all round economic development of the possessions of the country. The progress achieved in development is also checked from time to time and remedial measures are adopted. Planning evokes public cooperation for its success. Plans set the targets of development in different sectors including industry, agriculture, electricity, minerals, transport and communication, education, health etc. The administration at different stages, Central, State and local, is geared to the realization of the goals of the plans. It also furnishes data and statistics to the Planning Commission to enable it to frame the plans and check the progress in their implementation.

The development administration in the rural areas has been faced with much more hard tasks than the administration of the public enterprises, Rising agricultural production, helping to raise the quality of milk, yield of the much cattle, promoting the public health and medical standards, spreading education as well as taking care of its quality, provision of civic amenities-all these and other tasks in the rural areas had to be realized through breaking the walls of illiteracy and prejudice and providing needed economic means, technical tools and inputs. Involvement of the rural people in the process of transformation was sought through entrusting some of these tasks or their characteristics to their political and administrative institutions. Fruits of development have also to reach the poor farmers and rural laborers.

3.5 Indian Administration: The Federal Decentralisation

The Constitution has divided the country's administration into two spheres, administration of the Union, that is, national and of the States. The Union administration looks after the subjects in list 1 of the Seventh Schedule of the Constitution and the States administer the subjects enumerated in list 2. List 3 is the Concurrent list this consists with subjects on which both the Union and the States are competent to legislate and, so, to administer, but a Union law takes precedence over a State law on a matter incorporated in this list.

The administration of the States covers the matters which are easier to tackle from a closer aloofness and those which conduce in better way to the welfare and development of the people of the state. Police, jails, land tenure and revenue, public works (except national, that is, inter-state highways, and river valleys, etc.), local government, etc., are examples of the former. Agriculture and animal husbandry, Health and medicine, social welfare, are illustration of the latter. The States administer (that is, levy, collect and use) the taxes on agricultural income, estate and succession duties in respect of agricultural land, taxes on land and structures, electricity duties, vehicle and profession taxes, etc. Some of these, for instance, octroi, property tax, etc., are given over to the local bodies for levy collection and use through the State governments through legislation.

The Union administers those subjects which are essential for national security and integrity, for the maintenance and growth of a nationwide infrastructure, and for national economic development. Defence, foreign affairs, atomic energy, citizenship, etc., ensure national security and integrity. Railways, airways, maritime and Inter-State transport and communications, etc., maintain the national infrastructure, Currency and coinage, foreign and Inter-State trade and commerce, industries

of national interest, banking, insurance and national finance, facilitate economic development of the country as a whole. The Union is vested with expanding financial, possessions. These possession are taxes on income other than agricultural income, customs, excise duties on manufactured and produced commodities (with some exception), succession and estate duties on properties other than agricultural land, etc.

The common subjects in the Concurrent list enable both the Union and the States to legislate and administer matters of special and economic significance and of legal nature implying concern to both economic and social planning, transfer of property and contracts relating to other than agricultural land, population control and family planning, trade unions and industrial labour, employment and unemployment, etc. Civil and criminal laws are of concern to both, hence, are vested in both the administrations. Education, forests, protection of wild life, birds have been recently transferred from the State to the Concurrent list due to rising national importance and concern in them. The departments in State or State Ministry of Govt. of India headed by Ministry states are engaged in coordinating the work of the States, research, pilot projects, training and advice to the States on the concerned subject. The remaining ('residuary') subjects are vested in the Union Government, President of India appoints Governors in every states, bu warrant under this head and seat. Governor shall not be the member of Parliamentary house of Legislative. Governor enjoys power according toward 160 and 161 of the constitution. In normal times the Governor acts on the advice of the Council of Ministers led by the Chief Minister.

Before independence under the colonial rule, the involvement of the political parties, groups and workers in the administrative processes was very limited. This was because, at that time democratic political system did not exist in the country. It was through and large a rule of the bureaucracy. Under the Dyarchy laid down through the 1919 Act, the influence of the ministers who were political heads of the transferred subjects only was confined to these subjects and that too, subject to the exercise of discretionary powers and financial veto through the Governors of the provinces. The major, that is, dominant political party in the country, the Indian National Congress, had kept, aloof from the administration for most of the time throughout 1920-47 except a brief interludes of 1937-39 and 1946-47. Under the provincial autonomy laid down through the 1935 Act, the political parties had some scope of influencing the administration. The term 'political involvement' is used here to refer to the extra-governmental influence of the political parties, groups and workers on the administration. The Central administration was kept absent from the sphere of political accountability even under the 1919 and 1935 Act. Whatever political influence was cast on it was through the debates in the

Central legislature, that too was little. Secondly, as the functions of the State were limited to law and order and regulation, the people did not have several occasions for get in touch with the governments.

Popular participation in administrative processes has assumed prominent proportions after Independence. Before independence, it was confined to the role of the popular representatives in the local self-governing bodies. After Independence, specifically from the late fifties, panchayati raj has been the main important channel of the participation of the rural people in the rural development administration. Community development was the earlier stage of this popular participation. But it was dominated through the officials, so it could not evoke adequate participation of villagers in rural development. So, panchayati raj was introduced in late fifties by a few State Governments, like Rajasthan, Andhra, Maharashtra and Gujarat. But its progress was uneven in other State. Lately, West Bengal, Tripura, Andhra Pradesh and Karnataka introduced progressive measures relating to the panchayati raj. The 73rd constitutional amendment has given a further boost to popular participation in rural areas. Much still needs to be done to create it more meaningful and beneficial in conditions of rising agricultural production and improving the standard of life of the rural people. Cooperatives are another channel of popular participation in development.

3.6 Conclusion

The important factors of change in Indian administration after Independence in comparison with that during British rule are the advent of democracy and the compulsions of development extension and a welfare state. The elements of stability are found in the continuity of some of the departments and the smooth induction of new public services with the characteristics of political impartiality, selection on merit, integrity and commitment to the Constitutional objectives. The Constitutional directives seek to promote the ideals of a just social and economic order and of a welfare state. Planning sets the targets of development to the administration in both the Union and the States. Now, besides national planning, State and District planning has also come into being. A large public sector to bring about rapid, all-round and self-sufficient industrial development has posed great challenge for efficient managerial and administrative personnel in the public enterprises. The development administration in rural areas has to fulfil much more difficult tasks. Before 1947, the administration was centralised, though in reality administration at provincial level exercised a good deal of autonomy. The Constitution has created a federal political system. Popular participation in administration, particularly of

development, occurs through the panchayati raj institutions, municipal governments, cooperatives and voluntary organisations.

3.7 Summary

- Advent of democracy in 'State Character' inwardly change the focus and attitude of the Administration as well as of Administrator.
- The adoption of 'Welfare State' concept, has made a huge compulsion to the administration.
- Instead of being survived as a 'Social Force' of maintaining law and order, the Administrators become the chief functionary to speed up 'National Development'.
- Administration, during post-Independence era, has to set a new socio-political and economic goal before its administrative activities.
- Setting parliamentary Democracy, the makers of the Constitution bring the administrative structure under the direct control of Legislature and temporary political Executive.
- Hitherto centralized Administration has to adopt decentralized structure, since Independence.

3.8 Glossary

- Nationalism : Ideology of allegiance to one's nation
- Federal Decentralization it is the distribution of powers between the union and states.

3.9 Model Questions

Long Questions :

- Analyse the innovations in Indian administration in post-independence period.
- Explain the public service commission setup in post 1947 India.
- Discuss the area of continuity and change in Indian administration after 1947.
- Elaborate the features of federal administration.

- Analyse the importance of Directive Principles of State Policy.
- Trace the implications of social development in Indian administration after 1947.

Short Questions :

- Point out the areas of Concurrent List.
- Write a note on link between popular participation and decentralised administrative set up.
- Mention the eighteen new departments set up in Indian administration after 1947.

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Unit-4 □ Role of Indian Administration in Social Development and Social Justice

STRUCTURE

- 4.1 Learning**
- 4.2 Introduction**
- 4.3 Indian Administration and Society: The Relationship**
- 4.4 Indian Administration and Social Change: The Implications**
- 4.5 Indian Administration and Social Justice: The Implications**
- 4.6 Conclusion**
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4.1 Learning

After studying this unit, learners will be able to understand:

- To understand the number of autonomous bodies developed since independence, the focus of which are to decentralize the input process in Governmental decision making process.
- To examine the Post independent Constitution that adopted a new value in socio-political and economic field, to establish an egalitarian welfare state.
- To evaluate Administration as the prime means to the Government to reach the ends of welfare state.

4.2 Introduction

Social Justice is a revolutionary concept which provides meaning and

significance to life and makes the rule of law dynamic. When Indian Society seeks to meet the challenge of socio-economic inequality by its legislation and with the assistance of the rule of Law; it seeks to achieve economic justice without any violent conflict. The Idea of welfare state is that the claims of social justice must be treated as cardinal and paramount. Social justice is not a blind concept. It seeks to do justice to all the citizen of the state. Social justice must be achieved by adopting necessary and reasonable measures. Thus the term Social Justice is a blanket term so as to include both Social Justice and Economic Justice. The concept of social-economic justice is a living concept and gives substance to the rule of law and meaning and significance to the ideal of a welfare State. The Indian constitution is an illustration of the forces at work in socio-economic jurisprudence. It sets out the Directive Principles of State Policy fundamental to the governance of the country and spells out a social order in which Justice, Social, Economic and Political, shall inform all the Institutions of National life. Social justice takes within its sweep the objective of removing all inequalities and affording equal opportunities to all citizens in social affairs as well as economic activities. When the civil society developed into an administrative unit, the rules of conduct acquired a political sanction and a Breach of them was made to culpable through the legislative sanctions.

4.3 Indian Administration and Society: The Relationship

The administration during the British colonial rule in India was coercive suppressive and insensitive to the sentiments and needs of the Indian people. The British rulers paralyzed the peace and prosperity of Indian by dividing Indians on the basis of caste creed, religion, language and occupation so as to conflicts between different communities to meet their selfish ends. There exist Jajmani System a system of traditional occupational obligations. Castes in early India were economically interdependent on one another. Thus Jajmani System as a system governed by relationship based on reciprocity in inter caste relations in villages. It is believed the Jajmani System to be the Chief Instruments of coercion, control and legitimating wielded by high caste landowning Hindus. Similarly, Lewis and Barnoww (1956) are in the opinion that the vast difference in power between the rich and the influential Jajmans and the poor and landless Kamins leads to the

exploitation of Kamins and coercing them into sustaining the power of those who have the higher rank and the upper hand. Norms and Values: the traditional method of payments almost in all religions in the country is that.

It has relation with the harvest time when each landowning farmer family hands over a some newly produced food grains to various Kamins; however, these harvest payments are only part of what the Kamin family receives. the kamin may be dependent on the Jajmani for his house site for places where animals may graze, for wood and cow dung fuel, for loan of tools. In addition, the Jajman may give him clothes and gifts on ceremonial occasion and may also help him with loans of money in emergencies.

Caste is the social concept specially patent of India. This deep-rooted and wide-spread practices divides society vertically and horizontally into several Castes. Caste system was described by sociologists as a major social evil in India. Wherever no human child is born with any religious and Caste characteristics, these are put into the minds of children subsequent to their birth by elders. The Caste system is generally accepted as one of the most complexly stratified of all the social systems on the earth and it is the most striking feature of the Indian society. In fact, it cuts across the religious boundaries and encompasses the rest of the religious communities in some measure in India. As it may further he said that every Hindu is born into a Caste and his Caste determines his religious, social, economic and domestic life from the cradle to the grave. The Caste system is a complicated one, both theoretically and practically, it is an institution that portends tremendous consequences for all concerned. It is a national problem capable of wide social tension; for as long as Caste in India does exist, the Hindus will hardly do intermarry or have any social intercourse with outsiders; and if Caste-minded Hindus migrate to other regions on the earth, the Indian Caste would become a world problem.

Dr. Ambedkar was of a firm view that unless Indian Suppressed Classes do not get political power, nobody can ameliorate their miserable condition, therefore, he advocated for proportionate representation in the formation of Government at Centre and State level. Article 330 to 342 provided for special provisions relating to Depressed Classes. Reservation of seats for Scheduled Castes and Scheduled Tribes in Lok Sabha as well as in State Assemblies and also been made under the Constitution. According to Article 325 there shall be one general electoral roll and no person is ineligible for inclusion in it on grounds of only religion, race Caste, etc. Article 340, however, empowers the President to appoint a commission to investigate conditions of socially and educationally Backward Classes. Dr. Ambedkar believed

that the establishment of a real democratic society in India would be possible only when Untouchables and other weaker sections of society would be given the equal opportunity to enjoy the basic Human Right. He had not only wanted political democracy but also thought it is necessary, for the establishment of social democracy in India.

With the independence of India, a new Constitution was adopted for the country embodying the social philosophy and economic values towards attainment of an egalitarian welfare State. A separate chapter on fundamental rights including individual rights and freedoms and a chapter on directive principles of State policy comprising social rights has been incorporated in the Constitution of India and the Judges have endeavored to harmonise the individual rights with the social interests of the community through their judicial decisions. The function of law is now to resolve the conflict between right of individual and the interests of the society. There is, therefore, no conflict between fundamental rights and directive principles of State policy as both are aimed at ushering an egalitarian society for the welfare of the nation as a whole. The legal philosophy enshrined in the Preamble and chapters on fundamental rights, directive principles, fundamental duties, provisions relating to powers and functions of the judiciary and amendment of the Constitution amply demonstrate the entire focus is on the welfare of the Indian masses and making law responsive to the social needs. The welfare legislations enacted during the post-independence era, and its aim was to establish an equitable society.

A picture of the constitution will give us the right perspective for appreciation of the scope and place of Social Justice as an aspiration of the Nation. The former chief Justice of India, P.N. Bhagwati *Inter-alia* observed: 'Today a vast social revolution is taking place in the judicial process, the law is fast changing and the problems of the poor are coming to the forefront'. The Court has to innovate new methods and devise new strategies for providing access to justice to large masses of the people who are denied their basic human rights and to whom freedom and liberty has no meaning. Mr. Justice K. Ramaswamy has expounded the concept of social justice. In *Consumer Education Research Centre v. Union of India* case it was observed: The Preamble and Article 38 of the Constitution of India are the supreme law envisages social justice as its aim to ensure life to be meaningful and livable with human dignity. The concept of social justice which the Constitution of India engrafted in the concept of diverse principles essential for orderly growth and development of personality of every citizen. Social justice' is thus an integral part of justice in a generic sense. Justice is genus, of which social justice is one of its species. Social justice is a dynamic device to mitigate the sufferings of the poor, weak Dalits, tribal's and deprived sections of the society and to elevate them to

the level of equality to live a life of dignity of person. Social justice is an essential part of complex of social change to relieve poor etc. From handicaps, and to make their life livable for greater good of the society at large.

4.4 Indian Administration and Social Change: The Implications

Implication of social changes refers to a significant change or alternation of behavioural pattern and cultural values over a period of time. By “significant alteration”, sociologists mean changes yielding profound social consequences. Examples of significant social changes having long-term effects include the industrial revolution, the abolition of slavery, and the feminist movement and here in our case, transfer of power from imperialist rule to democratic and Constitutional rule or in popular word, “political Independence”.

After Independence, our Constitutional forefathers envisaged an Indian Democracy with an ambience of opportunities, and would try to sustain a strong effective democratic leadership. Its goal was to create hope among the citizens who were so far being called as ‘subjects’. India’s democracy was at the centre of governance architecture. Its attempt was to create opportunities, sustain leadership and generate hope. Good governance being central to the Indian democratic experience could be seen more clearly when we look at what was happening in our part of the world. The major shifts in India’s national value system made impact both on the nitty and gritty of administration as well as the intellectual build up of the civil service, the police and the judiciary. This is not the occasion to analyse how it came in the way of India’s successes and failures in the social, economic and political domains, but whenever there is a major shift in political discourse governance gets affected both in its content and emphasis. The major challenge was to put in place institutional arrangements for service delivery that would be workable in a particular district or a region and should be made to function in a manner that would be intelligible to the local people and that also encouraged them to participate. Such institutions would be responsive to the citizenry and reasonably efficient in the delivery of public services. The concept and practice of good governance in a country demands that there should be constructive mechanisms and procedures that would enable the three principal actors-government, market and civil society-to play in concert and to supplement each other’s capability.

Women are key to good governance. Their increasing representation in democratic institutions have provided stability to Indian polity. Women can bring constructive, creative and sustainable solutions to the table. Women participation in

economic programmes needs to be augmented for in women we get expendable providers, educators, caretakers and leaders. Scholars as well as administrators agree that participation of civil society in decision-making, public sector capacity building and rule of law are essential for quality and timely delivery of services. It is being widely appreciated that good governance is dependent not merely upon good policy advises but more importantly on the processes and incentives to design and implement good policies.

The aim of our Constitution makers was to established an Organization to implement the policies of the Government neutrally and effectively. They primarily followed foot-print of Imperial Power to built up the Administrative structure, and then to work on that structure, they initiated a new training programme for them to change their colonial outlook, which once taught them to view the people as “subjects”, and to adopt the culture of viewing not merely as an administrators but as ‘public servants’. So new training schedule developed to augment a new trend of behaviour of Officials. The main intention of our Constitution makers was to re-create a new Public Administration which would play an important role in democracy, not only as an instrument of governance but also a mechanism for social change and progress in the country. To their views the role of Public Administration should not only to protect its citizen from internal and external damages, but would take and active role in the social, political, economic and cultural development of future India.

Our Constitution makers wanted to form a ‘Welfare State’ where the democratic State would expand its functions to the welfare of the society. Our Constitution, which is the supreme document of the land, emphasized the need of establishing such governance and Governmental system which should look for ‘good governance’ but their aim would be to materialize a ‘Pro people governance’. The constitution in its Part IV has laid down some of the principles which are expected to be followed by the state as fundamental in the governance of the country. There principles enunciated the ‘rights of community’, which are to be secured by the government as per its capacity. The well being of the community is becoming increasingly dependent on efficient governmental management i.e. the public administration rather than on the separate efforts of individual.

4.5 Indian Administration and Social Justice: The Implications

Social inequality assumes a particular reprehensible form in relation to the backward classes and communities which are treated as untouchable, and so the

problem of social justice is as urgent and important in India. In a comprehensive sense social justice is also include economic justices. the concept of social justice thus takes within its sweep the objective of removing all inequalities and affording equal opportunities to all citizens in social affairs as well as economic activities The Constitution of India is a basic document which provides for women empowerment within the framework of the plenary provision of article 14, 15(3) 21 39a 51a and preamble. The courts always try to interpret the cases which are detriment to women within the area of social justice with these articles. The right to elimination of gender based discrimination so as to attain, economic empowerment, from part of universal human rights reservation for women in government jobs and private institutions would amount to positive discrimination. Reservation for women would become a populist tool at the hands of women powers of providing opportunities to in male dominated society is equally strong. The parliament has succeed in its efforts to provide for reservation seat in election to the Panchayats and municipalities. These have provided in article 243a to 243t of the constitution of part 9 and part 9a which have been added to the constitution by 73rd 74th amendment acts with article 243a to 243d and article 243p to 243z. At present 33% reservation has been provided for women in Panchayats and Municipalities local bodies. As per to article 243d, only few states have provided 50% reservation of which prominent seats are in Bihar. Not less than one third including the number of seats reserved for women belonging to the scheduled casts. And scheduled tribes of the totals number of seats to be filled up by direct election in every panchayats shall be reserved for women and such seats may be allocated by rotating to different constituencies in a panchayat. Article 243t of the constitution provides similar provision for reservation seats for women in direct election in every municipality. Therefore holding 33% of seats for women candidates and perform all public function at the panchayat and municipality level are the constitutional mandate.

Our Constitution aims at equality of status and opportunity for all citizens including those who are socially, economically and educationally backward. The claims of members of backward classes require representation in legislative and executive bodies. If members of Schedule Castes and Tribes who are said by this Court to be backward classes, posses minimum necessary requirement of administrative efficiency not only representation but also preference may be given to them to enforce equality and to eliminate inequality. Articles 15(4) and 16(4) bring out the position of backward classes to merit equality. Special provisions are made for the advancement of backward classes and reservations of appointments

and posts for them to secure adequate representation. These provisions will bring out the content of equality guaranteed by Articles 14, 15(1) and 16(1) the concept of equality because equality means equality to all and not merely to the advanced and educated sections of the society. It follows, therefore, that in order to provide equality of opportunity to all citizens of our country, every class of citizens must have a sense of equal participation in building up an egalitarian society, where there is peace and plenty, where there is complete economic freedom and there is no pestilence or poverty, no discrimination and oppression, where there is equal opportunity to education, to work, to earn their livelihood so that the goal of social justice is achieved.

The Constitution of India has solemnly promised to all its citizens justices- social, economic and political; liberty of thought expression, belief, faith and worship; equality of status and of opportunity; and to promote among the all fraternity assuring the dignity of the individual and the unity of the nation. The Constitution has attempted to attune the apparently conflicting claims of socio-economic justice and of individual liberty and fundamental rights by putting some relevant provisions.

The Indian Constitution is first and foremost a social document and the core of the commitment to the social revolution lays in Part III and IV in the Fundamental Rights and Directive Principles of State Policy which Ambedkar described as ‘The conscience of the constitution.’ The manner in which social revolution should be brought about is contained in the ‘directives’ incorporated in Articles 38 to 48 of the constitution. the ‘directives’ cover a wide area of economic and social activity, even taking within their fold matters like free legal aid to the indigent and the need to have a uniform Civil Code. Directives like equal pay for equal work for both men and women, distribution of material resources of the community so as to sub serve the common good, right to an adequate means of livelihood, curbs on the concentration of wealth in the hands of a few, obligation by legislation to provide for a living wage, right to work, right to education and to public assistance in case of unemployment, old age, sickness and disablement, participation of workers by suitable legislation in the management of industries, provision for free and compulsory education for children, envisage a total transformation of the society. Article 41 recognizes every citizen’s right to work, to education & to public assistance in cases of unemployment, old age, sickness & disablement and in other cases of undeserved want. Article 42 stresses the important of securing

just and humane conditions of work & for maternity relief. Article 43 holds before the working population the ideal of the living wage and Article 46 emphasizes the importance of the promotion of educational and economic interests of schedule castes, schedule tribes and other weaker sections. It must also be remembered that the mandate of Article 38 of our Constitution, which reads as under: The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice-social economic and political, shall inform all the institutions of the national life. The constitution (44th amendment) act 1978 inserted a new directive principle in article 38 of the constitution provides that the state shall in particular, strive to minimize inequalities in income and Endeavour to eliminate inequalities in status, facilities and opportunities, not only among individuals but also among the group of people residing in different are or engaged in different vocations. The new clause aims at wages to eliminates inequalities in various spheres of life.

4.6 Conclusion

The welfare legislations has been enacted during the post-independence era. The establishment of Human Rights Commission, Women's Commission, Family Courts, Industrial tribunals, Administrative Tribunals, Ombudsman, Panchayati Raj, and Lok Adalats etc. are only a few illustrations to suggest that the sole objective is to make justice available to a common man and ameliorate the sufferings of masses including women, children and other neglected and weaker sections of the society. The laws relating to consumers protection, dowry prohibition, abolition of bonded labour, control of environmental pollution etc. have been enacted to provide social justice. The Civil Rights Act, 1955; The immoral Traffic (Prevention) Act, 1956; the Probation of Offenders Act, 1958; The Medical Termination of Pregnancy Act, 1971; The Equal Remuneration Act, 1976; The Family Courts Act, 1984; The Child Labour (Prohibition & Regulation) Act, 1986 The Legal Services Authorities Act, 1987; The Environment (Protection) Act, 1986; The SC & ST (Prevention of Atrocities) Act, 1989; The Child Marriage Restraint (Amendment) Act, 1978; The National Commission for Women Act, 1990; The Public Liability Insurance Rights Act, 1991; The Protection of Human Rights Act, 1993; Pre-Natal Diagnostic Techniques Act, 1994; The (Extension to Scheduled Areas) Act, 1996. These socio-economic measures are meant to protect the dignity of human personality and to ensure prosperity of people as also the State. It is the duty of all tiers of Indian Administration to duly abide by all these laws including the Domestic Violence

Act and Right to Information Act passed in mid 2000s and also use forces like Lokpal and Lokayukta and Ombudsman to provide social justice and bring social change to the people of India.

4.7 Summary

- The forefathers of our Constitution has made for us a Welfare state. The administration is responsible to keep on that spirit of our Constitution makers.
- The Constitution has not only gave some fundamental rights, but also mentioned certain duties with necessary directions to the State to materialise those, using the competency of the Administration.
- These duties have been categorised as ‘Services’ of the Government to the society.
- The Administration have given the duties to implement them under their direct interference and guidance.
- The prime beneficiaries of those ‘services’ are Child, Mother, Family, Senior Citizens, and other social groups, specially belong to Backward classes in the society.
- Post Independent administration is not only a machinery for maintaining law and order, but also a leading force of development.
- Administration is also a part of the Governmental machinery to augment social justice and political equality.

4.8 Glossary

- Kamin: Bonded Landless Agricultural Labour.
- Caste Minded Hindus: Orthodox upper Caste people.
- Welfare State: The State whose primary focus is to extend her services for the welfare of the society.
- Jajmani: The traditional practice or custom (Especially related with Priest) in Indian village, where one family works on behalf of other’s family.
- Caste: A social institution of traditional Indian society. Still it is relevant and active and play most vital and determining role in Politics.

4.9 Model Questions

Long Questions

- Analyse the relation between Indian administration and society.
- Explain the various constitutional provisions for social change in Indian administration.
- Discuss the significance of social justice issue in Indian constitution.
- Elaborate the role of Dr. Ambedkar in bringing social justice provisions.
- Analyse the importance of various Acts for social justice in Indian Administration.

Short Questions

- Discuss the role of local administrative bodies in bringing social change.
- Point out role of caste in discussing social justice.
- Write a note on equality provisions for bringing social change.
- Mention the importance of Directive Principles of State Policy as a guide to Indian administration.

4.10 References

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Unit-5 □ Role of Indian Administration in Economic Development

STRUCTURE

5.1 Learning Objectives

5.2 Introduction

5.3 Administration and Economic Development: Theoretical Outline

5.4 Indian Administration: The Era of Globalization

5.5 Indian Administration and Economic Development Issues

5.6 Conclusion

5.7 Summary

5.8 Glossary

5.9 Model Questions

5.10 References

5.1 Learning Objectives

After studying this unit, learners will be able to understand:

- To understand the role of administration in economic development.
 - To evaluate how Globalization in 1991 was an successful plan to link national economy with global economy.
 - To examine a result of changes under globalization, the traditional file-keeping and 'file-order based' administrative techniques replaced with automation, data processing based speedy services.
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5.2 Introduction

From normative point of view, Administrative decisions are expected to be an optimal from the stand point of expectation of its direct and indirect social client. Because fundamentally the prime function of the administration is to solve social problems, and to find out the public 'choice' (both economic and social) of the common people. In view of this normative point of view, the success of administrators depends on their accuracies of identifying the choice/demand of the

people and to steer the economy and social problem to the end of augmenting the satisfaction. Because on their satisfaction, the stability of the Government and State gets a status quo platform.

The globazation has snatched the larger input function of the administration with its large paw of economic dominance. As an obvious consequence, the administration has gone through a new phase of changing perspective. Even the age old job-sensibility as well as security has quickly become a historical cliché to the newly appointed professional. Increasing role of private economy comes through globalization, and quick spread of Multinational Corporation push back the existing 'State administration' to those days when administration was merely an instrument of maintaining law and order of the society. Their egalitarian role immediately went back to the vanishing point of their social utility.

There is no doubt that a tremendous impact has fallen on the administrative function. This impact again, inturn, has affected the major economic sectors and the initiative of their 'nation building' role.

5.3 Administration and Economic Development: Theoretical Outline

Public administration is concerned with prescription-the identification of normative rules for decision makers that would lead them to make decisions that are optimal from the standpoint of the citizenry as a whole. Economics is concerned with prediction-the identification of rules decision makers are likely to follow, given their incentives. Bluntly put, public administrators solve problems; economists explain choices. Economic theory is useful to public administrators when it provides them with concepts they can use to diagnose problems accurately and to prescribe effective solutions to those problems-i.e., concepts like opportunity costs, incentives, or capitalization that can be profitably applied to an array of problems frequently encountered by public administrators. But real-world problem solving also frequently raises questions of value and of right and wrong. Economic logic often recognizes no good but efficiency, no evil aside from inefficiency. Morality, what James March calls the logic of appropriateness, ought to play an important role in the conduct of the public's business; economists often have trouble accounting for this simple fact the "'new public management' has also influenced public administration in the United States. The new public management emphasizes "performance appraisal and

efficiency; the disaggregation of public bureaucracies into agencies which deal with each other on a user-pay basis; the use of quasi-markets and contracting out to foster competition; cost-cutting; and a style of management which emphasizes amongst other things, output targets, limited term contracts, monetary targets and incentives, and freedom to manage borrowing from the business-management. Literature is nothing new for the discipline of public administration. Business administration and public administration are both prescriptive, pragmatic disciplines. Moreover, business schools and schools of public administration once shared the same proverbs of administration, just as we shared the Weberian bureaucratic paradigm and a common intellectual foundation in the works of Chester Barnard, Henri Fayol, Mary Parker Follett, Luther Gulick, Phillip Selznick, Frederick Taylor, and others. Public choice theory has changed the way we think about government and how it works. Moreover, in explaining the rules that voters, elected officials, and bureaucrats are likely to follow given their incentives, public choice theory has given public administrators some useful new normative information. Nevertheless, when public administrators look to advances in economic science for help, it is not primarily to the public choice literature that they turn to, or even the new macroeconomics, but to the new economics of organization.

5.4 Indian Administration: The Era of Globalization

Globalisation means linking the national economy with world economy as an outcome of new economic policy which has been adopted in 1991, to accelerate the rate of economic growth. The globalization emphasized the removal of restrictions of licensing, quota and tariffs on the export and import of goods across the country. It has brought with it new technologies, quality and quantity of goods, improved and advanced methods of production and increased scope of private sectors, especially the multinational corporations in the country, competitive environment in the national economy as a mean to improve the productivity and efficiency of the system. It has encouraged free mobility of the capital and labour with increase in the openness, growing economic interdependence, deepening economic integration in the world economy. As an outcome of globalization, the Government of India has to minimize the controls over the flow of foreign goods, services, capital, and technology investments and has to adopt liberal policies for adjustment of investment. The governmental interference in economic activities has been declining. The integration of the world market and rapid technological change led

to efficiency gains and growth. There is turn increased competition through lower cost and higher market efficiency, higher productivity, lower barriers to entry and new investment opportunities in public sector. Modern management processes to increase the efficiency of the administration have been emphasized. The principle of hierarchy has been losing its length and got flattened and downsized, and has been eliminating the need for levels of bureaucracy and long chain of commands. The number of employees has been reducing. Traditional administrative processes of file keeping and pushing, secrecy in official work, long durations for completion of work, delays, lengthy processes have been replaced with data processing, automation, transparency, speedy services with the use of data communication networks. Easy access of information about administration helps the people to express their views and opinions. Excessive controls on administrative activities have been replaced with self controls and deregulations. In Haryana, steps have been taken to make the administration and its functions transparent to the people, many functions of the administration have been updated like PDS and ration card preparation, implementation of National rural employment guarantee, registration of land records, driving license, pension, national insurance schemes etc. Technological advancement has influenced the process in the administration and has introduced efficiency, time boundness and cost effectiveness.

Indian administration has undergone sea-change in response to new inputs from the contemporary socio-economic and political scene and under the impact of globalization. Now the competition with private sector has increased. The public sector has to compete with private sectors in case of cost, quality, and span of production otherwise it has to face elimination. Financial matters of our country, may it be related to banks, inflation, share prices, monetary and fiscal policy, budget are being finalized according to international financial market. the scope of public sector is becoming limited. So the powers and functions of bureaucracy have been reducing, due to the entry of foreign investors in telecommunication, roads, posts, airports, insurance, health, education and IT sectors.

Job security, one of the major features of Indian administration is being replaced with downsized, reduced number of employees by removing dysfunctional and sick units. The principles of new public management are tightening its grip on Indian administration to make it fit to face the challenges of globalization. The principle of quality management is being emphasized with liberalisation to cope with world economy to maintain stability in domestic economy. The advancements

in IT sector have been changing the working environment of each organization. Traditional methods of work have been replaced with modern and advanced one. The system of secrecy in governmental work has loosened its grip. Due to globalization the use of advanced means of communication, print media and electronic media, have encouraged the common masses to put their opinions and views before the government and administration, which have in turn helped in bringing transparency and exposure of hidden faces of administration. Efforts have been made by the different departments to improve the structural, financial, personnel and managerial positions by introducing structural and policy changes to attract foreign investments, to bring stability in their organizations. Indian administration is playing the role of motivator and developer to face globalization. It is motivating the unemployed, untrained, and illiterate at the grassroots by encouraging local level organization, NGOs and SHGs to participate in developmental and welfare programmes. Liberalisation in Indian administration helps to perform the functions in transparent, efficient and in cost effective manner to fulfil the demands of multiplicity of organizations and to compete with them. Globalisation has been increasing efficiency, productivity and customer orientation in Indian administration and liberalisation has enforced for transparency, ethical values and responsiveness. Globalisation has encouraged market oriented policies and structure of administration and liberalisation has encouraged flattening of hierarchy, downsizing of bureaucracy, and decentralization of policy formulation. Globalisation has emphasized on reducing restrictions and controls on economic activities of administration and liberalisation has emphasized self-controls in administration. Globalisation has brought advanced technologies, IT advancements in administration and liberalisation has brought right to information, e-governance and transparency in administration. Globalisation has applied cost and time bound techniques to increase the production and liberalisation has facilitated easy access to information and services to citizens. Globalisation has introduced competition with private sector for quality and price and liberalisation has introduced administrative effectiveness and efficiency in administration. Globalisation has paved the way for interaction of Indian administration with international economic system and policies and liberalisation has paved the way for coordination and relation of Indian administration with multiplicity of organization. Globalisation is posing problems for national democracy because collective decisions are made in context beyond government control and liberalisation is making administration adaptable to different conditions and varied situations. The global meltdown has also been badly affected Indian market and economy. the political reality is that

globalization is not just stalled. It is on the retreat. In an economic downturn of this magnitude, every country is going to give priority to its own economy. But the interaction and coping of public and private sector has been increasing, which has been proving beneficial to public sector to make it efficient, accountable, transparent and competitive.

Negative impacts of globalization on Indian administration:

1. Reduction in number of jobs.
2. Negative impact of global meltdown on Indian industry.
3. Numbers of frauds are increasing.
4. Numbers of cyber crimes are increasing.
5. Both internal and external security problems have been increasing.

5.5 Indian Administration and Economic Development Issues

A new chapter has dawned for India and its billion plus population in July 1991 when India initiated reforms. This period of economic transition has had a tremendous impact on the overall economic development of almost all the major sectors of the economy, and its effects over looked besides, it also marks the advent of the real integration of the Indian economy into the global economy. In the Uruguay round of negotiations of GATT 1994, India signed the agreement on trade related investment measures that has forced India to do away with protection of Indian industry from severe global competition with five years. Of the 13 investment measures that were identified to distort global trade, India has been using as many as eleven of them to meet the needs of social and economic development of the country. Signing of this agreement is bound to remove these much-needed measures. In the meantime, the custom duties on imports have been steadily brought down as per the Industrial Licensing Policy 1991. In January 1995 being a founder member of GATT; India joined WTO and agreed to stand by the regulatory framework of free global trade and competition. India initiated the process of integrating in domestic economy with the global economy from the early 1990s due to severely of balance of payments crisis, high fiscal deficit and high inflation rate. The main goal of globalization was making the economy more market oriented through increasing competitiveness and reducing government interventions. The establishment of World Trade Organization (WTO) in 1995 has

further intensified the degree of competition across domestic and global markets through removing the restrictions on foreign direct investment. Because of its wide coverage, globalization, liberalization, and privatization in general, have affected the entire Indian economy i.e., both the public and private sectors. As an outcome of these policies, the Government of India has to minimize the controls over the flow of foreign goods, services, capital, and technology investments and has to adopt liberal policies for adjustment of investment. E-Governance is the application of IT to the process of government functioning to bring Simple, Moral, Accountable, Responsive and Transparent (SMART) governance. The speed and transparency associated with E-Governance have the potential to make public administration responsive and efficient. Recognizing the increasing importance of electronics, the Government of India established the Department of Electronics in 1970. The subsequent establishment of National Informatics Centre (NIC) in 1977 was the first major step towards e-governance in India as it brought information and communication in focus. In the early 1980s, use of computers was confined to very few organizations. The advent of personal computers brought the storage, retrieval and processing capacities of computers to government offices. A National Task Force on Information Technology and Software Development was constituted in May 20, 1998. While recognizing Information Technology as a frontier area of knowledge per se, it focused on utilizing it as an enabling tool for assimilating and processing all other spheres of knowledge. It recommended the launching of an 'Operation Knowledge' aimed at universalizing computer literacy and spreading the use of computers and IT in education. In 1999, the Union Ministry of Information Technology was created. By 2000, a 12-point minimum agenda for e-Governance was identified by Government of India for implementation in all the Union Government Ministries/Departments. Furthermore, this process of integration of government services by internet technology increased in last decade with rapid growth. Almost every department and every Ministry now can be accessed with just a click on internet on your desktop. Indeed the process of transformation from governance to e-governance has improved the quality of services with proper accountability, easy accessibility, accurate storage and transparency in the system.

5.6 Conclusion

Attempts to improve the economic conditions through globalization have been made in our country and liberalisation has also paved the way to achieve maximum

output, quality and value products but regionalism, communalism and political discretion are the main obstacles in the way to good governance. So the world politics is thinking about globalization retreat. The principles of liberalisation need to be observed by Indian administration to face the challenges of globalization and to maintain its status and significance in our society. In India the real economic development took place in a newo-liberal global market economy scenario in post 1991 period which has affected the way Indian administration functioned the most notably among which is how the administration grapples with Special Economic Zone and associated displacement issue in the contemporary period.

5.7 Summary

- The primary focus of administration was to meet up the optimal social need.
- Administration was a part, as well as, the media of implementing socio-economic development.
- The role of administration was to become an effective machinery to the State, to materialise the basic tenets of 'Welfare State' concept.
- Advent of globalization very rapidly change the hitherto role and function of the State Administration.
- Globalization brings new technologies, quality and quantity of goods. Multi-national takes the leading role.
- New type of competitive commodities and service production by the Corporate Houses, pushed back our indigenous production houses to a large extent.
- The character of competition gradually takes its larger steps through change of efficiency, lower cost, higher market efficiency.
- It was really a big challenge to our indigenous production units.
- State also joins in the Capital Market with her huge accumulated Finance.
- Social and economic gap between subaltern people and middle and upper class people gradually enhanced.
- Advent of automation reduce the number of job.
- The establishment of WTO (World Trade Organization) in 1995, further

intensified the economic competition across the domestic market.

5.8 Glossary

- Administration for Development.
- Process of managing affairs of government for development.
- Globalization.
- Free movement of goods, capital and labour.
- Cyber-Crime.
- Unlawfull activities using computers, internet and ICT.

5.9 Model Questions

Long Questions

- Analyse the theoretical linkage between public administration and economic development.
- Explain the effect of globalisation on Indian administration.
- Discuss the significance of economic reforms of 1991 for Indian administration.
- Elaborate the implications of public choice theory.
- Analyse the importance of information and communication technology in Indian administration.

Short Questions

- Discuss e-governance.
- Point out the role of GATT and WTO directed economic development model.
- Write a note on 'SMART' administration.
- Discuss new public management.

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Module-II

**Indian Administration:
Structure and Functions**

Unit-6 □ President

STRUCTURE

- 6.1 Learning Objectives
- 6.2 Introduction
- 6.3 Qualification
- 6.4 Impeachment
- 6.5 Manner of Election of President
- 6.6 Powers and Functions of the President
- 6.7 Position of the Indian President
- 6.8 Conclusion
- 6.9 Summary
- 6.10 Glossary
- 6.11 Model Questions
- 6.12 References

6.1 Learning Objectives

After going through this unit, the learners will be able to:

- Understand the nature and structure of Union executive of India;
- Explain the qualifications and manner of election of President;
- Describe the powers and functions of the President;
- Understand the position of the Indian President under the Parliamentary form of government.

6.2 Introduction

The maker of Indian Constitution pledged that there will be a head of the State, who would represent the symbol of the National unity. The Constitution makers of India, made the President head of a Republican Country. To quote Article 52 of the Indian Constitution, “*There shall be a President of India*”. Thus although it appears that the Indian Presidents is the counterpart of the British monarch, but we moulded our system in our own way to suit the context of Parliamentary democracy under the leadership of Cabinet government in a Republican framework.

India is a parliamentary democratic state. The Constituent Assembly of India accepted the Parliamentary form of Government based on British Constitution. In accordance with this government, the formal powers are vested in the Union Executive consisting of the President, the Vice-President, the Prime Minister, the Council of Ministers and the Attorney General of India.

The President is the head of the Indian State and he is the first citizen of India. He is elected by the members of an electoral college for 5 years. Article 58 has prescribed the essential qualification, to be a President of India. Article 58 reads: “No person shall be eligible for election as President unless he:-(a) is a citizen of India; (b) has completed the age of thirty-five, and (c) is qualified for election as member of the House of People”. No particular reason has been stated for fixing the age at 35. All the executive powers are vested in him and he also takes a crucial role in the other wings of the government, Legislature and Judiciary. But he is not the actual executive, he is the nominal head of the Union.

6.3 Qualifications

According to Constitution a presidential candidate must have the following qualifications:

- (i) He should be a citizen of India;
- (ii) He should be 35 years of age;
- (iii) He should have the qualifications of a member of the Lok Sabha;
- (iv) He should not hold any office of profit under the Central government or any state government or any local or public authority.

Apart from these, the presidential candidate must need at least 50 electors as proposers and 50 electors as seconder. Every candidate has to deposit security money of 15,000 in the Reserve Bank of India.

6.4 Impeachment

According to article 56, “(a) The President may, by writing under his hand address to the Vice President, resign His Office; (b) the President, for violation of the Constitution, be removed from the Office by impeachment in the manner provided in article 61; (c) the President shall, notwithstanding the expiration of his term, shall continue to hold office until his successor enters upon his office”. The President may be removed from his office for violation of the Constitution by impeachment in the manner provided in article 61. The charge of violation of the

Constitution shall be introduced by either House of Parliament. The charge is to be framed in a form of resolution, which has been moved after at least fourteen days' notice in writing signed at least by one-fourth of the total number of members of the house. This resolution has been passed by two-thirds majority of the total membership of the House and then it is to be sent the other house for investigation and decision. After investigation, if the other House passes the resolution by two-thirds majority of the total membership, the President has to resign from his office from the date on which the resolution is so passed.

In other cases if the Office of President is vacant due to sudden death, the Vice President will continue the office. In the absence of Vice President, the Chief Justice of the Supreme Court will act as the President. Even that has also too possible, the Parliament will decide as to whom the responsibility of the Office of the President should be given. One thing may be mentioned here, that American Constitution provides a list of Eleven successor to the American Presidency.

6.5 Manner of election of President

The President is not elected by the people of India directly, but indirectly. According to article 54, the President shall be elected by an electoral college consisting of:

- (a) The elected members of both Houses of Parliament;
- (b) The elected members of the Legislative Assemblies of the States; and
- (c) The elected members of the Legislative Assemblies of the Union territories of Delhi and Puducherry.

The election of the President shall be held in accordance with the system of proportional representation by means of single transferable vote by secret ballot. Regarding the election of the President, V.D. Kulshrestha in his book: *Landmarks in Indian legal and Constitutional History*, (Lucknow: Eastern 1969), stated that, Nehru during his Prime Ministership, moved a Bill in the Parliament and got it passed as 11th. Amendment Act, according to which the election of the President and the Vice President could not be challenged on the ground that the electoral college was incomplete. (p. 409)

According to article 55, as far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President. This article also tells us that for the purpose of securing such uniformity among the States inter se as well as parity between the States as a whole and the Union, the number of votes which each elected member of Parliament and of the Legislative

Assembly of each State is entitled to cast at such election shall be determined in the following manner:

- (a) Every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;
- (b) If, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (a) shall be further increased by one;
- (c) Each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under sub-clauses (a) and (b) by the total number of the elected members of both Houses of Parliament, fractions exceeding onehalf being counted as one and other fractions being disregarded.

During the election of President, every elector can inform their preferences through casting their votes. The voter will have as many preference votes as the number of candidates. But the voters have to inform their first preference. After completing the vote, the first preference valid votes are counted. A candidate will be declared elected after getting the 'quota of votes'. The quota is fixed by dividing the total number of valid first preference votes into two and adding one to it.

6.6 Powers and Functions of the President

The president of India is a nominal head of the state. Yet according to Constitution he enjoys the following powers.

(A) Executive Powers: Article 53 vests all executive powers of the union in the President. The powers and functions of the president are given below:

- (a) All executive activities of the India Government are formally executed in his name.
- (b) He can demand to get information relating to Union administration from the Prime Minister.
- (c) He appoints the Prime Minister, All Ministers of Council of Ministers, Attorney-General, Comptroller and Auditor-General, Governors of all States, Administrators of the Union Territories, Judges of Supreme Court, Judges of the High Court, Election Commissioners, Members of the Union Public Service Commission, Members of the Finance

Commission, Members of the National Commission for Scheduled Castes and scheduled Tribes, and so on. Even, he can remove the above mentioned posts also.

But, the President enjoys these powers with the consent of the Prime Minister and his Council of Ministers.

- (d) The President has important military power. He appoints the chiefs of the Armed forces, Naval and Air forces. Besides, he can declare war and peace.
- (e) He takes an important role regarding foreign affairs. He sends ambassadors to the foreign countries and receives foreign ambassadors.
- (f) He can appoint a commission for the investigation of the conditions of SC, ST and OBC.
- (g) The President can establish inter-state council to foster Centre-state and inter-state cooperation.
- (h) The Union territories are directly governed by the President through Administrators appointed by him.

(B) Legislative Powers: The President is an integral part of the Parliament of India and he holds some legislative powers, such as:-

- (a) The President can call the session of each House of Parliament and dissolve the Lok Sabha before completing the full tenure of five years. He can also call a joint session of both Houses of Parliament. But, the Speaker of the Lok Sabha presides the joint session of both Houses.
- (b) He can adjourn the session of any House of Parliament.
- (c) President can deliver the inaugural speech in Parliament at the commencement of the first session after every General election and first session of every year.
- (d) He can send message to the Parliament on any matter.
- (e) He nominates 12 members to the Rajya Sabha and 2 members from Anglo-Indian community to the Lok Sabha.
- (f) When a bill is sent to the president after passing by the Parliament, he can either agree with the bill, or withhold his assent to the bill, or return the bill to reconsider (except money and constitutional amendment bill) to the Parliament. This type of power is called 'Veto Power'. So, the President of India has the veto power over the bills passed by the Parliament. We may identify three types of veto, Such as-Absolute Veto, Suspensive Veto and Pocket Veto.

- (g) He can impose Ordinance when the Parliament is not in session. This Ordinance must be accepted by the Parliament within six weeks from the time of declaration. He can also withdraw it at any time.

(C) Financial Powers: The financial powers and functions of the President are:

- (a) No money bill can be introduced in the Lok Sabha without the prior assent of the President.
- (b) He can form a Finance Commission after every five years to recommend the distribution of revenues between the Central government and States governments.
- (c) After his recommendation any demand for a grant can be made.
- (d) The contingency fund is at his disposal. He can sanction money from the fund with the consent of Parliament.
- (e) The President submits report of the Comptroller and Auditor-General to the Parliament.

(D) Judicial powers of the President: According to constitution the President of India enjoys some judicial powers, such as-

- (a) He appoints the Chief Justice and the other Judges of the Supreme Court and High Courts.
- (b) He can also remove the Chief Justice and the other Judges of the Supreme Court and High Courts with the consent of Parliament.
- (c) The president has the power to grant pardon to a person charged with death sentence (Article-72).
- (d) He can consult with Supreme Court on any question of law or fact. But, the President can accept the advice of the Supreme Court or not.

(E) Emergency Powers: The President of India has been vested with extraordinary powers to deal with abnormal conditions or emergency time. There are three types of emergency powers of the President in the constitution of India. Such as-

- (a) National Emergency (Article 352):-*“If the President is satisfied that a grave emergency exists whereby the security of India or any part of the territory thereof is threatened”* he may by, proclamation make a declaration of Emergency.
- (b) President’s Rule (Article 356 & 365) *“If the President, on receipt of report from the Governor of a State or otherwise, be satisfied”* that the State Government is not carrying out the provision of the Constitution,

he may by proclamation (a) assume all or any function of the State Government; (b) declare that the power of State legislature shall be exercised by the Parliament; (c) can suspend whole or part of the operation of any provision of the Constitution relating to the authority of the State.

- (c) Financial Emergency (Article 360):-It reads, *“If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened”*, he may, by proclamation make declaration to the effect Financial Emergency.

One thing is very relevant specially in the case of Financial Emergency. President, as per Constitution, may proclaim Financial Emergency, only when he is satisfied that the Financial situation of the Country or any part of it is grave. But in reality, the satisfaction only raised when the Prime Minister desire to make. So if the will proves as false or bad, then total eclipse of all human rights would be nothing but sort of a catastrophe.

6.7 Position of the Indian President

The president is the head of the state of India and he is the symbol of unity and integrity of the nation. He enjoys enormous powers as discussed above. According to Article 53 of our constitution, “All executive power of the Union shall be vested in President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.”

But in fact, he is a nominal head of the state. Even the architects of the Indian Constitution wanted to make the President a nominal head of the state. Here, we can remind the statement of Dr. B.R. Ambedkar: “Under the Indian Constitution, the President occupies the same position as the King under the English Constitution. He is the head of the state but not of the Executive. He represents the nation but does not rule the nation. He is the symbol of the nation. His place in administration is that of a ceremonial device on a seal by which the nation’s decisions are made known. He is generally bound by the advice of his ministers. He can do nothing contrary to their advice nor can he do anything without their advice. The President of the United States can dismiss any secretary at any time. The President of the Indian Union has no power to do so, so long as his ministers command a majority in Parliament.”

Echoing this, Article 74 envisages that there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who ‘shall’,

in the exercise of his functions, act in accordance with such advice. He is bound to listen the advice of the council of ministers headed by the Prime Minister. He only can request to rethink the advice to the council of ministers headed by the Prime Minister.

Lastly, it can be said that the President is the constitutional head of the state and a symbol of the nation. In critical situations he takes a crucial role. Such as-

- (a) He can appoint the Prime Minister with his own decision when no party has a clear majority in the Lok Sabha.
- (b) He can dismiss the council of Ministers if it cannot prove the confidence of the Lok Sabha.
- (c) The President can dissolve the Lok Sabha before the completing its full tenure of five years.

The position of the President depends on his personality, capability, efficiency and political sagacity. A President with above mentioned qualities can play very useful role as a respected “umpire in constitutional politics of India”.

6.8 Conclusion

The President of India is the head of the state under the parliamentary form of government. He is elected by the members of an electoral college consisting of all elected MPs and MLAs for five years. He can re-elect also. He can resign from the post before the expiry of the term or he may be removed from his post for the violation of the Constitution by impeachment.

He enjoys executive, legislative, financial, judicial and emergency powers. All the executive powers of the Union Government are vested in the hand of the President. All executive activities of the India Government are formally executed in his name. He can appoint of different post including the Prime Minister. He is an integral part of the Parliament of India and without his consent any bill cannot be transformed into law. Apart from this, he holds some legislative powers. No money bill can be introduced in the Lok Sabha without the prior assent of the President. The president has the power to grant pardon to a person charged with death sentence (Article-72). He also enjoys the extraordinary powers to deal with abnormal conditionsn or emergency time.

But in fact, he is a nominal head of the state. He is the head of the state but not of the Executive. He represents the nation but does not rule the nation. He is generally bound by the advice of his ministers with the Prime Minister at the head. He can do nothing contrary to their advice nor can he do anything without

their advice. At last it is true that the position of the President depends on his personality, capability, efficiency and political sagacity.

6.9 Summary

The post and position of President raised some grave points of its importances. The Constitution is not clear, that what President is actually doing or what he supposed to do. Because:

- The law has given him immense power, but at the same time, has made up a barrier of tradition, which forces him to stay as nominal head of the State.
- Constitution does clarified, what would be happened if the President starts to use his right to exercise his power, as per the Constitution, then what will happen?
- In fact the harmonious correlation between Constitutional Article and use of those Articles have led to a successful working of the Constitution.
- S.S. Khera in his book: “*The Central Executive*” (Delhi: Orient Longman, 1975) make a significant comment: the president often have a “mind of his own free of all political trammels and without any urge or ambition to take an active hand in Governmental decision making—or towards changing the provision of the existing Constitution relating to his position and power.” (p. 90)

6.10 Glossary

- Nominal Head: President of India is the Nominal Head with real powers vesting with the PM.
- Emergency power constitution confers three types of emergency powers to the president.

6.11 Model Questions

Long Questions

- Explain the role of the President of India under the Presidential form of government.
- Discuss the process of the election of the President of India.

- Explain briefly the Constitutional position of the Indian President.
- Write a short note on the legislature power of the President of India.
- Describe very briefly the process of impeachment of the President.
- Write a note on the Emergency Power of the Indian President.

Short Questions

- Write a brief note on Article 56.
- How the Article 55 is important in the election of Indian President.
- Note on Article 360.

6.12 References

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Unit-7 □ Prime Minister, Council of Ministers: Power and Function

STRUCTURE

- 7.1 Learning Objectives**
- 7.2 Introduction**
- 7.3 Appointment and Term of the Prime Minister**
- 7.4 Power and Functions of the Prime Minister**
- 7.5 Position of the Prime Minister**
- 7.6 Structure of Council of Minister**
- 7.7 Powers and Functions of Council of Minister**
- 7.8 Conclusion**
- 7.9 Summary**
- 7.10 Glossary**
- 7.11 Model Questions**
- 7.12 References**

7.1 Learning Objectives

After studying the unit, the learners will be able :

- To explain the powers and functions of the Prime Minister.
- To describe the structure, powers and functions of Council of Minister.
- To understand the relation between the President and the Prime Minister under the Parliamentary form of government.

7.2 Introduction

“There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice.” (Article 74, of the India Constitution)

Prime Minister is the actual executive authority (de facto executive) and head of the government under the Parliamentary form of government in India. He is the key stone of the Union administration. He is the advisor of the President, leader of the Cabinet and majority party in the House of Peoples. Now-a-days the office of the Prime Minister has become very powerful and that is why many scholars says that India has neither a parliamentary nor a Cabinet but a Prime ministerial

system of government. The power and position of the Prime Minister gradually grown up as a powerful unit in the Parliamentary System. the begins with Mrs. Indira Gandhi. during her time of rule the Office of P.M.'s Secretariat started to touch the “dizzy heights of power and authority”.

7.3 Appointment and term of the Prime Minister

The intention of our founding father of Constitution was to make the position of Prime Minister in the Parliament, the supreme political leader of his Cabinet. Thus the power of the Prime Minister lying hidden in the Cabinet. So they frame Article 74, which reads, “There shall be a council of Ministers with the Prime Minister at the head—”. To strengthen the position of Prime Minister in the Parliamentary system, the maker of Constitution further stated in Article 75, “the Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister”. In fact, the President has hardly any choice. He is to appoint the leader of the majority party in the Lok Sabha as the Prime Minister. But when any political party does not get the majority in the Lok Sabha, the President can select and appoint the Prime Minister according to his personal discretion. The term of the Prime Minister is 5 years. However, if he loses the confidence of the Lok Sabha before completing the term, he must resign or the President can dismiss him.

7.4 Powers and Functions of the Prime Minister

Article 78 of the Constitution specified the power of the Prime Minister. He enjoys enormous powers. He has a number of functions to perform. We can discuss the powers and functions of the Prime Minister by dividing into the following heads:

- **The Prime Minister and the President:**

The President is the nominal head of the state and the Prime Minister is the actual head of the state under the parliamentary form of government in India. According to Constitution the President can appoint the Prime Minister and the Article 74 says us that there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice.

The Prime Minister executes the Union administration in the name of the President. The President cannot do anything without the consent of Council of

Ministers with the Prime Minister at the head. But, if he wants to know anything regarding administration or any decision of Council of Ministers, the Prime Minister must inform him. according to Article 78, “It shall be the duty of the Prime Minister”-

- A. to communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation;
- B. to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for.

In fact the Prime Minister is the principal channel of communication between the President and the Council of Ministers. With the consent of Prime Minister, the President can appoint the other ministers of the Council of Ministers, Attorney-General, Comptroller and Auditor-General, Governors of all States, Administrators of the Union Territories, Judges of Supreme Court, Judges of the High Court, Election Commissioners, Members of the Union Public Service Commission, Members of the Finance Commission, Members of the National Commission for Scheduled Castes and Scheduled Tribes, and so on.

● **The Prime Minister and his Council of Ministers:**

The Prime Minister is the head of the Council of Ministers. With the consent of him, the President can appoint the other ministers of the Council of Ministers. He can constitute, reconstitute or reshuffle the ministry and allocates portfolios to other ministers. He presides over the meeting of Council of Ministers and influences the decisions of the council. He can force to resign to any ministers at any time. He is the main pillar of relating to disintegrate the body of Council of Ministers. Thus, he is “inter stellas luna minors” (a moon among lesser stars) as Sir William Vernor Harcourt said. But, sometimes the Prime Minister has to give a place to the leaders of his own political party. That is why he is also called “primus inter pares” (first among equals).

● **The Prime Minister and Parliament:**

The Prime Minister is the leader of the Parliament. He can decide the dates of meetings, programme of its session etc. in consultation with the consultation of the speaker of Lok Sabha. The President can summon and adjourn the Lok Sabha with the consent of the Prime Minister. He can also decide when the Lok Sabha will be dissolved. It is his onus to introduce and pass any bill including controversial bill in the Parliament.

Article 74 of the Constitution, confers special power to the Prime Minister and declared that the Prime Minister shall be “at the head of the Council of

Ministers which shall aid and advice the President in the discharge of his executive function.” In replay to question raised by Sardar Vallabhbhai Patel, on the issue of “Prime Minister is the first among the equals”, the then Prime Minister apply replied that, “The Prime Minister is the Prime Minister. He can only lay down the policy of the Government; the Prime Minister is the linchpin of the Government.” In fact the attempt of our Constitution maker was to make the Prime Minister the most powerful and important leader of the nation as well as of his Cabinet in the Parliament. But this also limited by the personality of the occupier of the office, and the strength of his Party in the Parliament.

- **Prime Minister as Head of the Government:**

The Prime Minister is key to form the Cabinet, and in reality he stays with his Cabinet and falls with his Cabinet. In fact his leadership stems from his Party mandate and Leadership. He holds the key to appoint or eliminate the members of his Cabinet. He does it not only as leader of the House but also as Leader of his Party. In fact as a leader of the Party and Government, Prime Minister enjoys uninterrupted freedom in choosing the Cabinet colleagues. When any Prime Minister enjoys the absolute party supremacy in the Parliament, Prime Minister’s recommendation power for the post of Ministry becomes free from any yconstrants. Although the decisions are taken by the Cabinet Ministers, but that comes into fore in the name of Prime Minister.

- **The Prime Minister and his Political Party:**

In a parliamentary democratic state like India political parties take main role to make Prime Minister. In fact, Prime Minister is the leader of the majority political party in the Lok Sabha. It is fact that the Party makes its leader. But once the leader is elected for selected by the Party, the Pary members support is very essential to continue the Leadership. To remain in the power, he has to improve the image of his political party in front of the people of India. It is the onus of the Prime Minister to pass the examination of election of his own party. So, he has to give time and pay attention tot he affairs of her/his own party.

- **The Prime Minister as a leader of Nation:**

The Prime Minister is not only a leader of the majority political party in the legislature, he is the leader of the people of India. He is the symbol of hope and desire of the whole nation. So, Prime Minister always tries to communicate with the people through electronic media to make a good image in front of the nation. On the other hand, elections are fought in his/her name and people cast their votes for the Prime Minister, not for the party.

● **Prime Minister and the Media:**

The Prime Minister is chief spokesman of the Party and Government. It is he who personifies the Government not only as spokesman in the Parliament and at International forum but also in the interviews with the Media persons as well. Clever appearance of the Prime Minister to the Media, the Prime Minister can project himself and his Government, a dignified National Governments.

● **The Prime Minister as an International leader:**

The Prime Minister takes a crucial role as an international leader of our country in the age of globalisation. He represents the national, regional and international conferences. Jawaharlal Nehru, Indira Gandhi, Rajeev Gandhi and Atal Bihari Vajpayee left their mark on such conferences and meets. Such as, Jawaharlal Nehru took an important role in non-alignment movement (NAM). Rajeev Gandhi's contribution in SAARC also appreciable.

7.5 Position of the Prime Minister

After discussion of the above mention tremendous powers of the Prime Minister, we can say that he is the key stone of the arena of both executive and legislative bodies. He is the real head of the government. He enjoys all powers of the President enshrined in the constitution of India. The entire structure of Council of Ministers and Cabinet are built according to his opinion. He presides over all meetings of Council of Ministers and Cabinet, he instructs, encourages and even admonishes individual ministers. He is the life and death of the union government. Ivor Jennings described him as “The Sun round which the planets revolve”. He ‘is the keystone of cabinet arch’, as Gladstone said.

The position of the Prime Minister determines the nature of the government, his/her efficiency, personality and political sagacity. We can end this discussion with the statement of Jawaharlal Nehru. He said, “The Prime Minister is the Prime Minister. He can lay down the policy of Government.....in the Constitution; the Prime Minister is the linchpin of Government.”

Practically the position of the Prime Minister, largely depends on the style, experience, determination, and the strength of the Prime Minister. These directly or indirectly add aura of the office of the Prime Minister.

7.6 Structure of Council of Ministers

According to Article 74, “there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions...” The Council of Ministers consists of the Prime Minister, cabinet ministers, state ministers, deputy ministers, and parliamentary secretaries. Other ministers of the Council of Ministers are appointed by the President on the advice of the Prime Minister. In accordance with our constitution the Ministers shall hold office during the pleasure of the President. But in fact, the council of ministers retains their office as long as they enjoy the majority in the House. According to the constitution, the total number of Ministers, including the Prime Minister, in the Council of Ministers shall not exceed fifteen per cent of the total number of members of the House of the People.

Anyway, the Council of Ministers consists of the three categories of ministers, such as-(a) Cabinet Ministers, (b) Ministers of States and (c) Deputy Ministers.

- A. **Cabinet Ministers:** The Cabinet ministers are the prominent leaders of the majority party in the parliament and the senior most ministers of the government. They take responsibility most important departments of the union administration. That’s why they enjoy more power, prestige and privilege than any other members of the Council of the Ministers.
- B. **Ministers of States:** The rank, power, prestige and privilege of Ministers of states are after the cabinet Ministers. Their main functions are to assist the senior ministers to execute their duties. Sometimes they get chance to act as an independent charge of ministries/departments. They are not the member of the Cabinet.
- C. **Deputy Ministers:** Next in rank are the deputy ministers. They do not get chance to act as independent charge of ministries or departments. They work under the Cabinet ministers or Ministers of states to assist them. They are not the member of the Cabinet.

7.7 Powers and Functions of Council of Ministers

In the parliamentary democratic state like India, the President of India is the nominal head of the state and the Council of Ministers with the Prime Minister at the head, is the actual head of the state. But in fact, in India the Cabinet does everything in the name of council of ministers. The cabinet is nothing but the inner body of the council of ministers.

Now, the main powers and functions of the cabinet are described below:-

- The cabinet can make national, regional and international politics for the approval of the parliament.
- The cabinet enjoys legislative powers. It is the main link between the Union government and the parliament. The cabinet prepares different bill, introduces them and pilots them through the two Houses of parliament.
- The cabinet can prepare the budget of the country and presents to the parliament for its approval. We can say more that no money bill can be introduced without the prior consent of the President. We know that, the President does nothing without the aid and advice of the council of ministers. So, in this matter the cabinet enjoys all powers.
- The cabinet takes an important role in the making of foreign policy. All the international treaties and agreements are considered and approved by the cabinet.
- The cabinet also enjoys some power regarding important appointment. We know that the President appoints Attorney-general, Comptroller and Auditor-general, Governors of all States, Administrators of the Union Territories, Judges of Supreme Court, Judges of the High Court, Election Commissioners, Members of the Union Public Service Commission, Members of the Finance Commission, Members of the National Commission for Scheduled Castes and Scheduled Tribes, and so on. In this regard the President does everything with the consent of the Prime Minister and before giving the consent to the President, the Prime Minister can consult with his cabinet.
- The cabinet takes an important role during the emergency. The President has to take the written concurrence before the imposing of national emergency (Article-352).
- Last but not least, the cabinet is the main coordinator among all ministries and departments of the union government.

In accordance with the parliamentary form of government, the Council of Ministers are responsible to the House of the People for their activities. So, the cabinet, as a most important part of the council of ministers, are also responsible to their activities to the House of the People. Anyway, after discussing the above mentioned powers and functions of the cabinet, we can say that the cabinet enjoys powers both the making and implementation of the internal and external politics

of the country. So, echoing the words of Ramsay Muir can be said, “The cabinet is the steering wheel of the ship of the state.” But, the importance of the cabinet or the council of ministers depends on the personality of the ministers of cabinet or council of ministers.

7.8 Conclusion

The Prime Minister of India is the real head of the state and head of the government under the parliamentary form of government. He is appointed by President for five years. But, in fact, the President has to appoint the leader of the majority party in the Lok Sabha as the Prime Minister. He enjoys all the executive powers of the Union Government in the name of President. Without his concurrence, the President cannot appoint anybody. It is his responsibility to inform the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation. The Prime Minister is the head of the Council of Ministers. He presides over the meeting of the Council of Ministers. He is the main character in the Union administration. As the leader of Parliament he can decide the dates of meetings, programme of its session etc. with the consultation of the speaker of Lok Sabha. He is the leader of his political party and the nation. In the age of globalization, the Prime Minister takes a crucial role as an international leader of our country. So, it is said that he is the key stone of the arena of both executive and legislative. But the position of the Prime Minister determines the nature of the government, his/her efficiency, personality and political sagacity.

The Council of Ministers consists of the Prime Minister, cabinet ministers, state ministers, deputy ministers, and parliamentary secretaries. There are three types of ministers in the Council of Ministers. Such as: (a) Cabinet Ministers, (b) Ministers of States and (c) Deputy Ministers. The parliamentary form of government is also called the rule of Council of ministers. But in fact, in India the Cabinet does everything in the name of council of ministers.

7.9 Summary

- The rise of the Prime Minister in India in consonance has become the part of the accepted Institution in Indian Administration.
- In India, the Prime Minister gradually has been growing in its size, importance and Impact.

- Now in each occasion, the formal or informal influence of the Prime Minister becomes more and more tangible vis-à-vis, the formal authority of the rest of the Government.
- Gradually the Prime Minister is emerging noticeably as the prevalence of “administrative expert” power centre.
- Several experts in economy, was, etc. continuously depending on the advice of the Prime Minister.
- Most important role of Prime Minister is his coordinational role in his Cabinet and other Ministries.
- Basically Prime Minister is a Political man. Even then he always maintains the lines of communication with other parties in the Country. Thus he is required to open to all parties for discussion and for exchange of opinion.

7.10 Glossary

- Office of the Prime Minister. PMO can be considered as an agency that helps the prime minister efficiently perform his role, responsibilities and functions.

7.11 Model Questions

Long Questions

- Explain the role of the Prime Minister of India under the Parliamentary form of government.
- Discuss the composition and role of the Council of ministers India.
- Discuss in detail the power and function of the Council of Ministers.
- Write a short note on the position of the Prime Minister of India.
- Describe very briefly the relation between the Prime Minister and the President in India.

Short Questions

- Discuss the position of the Prime Minister and his relation with this.
- Briefly discuss three catagories of Council of Minister and their composition.

- What are the differences between Cabinet Ministries and Ministries of State.
- Write Note on any two: (a) Prime Minister and his Cabinet minister; (b) Prime Minister as leader of the Nation; (c) Prime Minister and Media.

7.11 References

- Indian Administration-Hoshiar Singh, Pankaj Singh.
- The Constitution of India-Sakti Mukherjee, Indrani Mukherjee.
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Unit-8 □ Role and Function of the P.M.O.-P.M.'s Secretary

STRUCTURE

- 8.1 Learning Objectives**
- 8.2 Introduction**
- 8.3 Evolution of Prime Minister's Office in India**
- 8.4 Composition of the Prime Minister's Office in India**
- 8.5 Functions of the Prime Minister's Office in India**
- 8.6 Changing Role of P.M.O.**
- 8.7 Prime Minister's Secretary/Principal Secretary**
- 8.8 Conclusion**
- 8.9 Summary**
- 8.10 Glossary**
- 8.11 Model Questions**
- 8.12 References**

8.1 Learning Objectives

After going through the unit, the learners will be able

- Composition and functions of the Prime Minister's Office in India.
- Role of the Prime Minister's Office under the parliamentary form of government.
- Meaning and role of PM's Secretary.
- Composition of Prime Minister's Office.
- Importance of Prime Minister's Office.

8.2 Introduction

The Constituent Assembly of India accepted the parliamentary form of government for new India on the basis of British Constitution. In accordance with the form of government, the President is the nominal head of the state of India and the Prime Minister is the actual head of the state and the head of the government. As a real executive authority, the Prime Minister plays a very significance and

crucial role in administrative and legislative system of the state of India. To fulfil these activities the Prime Minister has some helping hands since independence, such as-the Cabinet Secretaries, Cabinet Committees and the Prime Minister's Office (PMO). In this unit, we are going to discuss about the Prime Minister's Office (PMO).

Prime Minister's Office (PMO) is a staff of agency which provides institutional support to the Prime Minister in his official and policy making functions. It is located in the South Block of the Secretariat Building. It does not have any constitutional base. It is an extra-constitutional body. But, it has a status of a department of the Government of India under the Allocation of Business Rules, 1961. It has no attached and subordinate office under it. It is an official link between the Prime Minister and his Ministers, the President, Governors, Chief Ministers and foreign representatives. The PMO is headed by the Principal Secretary, currently Pramod Kumar Misra.

8.3 Evolution of Prime Minister's Office in India (PMO)

Before independence of India, the PMO was called as the Secretary to the Governor General. After independence, the first Prime Minister of India, Pandit Jawaharlal Nehru established a personal secretariat known as the Prime Minister's Secretariat (PMS) to help him to develop new India by good governance on 15th August 1947. Till June 1977, the PMO was called as the Prime Minister's Secretariat. During the Prime Ministership of Morarji Desai, the Prime Minister's Secretariat became Prime Minister's Office, which was headed by the Secretary to the Prime Minister. Thus the name of Prime Minister's Secretariat was changed into the name of Prime Minister's Office (PMO). At present the nomenclature of P.M.'s secretary has changed to "Principal Secretary" to the Prime Minister. The Secretary has a long genesis, starts from pre-Independent period. Previously, the executive head of British Government was Governor General. A position/post was then created as Secretary to the Governor General. After independence that chain of tradition was adopted by the Executive. Here one thing is to be mentioned. The secretary or the Secretariat of Prime Minister's Office was the creation of Prime Minister, for the purpose of his convenience. There has no mention of the Post or Office in the Constitution. From this point of view, the Secretariat of Prime Minister is an extra Constitutional body. For this the power and position of P.M.'s Secretariat has emanate informal proximity with the Prime Minister. The major source of its power and influence have also emitted from his closeness with the most powerful executive head of the Central Ministries.

The unique phenomenon of this Office, which we need to know, was that during the time of our first Prime Minister Jawaharlal Nehru, the Secretary to Prime Minister was not at all a significant face in the administration. Only Mr. O.P. Mathai, the Private Secretary of Pandit Nehru, was the most significant in the lobby of the Parliament. The secretariat of the Prime Minister was then only a bunch of Bureaucrats, used to help Nehru to manage the official work. Nehru as a Prime Minister never relied upon them heavily, rather he was comfortable to work with the Cabinet Secretary. The reason of this behaviour was later explained by Probhu Chawla, in his Article published in “India Today” on 8th March 2010. The title of his write up was “The Power Point Men”. To quote directly from assessmental writings:-

“India’s first PM was not a great believer in a kitchen cabinet or in a Secretariat of experts for the reason that Nehru himself was such a formidable brain that he hardly needed to borrow ones. His personal staff never enjoyed super bureaucratic powers.”

Later after Nehru’s era, Lal Bahadur Sastri assumed the power of Prime Ministership. So far the Secretariat of Prime Minister was placed under the position of Cabinet Secretariat. Prime Minister Sastri appointed L.K. Jha as his Secretary. Mr. L.K. Jha was a brilliant bureaucrat. He initially succumbed the authority under the place of Cabinet Secretariat. But Mr. Jha has a tremendous personality. So under his influence P.M.’s Secretariat got a special boost, inspite of his “low profile” existence in the Executive office. Gradually under the forceful personality of Mr. Jha, the P.M.’s secretariat has become a major power center in all India politics.

The P.M.’s Secretariat got its full swing power and tremendous influence during the time of Mrs. Indira Gandhi. Since then instead of decreasing the position of P.M.’s Secretariat, it is now continuously increasing. Indira Gandhi’s personal Secretary, P.C. Alexander in his memoirs (My Years with Indira Gandhi) mentioned that, when he was the Principal Secretary of Mrs. Gandhi, he was very closely associated with every sort of Governmental affairs and decisions. Even he recapitulated that, he was not only very close to Mrs. Gandhi, he as Principal Secretary, used to assist the Prime Minister in preparing replies to Parliament and was in charge of collecting information from Parliamentary work for preparing any supplementary questions. It indicates that, he remained always on his toes when the Parliament is in session. Even he remembered his role during the time when the Prime Minister decided to shuffle her Cabinet of Ministries. Actually from this time onward the power and position of P.M.’s Secretary started to rise above the Cabinet Secretary and all other Secretariat.

We have experienced an absolute new dimension in P.M.’s Office and its position specially during the time when any qualified Government holds the Office.

Because in coalition Government the Prime Minister mainly concentrate his function as a chairman of the coalition Cabinet than as a leader of his party which owes undivided loyalty to their leader, Prime Minister. Because in coalition ministry, there are many ministers with different loyalty. A predetermined (based on, either post-election or pre-election understanding) quota system does play a binding role on the coalition, and the Prime Minister thus finds himself operating within all these constraints imposed by this divided loyalties of the Cabinet as well as of the Ministries. Each constituent parties choose its representatives in the Ministry, and the Prime Minister has very little option in making his own Ministry.

8.4 Composition of the Prime Minister's Office in India

Politically Prime Minister is the head of the Prime Minister's Office (PMO) and administratively the Principal Secretary. Additionally it consists of one or two Additional Secretaries, three to five Joint Secretaries, a number of Directors/Deputy Secretaries and Under Secretaries. There are also other officers like Officer on Special Duty, Private Secretaries, Social Secretaries, Research Officer, Hindi Officer and so on. The personnel are generally drawn from the Civil Service.

Prabhu Chawla, in his article India Today described, "Every PMO mirrors the personality of the incumbent PM-not only his priority as a policy maker but his fears, parania and of course his dream."

Quantitatively the total strength of PM Office is approximately 400 to 450. A common question sometimes raises by the people, that whether this numerical strength of P.M. office is sufficient or not? Generally the number in PMP depends on the function that it requires to do to provide administrative protection specially to the less experienced Ministries. When any key assignment is given to any less experienced Minister, then there is a way to come out successfully with the work done, is providing a strong PMO. PMO initially coordinating the activities of the Ministry, and activate the project with herculean responsibility. Generally no Prime Minister can do it on his own. Sometimes Prime Minister is restricted to expand his Cabinet due to Constitutional restriction. Here the Prime Minister obviously depends on it specialised PMO. To function decisively, the Prime Minister needs a small group of officials, who think like him and can serve him with dedication and competence. It is said that during the Premiership of Sme. Indira Gandhi and Rajib Gandhi, the talent and efficiencies of PMO was in the highest form.

8.5 Functions of the Prime Minister's Office in India

The PMO is the most important part of the Government of India. It plays an crucial role and performs different functions, such as-

- The PMO assists the Prime Minister in respect of his all responsibility as the head of the union government. Such as-maintaining liaison with central ministries/departments and the state governments.
- It helps the Prime Minister in regard to his responsibility as the chairman of the NITI Aayog (National Institution for Transforming India) and the National Development Council.
- Dealing with the public relations of the Prime Minister is one prime important functions of the “Prime Minister’s Office (PMO)”. Such as-the press, public etc.
- It plays an important role in the process of decision-making at the top level of the Government of India.
- The PMO deals with all references that have, under the Rules of Business, come to the Prime Minister.
- The PMO also helps the Prime Minister in the examination of cases submitted to him for orders under prescribed rules.
- It maintains the connection with the President, Governors and Foreign Representatives in the country.
- It also prepares answers of difference questions raised in the Parliament on general subjects.
- The PMO acts as the ‘think-tank’ of the Prime Minister.
- The PMO works as the main advisor on all important domestic and international matters.

However, the Prime Minister’s Office is not responsible for his functions, except for matters of personal correspondence between him and individual ministers.

8.6 Changing role of the PMO

After discussing the above mentioned powers and functions of the PMO, we can say that the PMO takes a very crucial role and has grown into a high profile body of the Union Government. But, the role of the PMO is not static. It varies from Prime Minister to Prime Minister. At the beginning it was a modest and slim organization, but now it is not only big but important also.

The size and role of the Prime Minister’s Secretariat (PMS) was limited under the government of Jawaharlal Nehru (the Prime Minister’s Secretariat is also known

as the Prime Minister's Office). He emphasized and relied more on the Ministers. But, Lal Bahadur Sastri established a powerful Secretariat. He appointed L. K. Jha as the secretary to the Prime Minister and he became the head of the Secretariat. The dignity of the Prime Minister's Secretariat was raised by L. K. Jha's powerful and dynamic personality. Under the government of Lal Bahadur Sastri, L. K. Jha was called a 'super secretary'. During the prime ministership of Indira Gandhi, the Prime Minister's Secretariat (PMS) had been a high profile organ in the government of India. In 1977, the Janata Government changed the name from Prime Minister's Secretariat (PMS) to Prime Minister's Office (PMO) and the dominant role of the PMO was reduced under this government. However, after returning to power in Centre, Indira Gandhi emphasised the PMO and it was strengthened again. This trend has been continuing till now since the government of Indira Gandhi and his son Rajiv Gandhi.

The primary role and responsibility of PMO is to help and assist the Prime Minister in dealing with all references that come under the purview of the Rules of Business. It also helps the Prime Minister to discharge his assigned responsibility as head of the Government as well as the leader spokesman of the House. He is the key person who makes and frames new policies for his party in the parliament as well as for the Nation as Prime Minister. Mr. Arijit Barman in an article in "Outlook" on 9th April 2001, described this changing role as, The Prime Minister is the person whose role is related with *"assembling ideas, collection of relevant inputs from diverse sources, formulation of issues and working out alternatives regarding matters coming upto the Prime Minister for decision"* (p. 36). In this regard the main function of the PMO is to assist the Prime Minister in whatever he does. This role of the prime Minister may be narrated in different ways, where we can understand the core reasons of Prime Minister when he takes the chair.

A Political party expresses during election campaign, its preferences, designs and use of administration for the greater purpose of the electorates. Even they include those all in their Election Manifesto, to make it a written document of their proposed plan of action, provided they get mandate from the people. After election the leader of the winning party takes the Chair of power in the Parliament. Then the task of converting those commitments, given in the election campaign as well as manifesto, as a written document, into hard policies and to find out the way of implementing those through established Government administration comes under responsibility of the Prime Minister. Actually this is the point where the Prime Minister's office plays a crucial though intangible role.

It is said intangible because as per the Rule of Business, Cabinet is the only body who will be the final decision making body, where the Prime Minister is only

the leader. So practically the role of the Prime Minister is only to give suggestion and necessary assistance, but not directly indulging in decision making. Here the comment made by Arijit Barman is very pertinent. He says, “The PMO is only a transmission belt for the ideas which contribute a part of the inputs that go into policy formulation.”

The PMO always stay very close to the Prime Minister and that’s why this office is more powerful than any other secretariat. In this regard we can say with B. G. Deshmukh that over the years, the PMO has grown into a high profile body. Quite often, it has exceeded the powers of the Cabinet Secretariat and actively interfered with the working of various ministries and departments. People who constitute the PMO have acquired power and authority of their own in the name of the Prime Minister. Sometimes even the PMO comes to assume much more authority and power than the Prime Minister originally intended (Deshmukh 1997).

Therefore, some critics have described the PMO as ‘Super Cabinet’, the Government of the Government of India and so on. But it is true that the role and the position of the PMO depend on the Prime Minister.

8.7 Prime Minister’s Secretary/Principal Secretary

The principal secretary to the Prime Minister is the administrative head of the Prime Minister’s Office (PMO). The principal secretary is one of the most influential post and rank in the Indian civil services. He is the senior most bureaucrat and generally from the Indian Administrative Service. Pramod Kumar Misra is the present principal secretary to the Prime Minister of India. The principal secretary to the Prime Minister plays an important role and executes the following functions:-

- He assists the Prime Minister in the performance of his all work including Political, Parliamentary and Public responsibilities.
- He deals with all the important governmental files in the PMO according to the direction of Prime Minister.
- As the administrative head of the Prime Minister’s Office, he coordinates the activities of the different personnel in his office.
- If the Prime Minister hands over any type of work relating to different ministries and departments, he has to execute that work.
- He prepares various notes for the Prime Minister to discuss with important dignitaries.

8.8 Conclusion

As the actual head of the state of India, the Prime Minister has to fulfil a lot of responsibilities. In this regard, he is assisted by the Prime Minister's Office (PMO). The PMO is a staff of agency which provides institutional support to the Prime Minister in his official and policy making functions. It is an extra-constitutional body. But, it has a status of a department of the Government of India under the Allocation of Business Rules, 1961. Till June 1977, the PMO was called as the Prime Minister's Secretariat. During the Prime Ministership of Morarji Desai, the name of Prime Minister's Secretariat was changed into the name of Prime Minister's Office (PMO). The PMO is the most important part of the Government of India. It plays a crucial role and performs different functions. The PMO helps the Prime Minister in respect of his all internal and external responsibilities. But the functions of the PMO vary Prime Minister to Prime Minister. At the beginning it was a modest slim organization, but now it is not only big but important also.

Administratively, the PMO is headed by the Principal Secretary to the Prime Minister. He is the senior most bureaucrat from generally IAS. He assists the Prime Minister in the performance of his all work. At last we can say that the role and the position of the PMO and Principal Secretary depend on the Prime Minister.

8.9 Summary

- Office of the Prime Minister is an important part of the Central administration.
- The Prime Minister fulfills his responsibility only by the able assistance of his Office.
- For this PMO holds an vital position in the Central Secretariat.
- Although PMO is an extra constitutional body, but it has a special status as Governmental Department under the Allocation of Business rules 1961.
- From the time of Morarji Desai, the name of Prime Minister's Secretariat changed to Prime Minister's Office.
- PMO is virtually related with all sorts of work of the Government.
- The PMO is headed by the Principal Secretary.

8.10 Glossary

- Prime Minister's Office can be considered as an agency that helps the prime minister efficiently perform his role, responsibilities and functions.
- Prime Minister's Secretariat administrative head of the PMO.

8.11 Model Questions

Long Questions

- Describe the composition and functions of the PMO.
- State in detail the evolution of power and position of P.M.'s Secretariat.
- Narrate in detail the evolution of Prime Minister's Office.
- Write a short note on PMO.
- Write a short note on the role of the Principal Secretary.
- Clarify the power and position of P.M.'s Secretariat during the Prime Ministership of Nehru.

Short Questions

- Position of PMO during the time of Indira Gandhi.
- Write a note on Major functions of Principal Secretary.
- Write any four functions of PMO.

8.12 References

- Indian Administration-Hoshier Singh, Pankaj Singh
- Indian Administration Evolution and Practice-Bidyut Chakrabarty & Prakash Chand.
- Public Administration-M. Laxmikanth.

Unit-9 □ Functions of the Secretariat

STRUCTURE

- 9.1 Learning Objectives**
- 9.2 Introduction**
- 9.3 Organization Structure of the Secretariat**
- 9.4 Tenure System**
- 9.5 Conclusion**
- 9.6 Summary**
- 9.7 Glossary**
- 9.8 Model Questions**
- 9.9 References**

9.1 Learning Objectives

After completing this unit, the learners will be able to

- Understand the meaning of the Central Secretariat.
- Discuss the Tenure System and its positive and negative sides.
- Explain the Organizational Structure of the Central Secretariat and their functions.

9.2 Introduction

In India, the President is the nominal head of the state and the Council of Ministers with the Prime Minister at the head is the real executive of the state under the Parliamentary system of government. The Council of Ministers with the Prime Minister is responsible for their activities to the people of India through the parliament specially the lower. house, Lok Sabha. So, the Council of Ministers has to fulfil its responsibilities and duties for the welfare of the people. But, the ministers cannot fulfil alone these responsibilities and they need assistance. Therefore, for administrative convenience, the Central Government of India is divided into Ministries and Departments. The Ministries and Departments both

constitute the ‘Central Secretariat of India’. In other words, the Central Secretariat is a combination of all ministries and departments of the Central Government.

The secretariat is a staff agency. In the beginning, it was the office of the Governor General of India. The word ‘Secretariat’ literally means the office of the Secretaries. But there is no mention about the word ‘Secretariat’ in our Constitution. In article 77(3) of the Constitution of India has been said that the President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business. The Central Secretariat is required for the more convenient transaction of the business of the Government of India. In fact, the Central Secretariat assists Ministers of the Central Government of India to fulfil their responsibilities and duties. At present, the ministers/departments of the Central Government are governed by the Government of India (Allocation of Business) Rules, 1961.

British Government initially in 1756 established the post of a President and Council at Fort William, to transact their administrative work. Actually at the initial stage British Government formed, one general department with the help of a Secretary and a few member for doing their purpose. The main instruction was coming to India from England as a “Pakage”. The Secretary laid those instruction before the Council for their instruction to execute the “Pakage”. Council used to, issue instruction and conveyed them to different department. The department with their given authority execute them. Later Lord Cornwallis and Lord Wellesley first started to think on organizing the Secretariat. In the year 1919 Montague Chelmsford made a radical form in the functioning process. They made division of functions and allotted them between Central and Provincial government. From that time onward the functions and responsibility of Secretariat began to change from a policy formulating, supervising and coordinative agency to that of an executive agency.

9.3 Organizational Structure of the Secretariat

There is no special terminology to describe the various segment of the Administrative structure of the Central Government. Generally we call, there is a Central Secretariat, which is a collection of various Ministries and their departments. The Central Government functions with the help of this Central Secretariat. It indicates that the Central Government acts through this Secretariat. Central

Secretariat in a sense a nodal agency for administrative functioning of the Central Government. Secretariat generally assist the minister in the formation and execution of Governmental policies and programme. Thus it perform:-

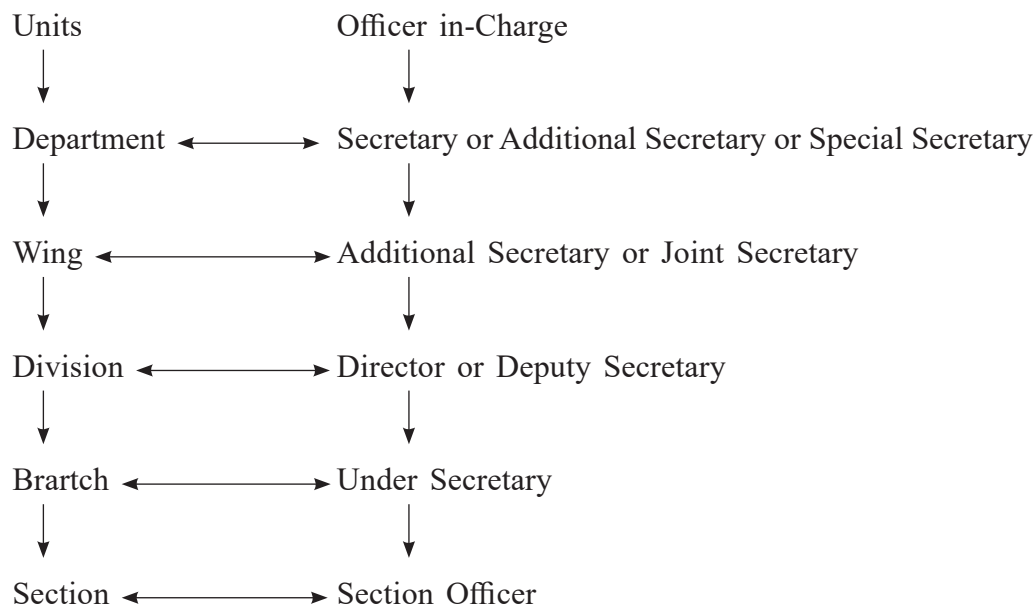
- To make and modify the policies from time to time it prepares Draft of the Bill, rules and regulation.
- It helps the minister to prepare sectoral planning, and Budget estimation, controlling the expenditure, and to maintain the financial discipline in execution of Plan and programme.
- It exercises supervision and control over the execution of policies through field agencies, and evaluating their work progress.
- Coordinating and maintaining policies; assisting other branches of the Government to execute the administrative decisions of the Government.
- Discharging their responsibilities towards the Parliament.

The Central Secretariat is a combination of all the ministries and departments of the Central Government. But the Cabinet Secretariat, which is a Ministry comprising more than one Department, is still known as the Secretariat. A ministry is under the charge of a Minister, who may be assisted by a Minister of State and a Deputy Minister and it is divided into one or more than one departments. However, there can be a ministry without department and similarly, there can be a department without ministry. A department is an organizational unit of Ministry headed by a Secretary or Additional Secretary or Special Secretary. Every department is divided into wings headed by Additional Secretary or Joint Secretary. Every wing also is divided into divisions. Director or Deputy Secretary is the head of a division. Division is divided into branches headed by Under Secretary. Section is the lowest and smallest organisational unit of ministry/department. Some sections make a branch. Section Officer is the head of a section.

The first ARC (Administrative Reform Commission) in this regard commented on Central Secretariat:-

- The Secretariat system of work has lent balance, consistency and continuity to the administration and serves as nucleus for the total machinery. It has facilitated inter-ministry coordination and accountability to Parliament at the ministerial level. As an institutionalized system, it is indispensable for the proper functioning of the Government, (Government of India, Administrative Reform Commission, Report on the Government of India and its Procedure of work (New Delhi, 1969).

The structure and hierarchical order of the Central Secretariat is given below:



The functions of the different grades are briefly described below:

- (A) **Secretary:** A ministry is divided into one or more than one departments. A department is an organizational unit of a Ministry. The Secretary is the administrative head of a ministry/department and he also the chief advisor to the Minister. He represents his ministry/department before the committees of parliament. So, he takes an important role in his ministry/department. According to Gopalaswami Ayyangar, “A secretary should not be immersed in files and burdened with routine. It is essential that he should have time to grasp the overall picture, size up problems facing Government in the field allotted to his charge, and think and plan ahead. All these are his proper functions and must be efficiently performed. Failure to make adequate provision in this respect cannot be compensated by mere increase in the establishment under the control.”
- (B) **Additional/Joint Secretary:** Every department is divided into wings headed by Additional Secretary or Joint Secretary. Where the ministry/department is too large, the Secretary may be assisted by a Joint Secretary or Additional Secretary. An Additional Secretary may act as the in charge of either a department or a wing. On the other hand, a Joint Secretary is always in charge of a wing of a department. But there is no difference between the functions of a Joint Secretary and

Additional Secretary while they work in the wing of a department. Sir Richard Tottenham had warned: “Additional and Joint Secretary should not be either cheap Secretaries or expensive Deputy Secretaries.”

- (C) **Director/Deputy Secretary:** Every wing also is divided into divisions. Director or Deputy Secretary is the head of a division. In 1960, the post of the Director was created to satisfy the ego of certain officers. The Deputy Secretary is an officer who acts on behalf of the secretary. He is in charge of a Secretariat division. According to Richard Tottenham, “...the Deputy Secretary should be an officer of considerable seniority competent to dispose of a very large amount of work on behalf the Secretary and able, as his title implies, to deputize for him when the need arises. He should, in fact, be nearer to the present incorrect conception of a Joint Secretary.” In fact, there is not much difference between the roles of a Director and a Deputy Secretary in the Central Secretariat.
- (D) **Under Secretary:** Every division is divided into branches headed by Under Secretary. He himself solves the minor cases but submits only important cases to the Deputy Secretary. The role of the Under Secretary has been clearly mentioned in the Maxwell Committee Report as below: *“The grade of the Under Secretary should ordinarily initiate action on all inward communications, but he should not hesitate even at that stage to bring a receipt immediately to the notice of the Deputy Secretary for any instructions which the latter might wish to give. More important files he should submit to the Deputy Secretary in such a form that in ordinary course the Deputy Secretary should be enabled to deal with the case quite briefly. Under Secretaries also should attempt to reduce as far as possible the number of files to be formally submitted to the Deputy Secretary.....”*
- (E) **Officer on Special Duty (OSD):** The post O.S.D. was created under the British rule in India. An O.S.D. is appointed when a certain situation is emerged and it is decided that it could be better performed if one individual is made responsible for it. The post of G.S.D. is a temporary in nature. The post does not have any indicative status. According to S. R. Maheshwari, “The post of O.S.D. is not necessarily indicative of any status, O.S.D.s may have a status ranging between that of the secretary and of under secretary. Even some section officers have been known to be appointed as O.S.D.s. The according of appropriate status depends upon the nature and type of the work.....the post of O.S.D. ideally lends itself to use as a training post.”

(F) **Office Staff:** The office of the Secretariat consists of the following personnel:

- Section Officer
- Assistant Section Officer
- Upper Division Clerk
- Lower Division Clerk
- Steno-Typist and Typist
- Manual Worker.

Section is the lowest and smallest organisational unit of ministry/department. Some sections make a branch. Section Officer is the head of a section and his main work is to supervise and coordinate the entire work of staff in his section. He acts as a link between the Under Secretary and the Section. There are some Assistant Section Officers, Upper Division Clerks, Lower Division Clerks, Steno-typists and Typists and Manual Workers in the Section. An Assistant generally works according to the orders of the Section Officer and his main function is to collect the precedents, examine relevant rules and orders on the case and make suggestions for sending to Section Officer. The function of the Upper Division Clerk is to handle simple cases and assists in their disposal. On the other hand, the Lower Division Clerk performs purely routine duties such as collection of previous papers, files maintenance, despatching mails etc.

One more thing we should remind in this regard that the recruitment of Lower Division Clerk post has been taken directly by competitive examinations organised by Staff Selection Commission since 1976. The post of the Upper Division Clerk is recruited by promotion from Lower Division Clerks. The posts of the Section Officer and Assistant Section Officer are appointed partly by competitive examinations and partly by promotion.

9.4 Tenure System

In the tenure system, the officers of higher post in the Central Secretariat are filled from the states (and also from certain Central services) for a definite period and after serving their 'tenure', they have to revert back to their respective states or services. According to S. R. Maheshwari, "The superior positions in the secretariat are manned by officers who come from the states (and also from certain central Services) for a specified period and who after serving their 'tenure' would (or, should) revert to their respective states or services. In official parlance, this arrangement is known as the tenure system." This system was introduced in India

in 1905 the then Governor General of India Lord Curzon. He is regarded as 'the father of the tenure system'. According to this system, every official has to work in the Central Secretariat for a specified period in accordance with their grade. Such as:

- | | | |
|----|-------------------------------|---------|
| a. | Secretary and Joint-Secretary | 5 Years |
| b. | Deputy Secretary | 4 Years |
| c. | Under secretary | 3 Years |

There are lots of debates about this Tenure System in the Indian Administration. Even this system is not as strong as it was before the independence of India. The arguments both in favour and against of this system are described below:

(A) Arguments in favour of the Tenure System:

- It strengthens the Indian federal polity by a regular rotation system of the services of civil servants between the Central government and States governments.
- The tenure system benefits the states also. It provides the State governments officers having a wide range of experience and familiar with national approach to problems.
- The tenure system coordinates the both administrations the central government and the states governments. Thus, it strengthens the administrative unity of the entire country.
- It strengthens the independence of the civil service.
- In the tenure system, every civil servant works in the central secretariat for a specified period and after serving their 'tenure', they have to revert back to their respective states or services. As a result, they do not feel monotony in their service.
- It provides equal opportunities to all the civil servants. Because no civil servant can stay in the Central Secretariat for life time, according to this system, every official has to work in the Central Secretariat for a specified period in accordance with their grade.

(B) Arguments against the Tenure System:

- The tenure system does not ensure specialization in the administration. But now-a-days the specialised civil servant is required in different ministries.
- In the tenure system every civil servant has to work under both governments central and states. But in fact, the experience of district administration does not really help in the Central administration.

- This tenure system has strengthened the Office at the expense of the officer. A new officer depends too much on the office. As a result, the 'office-dominated administration' is created.
- The tenure system was used when India had a unitary administration under the British colonial rule. Now India is a federal state. So, it is said that the tenure system is not so important in the Indian administration like before. As said by Avasthi and Avasthi, "The tenure system does not fit quite well in a federal polity with autonomous states. Amateur ministers at both, the Central and the state levels need services of permanent advisors in the Secretariat; mere 'birds of passage' will not do."

Now-a-days it is seen that the tenure system does not apply to all the departments of the governments due to the requirement of specialized officers. The departments like the Indian Audit Accounts, Posts and Telegraphs, Foreign Services etc mostly depend on their own specialized officers. But it is also true that the tenure system has also some significance in the administration. Keeping this significance the tenure system still remains a part of the staffing pattern of the Central Secretariat.

9.5 Conclusion

Secretariat is an apolitical part of the Indian administration. The word 'Secretariat' literally means the office of the Secretaries. The Central Secretariat assists Ministers of the Central Government of India to fulfil their responsibilities and duties. The Ministries and Departments both constitute the 'Central Secretariat of India'. In other words, the Central Secretariat is a combination of all ministries and departments of the Central Government. A ministry may have some departments. A department is an organizational unit of Ministry headed by a Secretary or Additional Secretary or Special Secretary. Every department is divided into wings headed by Additional Secretary or Joint Secretary. Every wing also is divided into divisions. Director or Deputy Secretary is the head of a division. Division is divided into branches headed by Under Secretary. A branch is also divided into Sections. It is the lowest and smallest organisational unit of ministry/department. Section Officer is the head of a section.

The tenure system was a most important practice in the Indian administration when India was under the British colonial rule. According to S. R. Maheshwari, "The superior positions in the secretariat are manned by officers who come from the states (and also from certain central Services) for a specified period and who

after serving their ‘tenure’ would (or, should) revert to their respective states or services. In official parlance, this arrangement is known as the tenure system.” This system was introduced in India in 1905 by the then Governor General of India Lord Curzon. He is regarded as ‘the father of the tenure system’. There are lots of debates in favour and against the tenure system. At present the tenure system does not apply to all the departments of the government.

9.6 Summary

- Secretariat is primarily used to administer the nation through Government machinery.
- India is divided into Ministries and department. These two taken together constitute the Central Secretariat.
- The members of (permanent executive) in the Secretariat assist the ministers, heading their ministries to discharge their responsibility.

9.7 Glossary

- Rules of Business of the Government the regulations and procedures established by a government to govern and allocate the transaction of government business.
- Transaction Rules the procedures for conducting government business.

9.8 Model Questions

Long Questions

- What do you mean by the ‘tenure system’? Evaluate the relevance of this system in the contemporary Indian administration.
- Discuss the organizational structure of the Central Secretariat and their functions
- Discuss in detail the genesis of Central Secretariat.
- Write a short note on the ‘Central Secretariat’.
- Discuss two Arguments in favour of the Tenure System.

Short Questions

- What is Tenure System? Explain the utility of the system in view of its positive and negative functioning.
- What are different grades in Central Secretariat? How those grades are ordered.
- How you distinguish between Officer on Duty, and Office Staff?
- Write a note on the function of Secretary and Under Secretary.

9.9 References

- Indian Administration-S. R. Maheshwari
- Indian Administration-Hoshiar Singh, Pankaj Singh
- Indian Administration Evolution and Practice-Bidyut Chakrabarty & Prakash Chand
- Public Administration in India-Siuli Sarkar

Unit-10 □ Cabinet Secretariat and the Role of the Central Secretariat

STRUCTURE

10.1 Learning Objectives

10.2 Introduction

10.3 Meaning of the Cabinet Secretariat

10.4 Composition of the Cabinet Secretariat

10.5 Role and Functions of the Cabinet Secretariat

10.6 Cabinet Secretary

10.7 Role of the Central Secretariat

10.8 Conclusion

10.9 Summary

10.10 Glossary

10.11 Model Questions

10.12 References

10.1 Learning Objectives

After going through this unit, the learners will be able to:

- Understand the meaning of the Cabinet Secretariat and the Central Secretariat.
 - Describe the role and functions of the Cabinet Secretariat and the Central Secretariat.
 - Explain the difference between the Cabinet Secretariat and the Central Secretariat.
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10.2 Introduction

The founders of Indian Constitution formed Cabinet Secretariat in pursuance of successful structurization of Parliamentary system in India on account of maintaining the legacy of British system Government. Cabinet Secretariat is an important structure of Parliamentary Democracy in Britain. The Institution of Cabinet Secretariat was first created in the year 1916.

India with the dawn of her independence, formed a Council of Ministers headed by the Prime Minister. Immediately the governing system required the secretarial service to the Council of Ministers. But there was an acute shortage of administrative officers. Because most of ICS left India for U.K. So India had initially no other way but to combine the Council with Prime Minister's Secretariat. But soon it was separated and a new Cabinet Secretariat was formed. Mr. N.R. Pillai first took the charge of Cabinet Secretary. Mr. Pillai, for taking a first hand knowledge about the functioning of Cabinet Secretary, gave a visit to London, and reached to the opinion that the British pattern of organization, with suitable modification could be adopted in India. In 1948 Cabinet Secretary to secure relevant data from different ministerial departments set up another unit called Economic and Statistical Unit for coordination. Until 1950, the Cabinet Secretary used to handle the issues relating with the developmental scheme of the country. Finally after formation of Planning Commission the Cabinet Secretary transferred the work of developmental planning to the Planning Commission. Again in August 1970 in pursuance with the recommendation made by the First Administrative Reform Commission, the Department of Personnel was set up in the Cabinet Secretariat. But later in 1977 Department of Personnel and Administrative Reform was taken away from the Cabinet Secretariat, and placed its link with the Ministry of Home Affairs. Later again this Department of Personnel placed separately with independent status as Department of Personnel Public Grievances and Pension under the Prime Minister and Minister of State. In the process of reorientation and restructuring the Cabinet Secretariat, the National Authority for Chemical Weapon Convention (NACWC) in 1997 and the Performance Management Division, in 2009 have included with the Cabinet Secretariat. Reorganization has thus been the character of Cabinet Secretariat even since its inception.

In a parliamentary form of government like India, the Council of Ministers with the Prime Minister at the head is the real executive head of the state. The Council of Ministers are responsible for their entire activities regarding administration to the people of India through the parliament. So, some specialized and experienced administrators are required to assist the council of ministers to execute their responsibilities and duties. For this reason, the Central Secretariat has been established to help the all ministers and departments of the Central Government. The Central Secretariat is a totality of all ministers and departments of the Central Government. The ministers and departments are politically headed by the ministers and the Secretaries are the administrative head of the ministers and departments.

On the other hand, the Cabinet Secretariat is a staff agency for the assistance to the Union Cabinet in their works. The Prime Minister is the political head of the Cabinet Secretariat and the Cabinet Secretary is the administrative head of it. In this unit, at first we will discuss about the Cabinet Secretariat and then Central Secretariat.

10.3 Meaning of the Cabinet Secretariat

The Cabinet Secretariat is the most important administrative agency for the assistance to the Union Cabinet of India in their works. The business allocated to Cabinet Secretariat under Government of India (Allocation of Business) Rules, 1961 includes: (i) Secretarial assistance to the Cabinet and Cabinet Committees; and (ii) Rules of Business.

We all know that, now-a-days the Cabinet headed by the Prime Minister is the actual executive authority of the state of India instead of the Council of Ministers. So, the cabinet has to fulfil a lot of responsibilities and duties for the entire administration of the Government of India. In this regard, the Cabinet Secretariat assists the Cabinet headed by the Prime Minister. The Cabinet Secretariat works under the direction and leadership of the Prime Minister of India. It takes a crucial role in the process of policy making of the Union Government. The Cabinet Secretariat enjoys the status of a department of the Government of India under the Allocation of Business Rules. The concept of the Cabinet Secretariat took birth in 1947 by replacing the Secretariat of the Governor-General's Executive Council.

10.4 Composition of the Cabinet Secretariat

The Cabinet Secretariat is one of the most important administrative organs of the Union Government of India. At present, the Cabinet Secretariat consists of three wings.-

- (i) **Civil Wing:** It is the most important wing of the Cabinet Secretariat. The main functions of this wing are to provide aid, advice and assistance to the Union Cabinet.
- (ii) **Military Wing:** It also takes an important role in the Cabinet Secretariat. It assists the activities of the defence related committees, such as- Defence Committee of the Cabinet, the Military Affairs Committee, the National Defence Council etc.

- (iii) **Intelligence Wing:** It deals with matters relating to the Joint Intelligence Committee of the Union Cabinet.

Apart from the above mentioned main Wings, the Cabinet Secretariat has some more organizations, such as—

- (a) National Authority for Chemical Weapons Convention,
- (b) Research and Analysis Wing (RAW),
- (c) Special Protection Group,
- (d) Joint Intelligence Committee,
- (e) Aviation Research Centre,
- (f) Special Frontier Force,
- (g) Directorate of public Grievances.

10.5 Role and Functions of the Cabinet Secretariat

The Prime function of the Cabinet Secretariat is to provide secretarial assistance to the Ministers of the Cabinet and in performing their responsibility as a member of various committees. Its role related with preparation of Agenda for meeting of the Cabinet, providing information for easy discussion in the Cabinet, keeping records of the proceedings, and circulation of memoranda on those issues which are waiting for Cabinet decision. The Cabinet Secretariat takes an important role in the Central Administration under the direction and leadership of the Prime Minister of India. This Secretariat provides Secretarial assistance to the Cabinet and its Committees; and also assists in decision-making in Government.

Apart from these formal role of the Cabinet Secretariat, the Cabinet Secretariat play a vital role as coordinating agency of Government of India. First of all, it assists the Minister in the process of decision making by ensuring the coordination among inter-ministerial coordination, with the primary aim of evolving consensus through the instrumentality of the standing/ad-hoc Committee of the Secretariat. Sometimes the inter-ministerial differences or problem thrashed out during the meeting of the committees of the Secretariat. These COS (committees of Secretariat) are mainly formed for discussing any specific important matter of national importance. Here proposals from various Secretaries come to the Government. The meeting of Committee Of Secretaries are held under the chairmanship of Cabinet Secretary. Here principal Departments are asked to present their observation in writing. Departments naturally discuss and give emphasis on different point of views which they count as important for the success of the purpose. The primary effort in the

Committee meeting is given on the adoption of unanimous decisions. It assure that the matter which will raise in the Cabinet meeting, would be backed by a coherent and particular reporting. This naturally help inter-ministerial discussion on any important issue. But in any case if it is found that any two or more ministers are not complying with the report submitted by the COS, then matter is placed as an agenda before the Cabinet for taking final decision.

Some important functions of the Cabinet Secretariat are given below:

- (a) The Cabinet Secretariat prepares Cabinet agenda for its meetings and provides required information and material for the consideration of the Cabinet.
- (b) It can Convene of the meetings of the Cabinet & its Committees on the orders of the Prime Minister.
- (c) It also prepares minutes of different meetings organised by the Cabinet and Cabinet Committees.
- (d) The Cabinet Secretariat is the custodian of the papers of the Cabinet meetings.

It keeps records of the discussions and decisions of the meetings of the Cabinet and Cabinet Committees. It also circulates the discussions and decisions of the meetings to the concerned ministries.

- (e) One of the most important roles of the Cabinet Secretariat is to provide secretarial assistance to the different Cabinet Committees according to their need.
- (f) It informs the President, Vice-President and Council of Ministers about the major activities of all Ministries/Departments by means of monthly summary of their activities.
- (g) It acts as the chief coordinating agency in the Central Government.
- (h) It prepares and finalises the rules of business of the government and allots the business among Ministries and Departments of the Central Government with the concurrence of the President of India.

It can watch whether the different ministries, departments and executive agencies are following the decisions of the Cabinet or not.

- (i) Management of major crisis situations in the country and coordinating activities of various Ministries in such a situation is also one of the functions of the Cabinet Secretariat.

Apart from these formal functions of the Cabinet Secretariat, many other cases are also brought before the Cabinet Secretariat, on which the Cabinet Secretariat provides necessary aids and advice as well as assistance. Some of these are:-

1. Cases involving specially the issuing of ordinance.
2. Address and Messages of the President to the Parliament.
3. Proposal to summon or dissolve the Parliament.
4. Cases which involves the negotiation with Foreign Countries on Treaties, Agreements etc.
5. Proposal for sending delegation of persons abroad in any capacity.
6. Proposal for appointing any Enquiry committee, and their report after enquiry.
7. Cases involving financial implications.
8. Cases of disagreements among minority.
9. Cases which the President or the Prime Minister may require to be put before the Cabinet.

The Cabinet Secretariat is responsible for the administration of the Government of India (Transaction of Business) Rules, 1961 and the Government of India (Allocation of Business) Rules 1961; facilitating smooth transaction of business in Ministries/Departments of the Government.

10.6 Cabinet Secretary

The Cabinet Secretariat functions directly under the Prime Minister. The administrative head of the Secretariat is the Cabinet Secretary who is also the ex-officio Chairman of the Civil Services Board. He is the senior most civil servant in India. This post was created in India in 1950 instead of the Secretary to the Governor-General's Executive Council. The first Cabinet Secretary was N. R. Pillai and Shri Rajiv Gauba is the present Cabinet Secretary of India.

For better-understanding of role and the importance of Cabinet Secretary in Indian Administration, one should remember that Cabinet Secretary is seniormost Officer in Indian Administration. A few words regarding his quality may be added from the description given by R. Dwarkada in his book, Role of Higher Civil Service (Bombay: Popular 1958):

- *“He (the Cabinet Secretary) should be an administrative officer of the highest rank, selected for the office for his special qualities of tact, energy, initiative, and efficiency, and he should be entrusted as head of the Cabinet Secretariat with the positive function of securing coordination as well as timely and effective action by all departments of the Government of India in all matters in which the Cabinet as a whole or the Prime Minister is interested. He should be a person commanding the respect and confidence of all ranks of the permanent services.” (p.41)*

The Cabinet Secretary is the chief coordinator of the central administration. He acts as a link between the Prime Minister's Office (PMO) and various administrative agencies. Above all, he acts as a link between the civil service and the political system.

S. S. Khara, a former Cabinet Secretary told about the role of a Cabinet Secretary in his book, ‘The Central Executive’ (New Delhi: Orient Longman, 1975) that,

- *“The Cabinet Secretary provides the eyes and ears for the Prime Minister to keep in touch with the process of official business in the Central Government. But he is in no sense a watchdog or an invigilator on behalf of the Prime Minister.... A Cabinet Secretary's is a very general staff function, not a line function in relation to the ministries. His is to help, not to oversee.”*

Although the chief function of Cabinet Secretary is not only to provide assistance to the Council of Minister, but he deals almost all the Cabinet affairs. For this, he maintains a close relation with Ministers of different port-folios, along with that he also he keeps a close touch with other secretaries in charge of different Ministries and departments. In this regard S.S. Khare described his role, in his afore stated book that:

- *“In a rather general and loose way, he keeps an eye upon the smooth working of the system of communication and consultation amongst the ministers and department of the Central Government. He does not have a supervisory function over any of the ministers or departments.”*

Thus it is normally expected that the Cabinet Secretary will act as a leader of the Cabinet Secretariat. It is his natural responsibility to put up the morale of the Civil Servant high and professional. He acts as a buffer between politicians and Administrative officers, and always his primary attempt is to protect the interest of Civil Servants in any corificting situation with the Ministers. S.S. Khare in his Book The Central Executive again described the senario in the following manner:

- *“From account of his relationship with the permanent officials, it would appear that he is a sort of advisor and conscience-keeper to all the permanent officials. They come to him for advice and guidance whenever there are inter-departmental difficulties. He seems to be a man in whom all permanent officials have great confidence.”*

10.7 Role of the Central Secretariat

The Central Secretariat is a total form of all ministers and departments of the Central Government. The ministers and departments are politically headed by the ministers and the Secretaries are the administrative head of the ministers and departments. It is the highest office of the Central Government. It occupies a crucial role in Indian administration.

- The Central Secretariat assists the Ministers in the policy making process of the Central Government. The Secretariat provides different data and information to the Ministers and the Ministers make policies with the help of this data.
- It also assists the Ministers in their legislative work to frame rules and regulations. The Secretariat makes legislative drafts for the Ministers to be introduced in the Parliament.
- It helps the Central Ministers in the financial management and budgeting.
- The Central Secretariat takes an important role as the main channel of communication between the government and other concerned agencies, such as-NITI Aayog (National Institution for Transforming India), Finance Commission etc. It also keeps contact with the State Government.
- It can help to evaluate the work done by executive departments or agencies.
- The Central Secretariat acts as a think tank of the Central Government by providing authentic information in respect of governmental policies and activities.

So, the Central Secretariat is an essential organ of the Central Government. As a student of Political Science we can end this discussion by echoing the statement of the first Administrative Reforms Commission:

- *“It has lent balance, consistency and continuity to the administration, and serves as a nucleus for the total machinery of ministry. It has facilitated*

inter-ministry coordination and accountability to the Parliament at the ministerial level. As an institutionalized system, it is indispensable for the proper functioning of the Government.”

A common belief among the civilian and general people is that the quality of leadership is tested during the tenure of Cabinet secretaryship. Perhaps for this the final posting of Cabinet Secretaryship is a dream posting for any IAS. Here a professional Bureaucrat can unravel his quality and capacity to his optimum level of skill. It is no wonder that the inner character and intrinsic personality of a Cabinet Secretary are reflected through the dream he sees and the Cabinet Secretary, quality of influencing others as a leader and also his capacity to become a successful motivator.

It is almost compulsory for a Cabinet Secretary to attend all the meetings of the cabinet. Very rarely, any senior-most member of the Cabinet Secretariat takes his place in the meeting. The Cabinet Secretary takes the detail notes on the Proceedings of the meeting, and finally draws up the minutes containing the resolution of the decision of the Meeting. After the Cabinet decisions are taken, it is the duty of the Cabinet Secretary to make planning for its proper implementations. The Cabinet Secretary also maintains a good and constant relation with the Prime Minister. Although the Prime Minister maintains a separate office under his control, even then the Prime Minister also tries to keep a close eye on the functions and decisions of the Cabinet Secretariat. Because Constitutionally the Cabinet Secretary is also placed under his control. To make this bridge between the Cabinet Secretary and the Prime Minister, an additional committee has been formed, called “Committee of Secretaries on Administration”. The Cabinet Secretary also acts as a chairman in this Committee. Through this committee the Cabinet Secretary can get information required for any state and transmit it to the Prime Minister, when required. S.S. Khera in his book “Central Executive”, elaborated the matter in the following way:

“The Cabinet Secretary provides the eyes and ears for the Prime Minister. But he is in no sense, the watch-dog or invigilator on behalf of the Prime Minister.”

10.8 Conclusion

The Council of Ministers with the Prime Minister at the head is the real executive head of the state of India under the Parliamentary form of government. The Central Secretariat has been established to help all ministers and departments

of the Central Government. The Central Secretariat is a totality of all ministers and departments of the Central Government. The ministers and departments are politically headed by the ministers and the Secretaries are the administrative head of the ministers and departments. It is the highest office of the Central Government. It occupies a crucial role in Indian administration. It helps the ministers in the policy making process, framing rules and regulations, financial management and budgeting etc.

On the other hand, the Cabinet Secretariat is a staff agency for the assistance to the Union Cabinet in their works. The Prime Minister is the political head of the Cabinet Secretariat and the Cabinet Secretary is the administrative head of it. The Cabinet Secretariat has three wings-Civil Wing, Military Wing and Intelligence Wing. Apart from these three wings it has some more organizations. The Cabinet Secretariat takes an important role in the Central Administration under the direction and leadership of the Prime Minister of India. This Secretariat provides Secretarial assistance to the Cabinet and its Committees, and also assists in decision-making in Government.

10.9 Summary

- Cabinet Secretariat has been formed to make the plinth of the Parliamentary system strong.
- The Cabinet Secretariat got its final shape in 1977. But even after that. Still some departments are added with it and the power and influence is continuously increasing.
- The Business allotted to Cabinet Secretary under Government of India (Allocation of Business) Rules 1961 includes (a) Secretariat assistance to the Cabinet Members and Cabinet Committees; and (b) Rules of Business.
- Cabinet Secretariat has three wings: Civil Wing; military Wing; Intelligence Wing.
- Major Functions of the Cabinet Secretariat are ever increasing.

10.10 Glossary

- Government of India (Allocation of Business) Rules, 1961, which

outlines how the business of the government is transacted, classified and distributed among various ministries, departments and offices.

10.11 Model Questions

Long Questions

- Describe the composition and functions of the Cabinet Secretariat.
- Explain the role and functions of the Central Secretariat of India. How it is continuously changing?
- Describe in detail the advisory role of Cabinet Secretariat.
- Write a short note on the Central Secretariat of India.
- Discuss in detail the Role of the Cabinet Secretary.
- How many wings are there under the control of Cabinet Secretariat. Describe the uniqueness of those wings.

Short Questions

- State the list of Functions of the Cabinet Secretariat
- What are the functions of Committee of Secretary
- How it balance between Prime Minister and Secretaries.

10.12 References

- A Indian Administration-Hoshier Singh, Pankaj Singh
- Indian Administration Evolution and Practice-Bidyut Chakrabarty & Prakash Chand
- Public Administration-M Laxmikanth
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Module-III

Corruption Redressal Mechanisms

Unit-11 □ Lokpal

STRUCTURE

- 11.1 Learning Objectives**
- 11.2 Introduction**
- 11.3 Lokpal: Genesis**
- 11.4 Legislative History of Lokpal and Lokyukt Act 2013**
- 11.5 Salient Features of Lokpal and Lokyukt Act 2013**
- 11.6 Mechanism to the Functioning of Lokpal**
- 11.7 Immunities to the Prime Minister in discharge of Duties**
- 11.8 Lokpal and Lokayuktas (Amendment) Act, 2016 and Controversies**
- 11.9 Conclusion**
- 11.10 Summary**
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- 11.12 Model Questions**
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11.1 Learning Objectives

After studying this unit, learners will be able to understand:

- How the Lokpal stands as an Institution to protect the interest of the people against the Corrupt practices of the Govememnt personnel.
- The concept of Lokpalemerged from the Scandenavian Institution “Ombudsman”.
- Lokpal and Lokayukt Act framed and adopted in 2013.
- There are some fetures of Lokpal like, Lokpal have power of superintending and directing over any investigative agency including CBI for cases referred to them by Lokpal.
- The focus of the Act is to prevent the corruption personnel of the Government, as envisaged in “Prevention of Corruption Act, 1988”.
- Amendment of Lokpal Act, 2016.

11.2 Introduction

Gradual increase of public grievences against Governmental corruption and mis-use of power in India, has virtually bound the decision makers to set up a different Department. The Department is called “Department of Administrative Reform and Public Grievances”. The Department has brought under an Additional Secretary. In fact the Department has been set up to cover up the inadequacies, ineffectiveness and inefficiencies of existing structure of the Government. That actually increased the imminency of establishing an institution like “Ombudsman” following the Scandenavian example. The demand of such Institution was first echoed in the Parliament in April 1963. In 1977 Janata Government promised to the House to initiate the process for setting up an Institution like “Lokpal”, to end the corruption in the Public life of the Country. In view of that echoed voice, the Parliament following the suggestion of the “Administrative Reform Committee, in 1966”, proceeded to establish an ‘Ombudsman’ type of Institution to reduce and check the propensity of corruption, and to settle down the grievances of people against Temporary Political Leaders in parliament as well as permanent Government personnel. In the year 1971, Lokpal Bill was formally placed in the Parliament. But this was done even after vacillation of number of Parliamentarians. Janata Government again in 1977, reintroduced the Bill in the Legislature. The, then Government in 1971 drafted the Bill, keeping the Prime Minister outside the orbit of the Bill. But in 1977, Janata Government aptly brought the Prime Minister within the orbit of the draft Bill. Secondly, the bill suggested that the Lokpal, for the sake of its neutral stand, should have its own Administrative machinery and would not be dependent upon the regular Governmental machinery. It was further decided that any complaint, may be pertained to the period of five years from the date of complaint, against any temporary Political Leader or against any personnel of any Governmental Department or Secretariat would be counted.

11.3 Lokpal: Genesis

The word ‘Lokpal’ etymologically means ‘protector of people’. The term was coined as an Indian variant of the concept of ‘Ombudsman’, which has Scandinavian origin and refers to an official who is appointed to investigate complaints of citizens

against the administration. Sweden is the first country to have the institution of Ombudsman, established in 1809. Other countries followed the Swedish model almost after a century. Finland (1919), Denmark (1953), Norway and New Zealand (1962), Britain (1967), Israel, Zambia, Portugal, Spain, South Africa in 1970s, Iceland, Ireland, Netherlands and Poland in 1980s, Slovenia (1993), Burkina Faso (1994), Belgium (1995) are some of the countries which have the institution of Ombudsman. The genesis of the concept in India can be dated back to the 1960s. On 3rd April 1963, Late Dr. L.M. Singhvi while participating in the discussion of Demands for Grants of the Ministry of Law and Justice, in the Lok Sabha, stressed the need for setting up of a Parliamentary Commission on the pattern of Ombudsman for tackling corruption and redressal of public grievances. The terms Lokpal and Lokayuktas were also coined by him. In 1966, the first Administrative Reforms Commission (ARC) recommended a two tier machinery to redress the grievances of public i.e. Lokpal and Lokayukta, The Lokpal would deal with complaints against Ministers and Secretaries of Central Government as well as in the states. The Lokayukta, one for the Centre and one in each State, would attend complaints against rest of the bureaucracy. Apart from the first ARC and the Parliamentary Committees, second ARC and the National Commission to Review the Working of the Constitution, 2002 (NCRWC) have recommended on the various aspects of the institution of Lokpal. Since 1968, Bills relating to Lokpal and Lokayuktas had been introduced in the Lok Sabha nine times, but had failed to clear the both the Parliamentary chambers on each occasion.

11.4 Legislative History of the Lokpal and Lokayukt Act, 2013

The Lokpal and Lokayuktas Act, 2013 has had a long chequered history. It took almost forty-five years to enact this important piece of legislation. The institution of Lokpal was first contemplated way back in early 1960s with the aim to rooting out corruption in public offices. For the first time the Bill was introduced in the Fourth Lok Sabha as the Lokpal and Lokayuktas Bill, 1968. Since then the Bill has been introduced nine times in 1971, 1977, 1985, 1989, 1996, 1998, 2001 and twice in 2011. In view of the repeated postponement to enact this legislation, a campaign was launched by civil society organisations in 2011. They brought out their own version of the Bill titled 'The Jan Lokpal Bill'. The Government subsequently introduced a new Lokpal Bill on 4 August 2011, which was referred to the Department-related Parliamentary Standing Committee for examination on 8

August 2011. On 27 December 2011, the Bill was discussed and passed by the Lok Sabha with certain amendments. On 21 May 2012, the Rajya Sabha referred the Bill as passed by the Lok Sabha to the Select Committee of the Rajya Sabha. The Government accepted 14 of the 16 recommendations made by the Select Committee and accordingly amended the Lokpal and Lokayuktas Bill, 2011. The Bill as passed by the Rajya Sabha with certain amendments on 17 December 2012 was sent back to the Lok Sabha for further approval. The Lok Sabha agreed to the amendments made by the Rajya Sabha and passed the Bill on 18 December 2013. The Bill as passed by both Houses received the President's assent on 1 January 2014 and became Act No. 1 of 2014.

11.5 Salient features of the Lokpal and Lokayuktas Act, 2013

- It envisages a Lokpal at the Centre and Lokayuktas at the level of the states.
- A mandate was created for setting up of the institution of Lokayukta: through enactment of a law by the State Legislature within a period of 365: days from the date of commencement of the Act.
- Lokpal will consist of a chairperson and a maximum of eight members, of which 50 per cent shall be judicial members.
- 50 per cent of members of Lokpal ,shall be from SC/ST/OBCs, minorities and women,
- The selection of chairperson and members of Lokpal shall be through a Selection Committee consisting of the Prime Minister, the Speaker, Lok Sabha, Leader of Opposition in the Lok Sabha, Chief Justice of India (CJI) or a sitting Supreme Court judge nominated by CJI, eminent jurist to be nominated by the President of India on the basis of recommendations of the first four members of the Selection Committee.
- The Chairperson and the Members are appointed by the President of India by warrant under his hand and seal and hold office for a term offive years from the date on which they enter upon the office or until they attain the age of 70 years, whichever is earlier.
- The salary, allowances and other conditions of services of the Chairperson are the same as that of Chief Justice of India. The salary, allowances

and other conditions of services of the Members are the same as that of a Judge of the Supreme Court.

- The Prime-Minister has been brought under the purview of the Lokpal.
- Lokpal's jurisdiction will cover all categories of public servants. The Lokpal has jurisdiction to inquire into allegations of corruption against anyone who is or has been Prime Minister, or a Minister in the Union government, or a Member of Parliament, as well as officials of the Union Government under Groups A, B, C and D. Also covered are chairpersons, members, officers and directors of any board, corporation, society, trust or autonomous body either established by an Act of Parliament or wholly or partly funded by the Union or State government.
- All entities receiving donations from foreign source in the context of the Foreign Contribution Regulation Act (FCR) in excess of Rs. 10 lakh per year are brought under the jurisdiction of Lokpal (A June 2016 notification revised it to Rs. 1 crore).
- Lokpal will have power of superintendence and direction over any investigative agency including CBI for cases referred to them by Lokpal.
- A high powered committee chaired by the Prime Minister will recommend selection of the Director, CBI. Directorate of Prosecution headed by a Director of Prosecution under the overall control of Director, CBI. The Director of Prosecution, CBI will be appointed by the Central Government on the recommendation of the CVC for a period of not less than two years. Transfer of officers of CBI investigating cases referred by Lokpal cannot be effected without the approval of Lokpal.
- The Act also incorporates provisions for attachment and confiscation of property acquired by corrupt means, even while prosecution is pending.
- The Act lays down clear time lines for preliminary enquiry and investigation and trial and towards this end, the Act provides for setting up of special courts.

11.6 Mechanisms related to the functioning of Lokpal

A complaint under the Lokpal Act should be in the prescribed form and

must pertain to an offence under the Prevention of Corruption Act, 1988 against a public servant. There is no restriction on who can make such a complaint. When a complaint is received, the Lokpal may order a preliminary inquiry by its Inquiry Wing or any other agency, or refer it for investigation by any agency, including the CBI, if there is a prima facie case.

Before ordering of an investigation by an agency, the Lokpal shall call for an explanation from the public servant to determine whether a prima facie case exists. This provision, the Act says, will not interfere with any search and seizure that may be undertaken by the investigating agency. The Lokpal, with respect to Central government servants, shall refer the complaints to the Central Vigilance Commission (CVC). The CVC will send a report to the Lokpal regarding officials falling under Groups A and B; and proceed as per the CVC Act against those in Groups C and D. The Inquiry Wing or any other agency will have to complete its preliminary inquiry and submit a report to the Lokpal within 60 days. It has to seek comments from both the public servant and “the competent authority” before submitting its report.

There will be a “competent authority” for each category of public servant as defined under the Act. For instance, for the Prime Minister, it is the Lok Sabha, and for: other Ministers, it will be the Prime Minister. And for department officials, it will be the Minister concerned. A Lokpal Bench consisting of no less than three members shall consider the preliminary inquiry report, and after giving an opportunity to the public servant accused of corruption for his/her defence, decide whether it should proceed with the investigation. It can order a full investigation, or direct to start departmental proceedings or close the proceedings. It may also proceed against the complainant if the allegation is false. The preliminary inquiry should normally be completed within 90 days of receipt of the complaint. Previously, the authority vested with the power to appoint or dismiss a public servant was the one to grant sanction under Section 197 of the Code of Criminal Procedure and Section 19 of the Prevention of Corruption Act. Now this power will be exercised by the Lokpal, a judicial body. In any case, the Lokpal will have to seek the comments of the 'competent authority' as well as the public servant's comments before granting such sanction.

The lokpal is vested with the power of search and seizure and also powers under the Civil Procedure Code for the purpose of conducting preliminary inquiry and investigation and power of attachment of assets and taking other steps for eradication of corruption. Lokpal will have power of superintendence and direction over any central investigation agency including CBI for cases referred to them by the Lokpal.

11.7 Immunities to the Prime Minister in discharge of Duties

The Lokpal cannot inquire into any corruption charge against the Prime Minister if the allegations are related to international relations, external and internal security, public order, atomic energy and space, unless a full Bench of the Lokpal, consisting of its chair and all members, considers the initiation of a probe, and at least two-thirds of the members approve it. Such a hearing should be held in camera, and if the complaint is dismissed, the records shall not be published or made available to anyone.

11.8 Lokpal and Lokayuktas (Amendment) Act, 2016 and Controversies

The Lokpal Act, 2013 required a public servant to declare his assets and liabilities, and that of his spouse and dependent children. Such declarations must have been made to the competent authority within 30 days of entering office. Further, the public servant must have filed an annual return of such assets and liabilities by July 31st of every year. The Lokpal Act also mandated statements of such declarations be published on the website of the relevant Ministry by August 31 of that year. In this backdrop The Lokpal and Lokayuktas (Amendment) Bill, 2016 was introduced in Lok Sabha on July 27, 2016 by the Minister for Personnel, Public Grievances and Pensions, Dr. Jitendra Singh. The Bill amends the Lokpal and Lokayuktas Act, 2013 in relation to declaration of assets and liabilities by public servants. The provisions of the Bill would apply retrospectively from the date of the coming into force of the 2013 Act.

In 2016 amendment to the Lokpal Act has excluded spouses and dependent children of public servant from disclosure of assets and liabilities. It also said the form and manner of disclosure by public servants would be decided by the government. This amendment was termed by civil society activists as ‘regressive’. Anjali Bhardwaj, a noted activist criticized the amendment on the ground that in view of the seeming impossibility of catching people red-handed taking bribes, the only sensible way is through monitoring of assets disproportionate to their known sources of income which are in the names of spouses and dependent children. The 2016 amendment has effectively provided immunity to the errant bureaucrat.

11.9 Conclusion

The Act provides for selection of chairperson and members of Lokpal by a committee consisting of the Prime Minister, Lok Sabha Speaker, Leader of Opposition in Lok Sabha, Chief Justice of India or a sitting SC judge nominated by the him, and an eminent jurist to be nominated by President of India on the basis of recommendations of first four members of selection panel. Shri Mukul Rohatgi, former Attorney General of India was appointed as the first. “Eminent Jurist” Member of the Selection Committee. However, the post of Leader of Opposition could not be filled, owing to the election results of the national election of 2014. As the largest opposition party (Congress) could not secure at least 10 percent seats (55) in the Lok Sabha in that election, it could not stake a formal claim to the post of Leader of Opposition. This unforeseen situation resulted in a deadlock and delayed the appointment of the Lokpal.

Meanwhile the Supreme Court on January 17, 2018 had set up a February-end, 2018 deadline for the Lokpal search committee to send a panel of names who could be considered for the appointment as its chairman and members. A search committee headed by former apex court Judge Ranjana Prakash Desai had recommended three panels of names to the selection committee for appointment of chairperson, judicial and non-judicial members in the anti-graft body. A Selection Committee led by Prime Minister Narendra Modi and comprising Chief Justice Ranjan Gogoi, Lok Sabha Speaker Sumitra Mahajan and eminent jurist Mukul Rohatgi deliberated on the recommendations of the search committee. Mallikarjun Kharge, the Leader of Opposition in Lok Sabha by default, did not attend the deliberations after he was invited as “special invitee”. Mr. Kharge had refused to attend earlier meetings also, protesting at being invited as “special invitee”.

Eventually, the President nominated former Supreme Court judge Pinaki Chandra Ghose as the first Lokpal of the country along with other eight members on March 19, 2019. Justice (retd.) Ghose’s appointment has come nearly five years after the Lokpal Act was notified on January 16, 2014 following a country wide anti-corruption movement.

11.10 Summary

- It is fact that several States have passed Lokpal and Lokayukt Act. They demand that their attempt is to keep the administration free from any corruption.
- But in reality, whenever the Lokpal makes attempt to take any Govememtn personnel or Leader in its custody for detail enquire, the Political head specially comes as the shield between alleged personnel and Lokpal Diretorate. The attept is to protect the alleged inlcident of corruption or mis-use of Power.
- Even then Lokpal is the only substitute to reform the Administrative process.
- The effort of activizing Lokpal is then only possible, when the administrative efficiencies and efficacies of the administrator would be high.

11.11 Glossary

- Redressal Cell Public grievances.
- Lokpal, a machinery to reduce corruption.

11.12 Model Questions

Long Questions

- Discuss the reasons for the formation of Lokpal Institution. How Lokpal Institution was set up?
- State the salient features of Lokpal.
- Elaborate indetail, the functions of Lokpa.
- State the important reasons for forming Lokpal Institution.
- What are those matters that are excluded from the purview of Lokpal?
- Write a note on the mechanism that related to the functioning of Lokpal.

Short Questions

- Bring out the relation between Ombydsman and Lokpal
- Write a note on the role of Janata Government in bringing a new shape

in Lokpal.

- What are the Immunities to the Prime Minister in discharge of Duties.
- Write a short note on the status of the Lokpal in Indian Administration.

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Unit-12 □ Lokayukta

STRUCTURE

12.1 Learning Objectives

12.2 Introduction

12.3 Genesis

12.4 Karnataka as Model

12.5 Lokpal and Lokayukta Act 2013 and the Status Thereof

12.6 Conclusion

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12.1 Learning Objectives

After studying this unit, the learners will be able to understand

- Lokayukta as second tier Institution made for Citizens' Grievances and the Administrative Reform Commission.
- This second tier of Citizens' grievance Cell deals with the complaints against subordinate Staff of Centre and State.
- The Commission including Directors of different Department along with other subordinate Staffs.
- The Commission has admitted, that the setting up of Lokpal and Lokayukta and their authoritative position in the administration,
- The successful functioning of anti-corruption movement.

12.2 Introduction

The Administrative Reform Commission, set up in 1966, was given one vital terms of reference for discussion. The terms of reference was to investigate the propensity of corruption of Public Servants, and the Public grievances thereon. The committee was also asked to suggest the process of finding out the ways of public redressal-against those compliants. The primary suggestion of the Committee was very meaningful. It suggested, that the Government should introduce and form a new machinery or special Institution or Department for redressal of public grievances. Reform commission submitted interim report, giving importance to those specific terms and condition by which was mentioned as reference of their one vital responsibility. The interim report recommended a two tier mechninery viz. Lokpal and Lokayukta. The former will deal with the complaints against Ministers and Secretary to the Government at the Centre as well as States. The latter would look after the complians against other official of Centre as well as State of Secretariat and Department. In reply to a question, Chairman of the Reform Committee (Morarji Desai) stated, “We have brought both ministers and Secretaries in the same fold of Lokpal and Lokayukta, because at that level of the Government, it becomes difficult to identify the source of Corruption”. It is also difficult to find out the role of one functionery ends and that of others begins. Commission further suggested Lokpal and Lokayukta should have certain critarian, which would uniquely help these Institution to act impartially and independently, like, (1) Both should be independent and neutral from he existing Governmental mechninery; (2) Investigation and detection should be made in private; (3) The-appointment should be from Non-Political orbit; (4) Status of these Institution must be judicial; (5) These two Institution will deal with those issues, which are related with injustice, corruption or favouritism; (6) The Lokpal and Lokayukta will be authorised by law, to collect information relevant to their job and duties; (7)These two vital Institution of Unit of Government, do not look forward any benefit or pecuniary advantages from the Executive Government.

Suggestion made by the Institution: The commission strongly suggested to give these Institution same status as that of Chief Justice of High Court. Along with that the Commission has also identified certain items where the function of this Institution from taking any' steps. Those items are:-

- Any action which may effect the International Relation of the Sovereign with any foreign country.
- Action has also been restricted under Extraction Act 1962 or Foreign Act 1946.
- Action which may affect internal or external law and orders.
- If any matter remain under sub-judice, neither Lokpal nor Lokayukta, interfrer into that
- Any action taken by the Governemnt to maintain purely commercial relation with other country.
- Action regarding any matter of personal affairs of Govrnment official.
- Grant of Honour and Awards.
- Action against-the discreationery power of the Government.
- Administrative decision taken, 12 months before the initiation of complaints.
- Decision on the matter which has been referred to the tribunals.

12.3 Genesis

Anti-corruption institutions were first conceptualized by the Administrative Reforms Commission (ARC) headed by Morarji Desai in its special interim report on “Problems of Redressal of Citizen’s Grievances” published in 1966. It recommended the creation of two independent authorities-the Lokpal at the centre and the Lokayuktas in the states. The first Lokpal Bill was introduced in Parliament in 1968 but it lapsed with the dissolution of Lok Sabha. Later Bills also met a similar fate. Though the Lokpal could not be created as a national institution, the interest generated led to the enactment of various state legislations.

Some states have had Lokayukta even before the Lokpal Act. Maharashtra was the first state to enact a law for it in 1971. Rajasthan followed suit in 1973, Uttar Pradesh in 1975, Madhya Pradesh in 1981, Andhra Pradesh and Himachal Pradesh in 1983 and Karnataka in 1984. There is a widely held perception that Lokayuktas are not empowered enough and the State governments have not provided adequate logistical support to the Lokayukts and thus rendered them less useful.

Lokayuktas in different states do not all enjoy the same powers. For instance, though the Maharashtra Lokayukta is the first Lokayukt in the country, it does not have a police wing under it to investigate graft complaints, unlike in Kamataka.

12.4 Karnataka as Model

The Karnataka Lokayukta is believed to be among the most effective Lokayuktas. It was first set up in 1986 under the Kamataka Lokayukta Act, 1984. In July 2011, a report by the then Lokayukta Justice N Santosh Hedge in a mining and land seam forced the then chief minister BS Yeddyurappa to resign. It landed him in jail for 24 days, though he was acquitted by a CBI court in October 2016. The Kamataka Lokayukta Act was recently amended by the state government following the resignation of the Lokayukta, Justice Santosh Hegde. Justice Hegde had been demanding additional powers for the Lokayukta-especially the power to investigate suo-motu. Following the amendment, the Lokayukta has been given the suo motu powers to investigate all public servants except the Chief Minister, Ministers, Legislators and those nominated by the government. Following are the main provisions of the Kamataka Lokayukta Act:

- The public servants who are covered by the Act include the Chief Minister, Ministers, Legislators and all officers of the state government including the heads of bodies and corporations established by any law of the state legislature.
- The body is constituted for a term of five years and consists of one Lokayukta and one or more Upalokayuktas. All members must have been judges, with either the Supreme Court or some High Court.
- Members are appointed on the advice of the Chief Minister in consultation with the Chief Justice of the Karnataka High Court, the Chairman of the Kamataka Legislative Council, the Speaker of the Kamataka Legislative Assembly, and the Leader of Opposition in both Houses.
- Investigations involving the Chief Minister, Ministers, Legislators and those nominated by the government must be based on written complaints. Other public servants can be investigated suo-motu.
- Reports of the Kamataka Lokayukta are recommendatory. It does not have the power to prosecute.

In 2016, Karnataka set up an Anti-Corruption Bureau (ACB), which was challenged by private petitioners in court on the premise that it eats into the powers of the Lokayukta. The ACB was created under the condition that it shall not investigate officers and politicians holding certain offices unless prior sanction is given by the government. The then Karnataka Lokayukta, Justice P Vishwanatha Shetty, had said the body should be strengthened and the government cannot take away its power.

12.5 Lokpal and Lokayuktas Act, 2013 and the Status Thereof

Section 63 of the Lokpal and Lokayuktas Act 2013 envisages that every State shall establish a body to be known as the Lokayukta within a period of one year from the date of commencement of the Act. Unfortunately many States did not comply with this section in the stipulated timeframe. Just as the Centre has dragged its feet on appointing a Lokpal, several states have done the same with the Lokayukta, with the Supreme Court asking them to expedite the process. Jammu and Kashmir and Uttarakhand even questioned the need for a Lokayukta. Tamil Nadu government took a lot of time to pass its Lokayukta Bill. Odisha, Nagaland and Manipur also delayed their process. The West Bengal Lokayukta law has reportedly been amended to exclude the Chief Minister from its purview for bureaucratic and police appointments.

An organization named Transparency International India had published a survey report titled “Performance of Lokayuktas (State level Ombudsman Institutions) in Indian States: Snippet” in December, 2018 and had projected an alarming picture. They found that most of state’s laws on Lokayukta are not drafted by taking the Union law i.e. the Lokpal and Lokayuktas Act 2013 as model legislation. Out of 29 States and 1 Union Territory (Delhi) under survey, 23 States had a functional office set up/establishment for Lokayukta office after enacting the Lokayukta Act whereas three states-Arunachal Pradesh, Nagaland and Tamil Nadu had enacted the act but were yet to make necessary arrangement for anti-corruption institution. Out of these 23 states which had the institution of Lokayukta in them, only 18 of them had the post of Hon'ble Lokayukta filled. Out of the 23 states, only 11 had provided a post for the UpaLokayukta. Out of these 23 states, only 14 states had an official web site and 9 Lokayuktas were without dedicated websites. Out of these 23 States, only 7 States did not require any amount of fees for the submission of the corruption complaints. Other states had varied rates respectively, ranging from Rs. 3/- in Himachal Pradesh to Rs. 2000/- in Uttar Pradesh and Gujarat. Out of the

23 States, only one state, Maharashtra, had provided the facility of Online Filing of Complaint.

12.6 Conclusion

The Lokpal and Lokayuktas Act 2013 should have acted as a model legislation to inspire the state governments to appoint a strong ombudsman like body, with wide-ranging powers. However, those states which had a Lokayukt predating the 2013 Act, found it convenient to continue with their existing arrangements and did not choose to form a new and more powerful body. Other states, which clearly had the mandate to form a Lokayukt as per the 2013 Act, delayed the process inordinately until the Supreme Court had to intervene on the basis of a public interest litigation. Even then, the Lokayukts thus formed suffer from fund crunch, lack of manpower, and other resources. There is a distinct inactive status of website of many such state Lokayukts, and online filing of complaints have not been provided in a broad based manner. Publicity drive by the Lokayukts are also non-existent in many cases, as the funds for such publicity drive are contingent on the support rendered by the state government. Lack of uniformity in the power structure of Lokayukts is an undoubted cause for concern, though the same can be somewhat traced back to the 2013 Act itself, which did not specify any details of the manner of appointment and powers of the Lokayukt in as much detail as those pertaining to the Lokpal. As a result, the Lokayukts that have been created are often a reflection of the wishes of the political functionaries of the state. Moreover, the efficacy of Lokayuktas in tackling corruption has been questioned in the context of very few complaints being filed in the first place. Commonwealth Human Rights Initiative (CHRI) researchers say most complaints made to the Lokayukta are to do with maladministration and non-availability of government services rather than corruption. The institutional framework envisaged to tackle the menace of corruption can only be successful when due diligence is exercised to conform to the letter and spirit of well-meaning Acts.

12.7 Summary

- In some States in India, Lokayukta Institution is functioning since last three/four decades. They are empowered to inquire into complaints related with mal-administration, corruption, indulgence etc.
- Lokayukta mainly investigate the corrupt practice of the Government Officials and Ministries.

- In a few States, their jurisdiction has been extended to complaints against the Chief Minister.
- In some specific cases, the Lokayukta placed their findings against any Minister or Official before the Legislature. Thus it becomes public. As a result of it, the matter comes to regime of Public knowledge, and they create pressure on the Ministry for appropriate steps against that. In such cases, it become impossible for the Ministerial authority to resist or ignore or condone the corrupt practices of the alleged Official or Minister.
- So the Lokayukta has some positive role to resist the corruption and negligence of duties.
- In this connection, the achievements of State of Maharashtra should be mentioned specially. The State has not only established Lokayukta in the State Administration, but also established Upa-Lokayukta act 1971.
- This Act established that (a) lokayukta is appointed by the Governor after consultation with the Chief Justice of the High Court, and the leader of the Opposition in Legislature.
- The tenure of Lokayukta is five years.
- Some condition have also been imposed on the apporintment of Lokayukta. Those are: (i) he cannot be the member of Parliament or any State Legislature; (ii) he will not be permitted to hold any office of profit; (iii) He should not be directly with any Political Party; (iv) he will not be allowed to engage any Office of profit after retirement.
- He cannot be removed by the State government on the charge of “misbehaviour” or “incapacity”.
- The lokayukta can only be removed by the State Legislature, if a resolution to that effect is passed in the Legislature by Two-Third majority of the members present and voting (which is tantamount to absolute majority, then the decision of initiating inquire, will be held. The inquire will be conducted either by the Judge of Supreme Court or Chief Justice of State High Court.
- The most disappointing matter is that, the function and effectiveness of Lokayukta varies from State to State. In most cases Lokayukta is not allowed to act successfully and effectively.
- It is due to plotitical “will” that has kmade this Institution almost a “name-sake” Institution.

- One of the reasons being it, the widespread Ministerial corruption, and evil interference of Political Parties and their Leaders do not want to place their misdeeds under the magnifying glass of the Society.
- In 1986 the all India Conference of Lokayuktas made several recommendations to get back their power and to make them strengthen. Their suggestions include (a) strict Constitutional status is to be given to the Institution; (b) a particular time limit should be given to submit the report to the Legislature; (c) there should be an independent agency under the control of Lokayukta having the suo-motopower of investigation.
- But unfortunately no recommendations were accepted.

12.8 Glossary

- Administrative Reform Commission body that proposes reforms to the administrative system.
- Redressal of Grievances.
- Mutatis mutandis (with necessary changes having been made or with consideration of the respective differences).

12.9 Model Questions

Long Questions

- On what important issue, that the Administrative Reform Commission proceeds to establish an Institution for the sake of redressal of Citizens' Grievances? Why that attempt ultimately failed?
- Discuss in detail the historical perspective of the formation of Lokpal and Lokayukta.
- Critically discuss the Karnataka Model of Lokayukta and compare it with Maharashtra Model.
- Discuss the reasons of failure of Lokayukta Institution to combat the corruption in India.
- Narrate the process of formation of Lokayukta structure.

Short Questions

- Discuss the utility of an Institution like Lokayukta in Indian Government.
- Why Indian administration felt the necessity of establishing a redressal cell?

- What are the basic criteria to be a Lokayukta?
- Write a brief note on Karnataka lokayukta Act.

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Unit-13 □ Central Vigilance Commission (CVC)

STRUCTURE

- 13.1 Learning Objectives**
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13.1 Learning Objectives

After going through this unit, the learners will be able

- The necessity of Central Vigilance Commission.
- How the Central Vigilance Commission's report of the investigation done by the Delhi Special Police Establishment.

13.2 Introduction

The Central Vigilance Committee was established on September, 2003. This was as per the resolution adopted by the Government of India on 2nd. February 1964. Initially on 25th, August, 1998, Central Legislature promulgated an ordinance. the purpose was to set up an institution for vigilance and advising the planning, execution of planning; reviewing and reforming the vigilance work. The Central Legislature, after passing the Bill, sent the ordinance to the President for his assent. The Bill was passed on 11th. September 2003. After the approval of President by giving his signature on September 2003, the proposed bill came into action on September 2003. The Act was designated as Act 25. Later in April, 2004 Central legislation by its resolution on “Public Interest Disclosure and Protection of Informer” authorised the Central Vigilance Commission to receive complaint for allegation of corruption. Delhi Special Police Establishment, under the supervision of Central Vigilance Commission, help the body in investigating the complain. In this case Delhi Special Police Establishment act as per the Act, “Prevention of Corruption” 1988. The Civil Vigilance Commission exercise its power and privileges of function, independently. It enjoys autonomy like U.P.S.C.

A cursory glance at the solutions being prescribed by various scholars gives the sense that combating corruption needs a holistic and all-pervasive approach. Citizens, government, private enterprises, technology tycoons, political functionaries, banks, legal functionaries-all need to pool in their expertise to prevent corrupt behaviour.

13.3 Genesis

The Central Vigilance Commission (CVC) is conceived to be the apex vigilance institution, free of control from any executive authority, monitoring all vigilance activity under the Central Government and advising various authorities in Central Government organizations in planning, executing, reviewing and reforming. their vigilant work. The Central Vigilance Commission (CVC) has been constituted pursuant to the ‘Report of The Committee on Prevention of Corruption (K. Santhanam Committee Report) Under Ministry of Home Affairs (1963)’. The CVC was set up by a Government Resolution in February, 1964 on the recommendations of the Santhanam Committee. Consequent upon promulgation of an Ordinance by the President, the Central Vigilance Commission has been made a multi member Commission with “statutory status” with effect from 25th August,

1998. Subsequently the CVC Bill was passed by both the houses of Parliament in 2003 and the President gave its assent on September 11, 2003. Thus the Central Vigilance Commission Act 2003 (No. 45 of 2003) came into effect from that date. The Commission was accorded the status of independent statutory authority through the Central Vigilance Commission Act, 2003. Accordingly, the Commission shall consist of a Central Vigilance Commissioner as Chairperson and not more than two Vigilance Commissioners as Members. Further a Government Resolution on “Public Interest Disclosure and Protection of Informer” in April 2004, has authorized the Central Vigilance Commission as the “Designated Agent” to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action.

13.4 Jurisdiction

Organizations falling under the jurisdiction of CVC are as follows:

- Central Govt. Ministries/ Departments.
- Central Govt. Public Sector Undertakings.
- Nationalized Banks, Insurance Companies.
- Autonomous organizations created through an Act of the Parliament or under the administrative control of Government of India, like All India Institute of Medical Sciences, Port Trusts and Delhi Development Authority etc.
- Centrally administered territories including Delhi, Chandigarh, Daman and Diu, Puducherry etc.
- Societies and local authorities owned or controlled by the Govt. of India.

More specifically, the following cadres of officers come under the purview of CVC-Members of All India Service serving in connection with the affairs of the Union and Group A officers of the Central Government; Officers of the rank of Scale V and above in the Public Sector Banks; Officers in Grade D and above in Reserve Bank of India, NABARD and SIDBI; Chief Executives and Executives on the Board and other officers of E-8 and above in Schedule ‘A’ and ‘B’ Public Sector Undertakings; Chief Executives and Executives on the Board and other officers of E-7 and above in Schedule ‘C’ and ‘D’ Public Sector Undertakings; Managers and above in General Insurance Companies; Senior Divisional Managers and above in Life Insurance Corporations.

Complaint to the CVC can be lodged only against officials belonging to the above mentioned categories. The Commission has no jurisdiction over private individuals and organizations of the State Governments.

13.5 Role and Functions of the Central Vigilance Commission

- It exercise superintendence over the functioning of the Delhi Special Police Establishment (CBI) insofar as it relates to the investigation of offences under the Prevention of Corruption Act, 1988; or an offence under the Criminal Procedure Code (Cr.PC) for certain categories of public servants.
- Under section 25 of CVC Act, 2003 the Central Vigilance Commissioner (CVC) as Chairperson and the Vigilance Commissioners as Members form a Committee, on whose recommendations, the Central Government appoints the Director of Enforcement and other officers to the posts of the level of Deputy Director and above in the Directorate of Enforcement, officers to the post about the level of SP and above except Director in the CBI and also recommend the extension or curtailment of tenure of such officers in the DSPE (CBI)-under Section 26 of CVC Act, 2003 and Section 4C of DSPE Act, 1946.
- It provides directions to the Delhi Special Police Establishment (CBI) for superintendence insofar as it relates to the investigation of offences under the Prevention of Corruption Act, 1988.
- It inquires or causes an inquiry or investigation to be made on a reference by the Central Government-under the Prevention of Corruption Act, 1988.
- It inquires or causes an inquiry or investigation to be made into any complaint received against any official belonging to such category of officials specified in sub-section 2 of Section 8 of the CVC Act, 2003.
- It reviews the progress of investigations conducted by the DSPE (CBI) into offences alleged to have been committed under the Prevention of Corruption Act, 1988 or an offence under the Cr.PC.
- It review the progress of the applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988.

- It tenders advice to the Central Government and its organizations on such matters as may be referred to it by them.
- It exercises superintendence over the vigilance administrations of the various Central Government Ministries, Departments and Organizations of the Central Government.
- Under section 11 of CVC Act, 2003 CVC shall have all the powers of a Civil court while conducting any inquiry.
- Under section 19 of CVC Act, 2003 CVC shall respond to Central Government on mandatory consultation with the Commission before making any rules or regulations governing the vigilance or disciplinary matters relating to the persons appointed to the public services and posts in connection with the affairs of the Union or to members of the All India Services.

13.6 Appointment of Chief Vigilance Officer (CVO)

The Chief Vigilance Officers (CVOs) are extended arms of the CVC. The Chief Vigilance Officers are considerably higher level officers who are appointed in each and every Department/Organization to assist the Head of the Department/Organization in all vigilance matters. The Chief Vigilance Officers constitute an important link between the organizations concerned and the Central Vigilance Commission. The following procedures have been laid down/evolved in the matter of appointment of CVOs:

- Prior approval of the CVC is necessary for appointment of an officer as CYO;
- As far as possible, the Chief Vigilance Officers should be from outside the Organization in which he is to be appointed. The initial tenure of full-time CVO in PSUs is for three years extendable by two years in the same organisation with the approval of the Commission or upto a further period of three years on transfer to another PSU on completion of initial tenure of three years in the previous PSU.
- In cases where the scale of operation of a particular organization does not justify creation of a full-time post, an officer within the organization sufficiently senior in rank to be able to report directly to the Chief Executive or vigilance matters may be considered for such appointments;

- The officer to be given additional charge of the post of CVO should not be one whose normal duties involve dealing with matters sensitive from vigilance point of view (like recruitment, purchase, etc.);
- Once an officer has worked as CVO in an organization, he should not go back as CVO to the same organization again;
- An officer who is appointed from outside as CVO in Central Public Undertaking shall not be permanently absorbed in the 'Same organization on expiry or in continuation of his tenure as CVO in that organization;
- The “Vigilance” and “Security” function in an organization should be separated as both the activities are equally demanding and the discharge of “security” functions by a Chief Vigilance Officer only leads to dilution of supervision on vigilance matters. However, an exception has been made in respect of the hotel industry.

13.7 Role and Functions of Chief Vigilance Officer (CVO)

Even though detection and punishment of corruption and other malpractices are certainly important, what is more important is taking preventive measures instead of huriting for the guilty in the post corruption stage. Therefore, the role and functions of CVOs can be broadly divided in to two parts, which are: (i) Preventive and (ii) Punitive.

On the preventive side the CVOs undertake various measures, which include:

Examining in detail the existing Rules and procedures of the Organization with a view to eliminate or minimize the scope for corruption or malpractices; identifying the sensitive/corruption prone spots in the Organization; plan and enforce surprise inspections and regular inspections to detect the system failures; maintain proper surveillance on officers of doubtful integrity; ensure prompt observance of Conduct Rules relating to integrity of the officers, like Annual Property Returns, gifts accepted by the officials, benami transactions, relatives employed in private firms or doing private business etc.

On the punitive side the CVOs undertake various measures, which include: ensuring speedy processing of vigilance cases at all stages; ensuring that charge-sheet, statement of imputations, lists of witness and documents etc. are carefully

prepared; eliminating delay in the appointment of the Inquiring Officer, and ensuring that no dilatory tactics are adopted by the accused officer or the Presenting Officer; to see that proper assistance is given to the C.B.I. in the investigation of cases entrusted to them or started by them; ensuring that cases against the public servants on the verge of retirement do not lapse due to time-limit; take proper and adequate action with regard to writ petitions filed by accused officers.

13.8 Complaint Handling Process of Central Vigilance Commission

Complaints can be lodged to the CVC by addressing the written communication/ letter directly to the Commission or on Commission's portal www.portal.cvc.gov.in or through the Commission's website www.cvc.gov.in. Only those complaints which are against officials and organizations within the jurisdiction of the CVC and contain allegations of corruption will be got investigated by the Commission through CBI or CVO of the organization concerned. The CVC may also get a complaint inquired through its own officer under clause (d) of sub section (1) of Section (8) of CVC Act, 2003. The CVC does not entertain anonymous/pseudonymous complaints. However, if a complainant while exposing a case of corruption wants his identity to be kept secret, he/she can lodge a complaint under Public Interest Disclosure and Protection of Informers Resolution (PIDPIR)-popularly known as Whistle Blower Provision. The CVC is mandated not only to maintain the secrecy of the complainant's identity but also provide protection to the complainant against any physical threat, harassment or victimization. Complaint under "Public Interest Disclosure and Protection of Informer" Resolution can be made only by post. The envelope should be super-scribed "PIDPI" or "Whistle Blower" and the complainant should refrain from giving his name on the body of the letter. However, the CVC does not entertain or inquire into any disclosure in respect of which a formal and public inquiry has been ordered under the Public Servants Inquiries Act 1850, or a matter that has been referred for inquiry under the Commissions of Inquiry Act, 1952.

13.9 Other Significant Measures Undertaken or Commissioned by Central Vigilance Commission

CVC has recently commissioned a project to Indian Institute of Management Ahmedabad (UM-A) to, develop an Integrity Index for Central Public Sector

Undertakings (CPSUs). The scope of the project is to: (a) develop a conceptual understanding of integrity index, (b) develop a methodology to construct an integrity index, (c) implement the same in select twenty five CPSUs I Government agencies, and (d) recommend an ecosystem in CVC to institutionalize the Integrity Index development and implementation. According to CVC, the development of Integrity Index is an important step towards enhancing transparency in public organizations. Organizations tend to correct deviant behavior on ethical values by developing a legal compliance program. This is based on the premises-if it is legal it is ethical. However, legal compliance does not motivate or ensure commitment to moral and ethical values in an organization. An alternative approach is to use integrity as a governing ethics of the organization. Accordingly, a strategy based on the integrity aligns organizations to a more robust standard. Integrity, long term sustainability and profitability are all closely linked and can help public organizations create islands of excellence in the medium to long term while achieving all the objectives.

13.10 Conclusion

The Central Vigilance Commission has issued a directive that all Govt. organizations over which the Commission has Jurisdiction should publish their tenders and complete bid documents along with the application forms on the website. This is the first step towards e-procurement and would help in curbing malpractices prevailing in various Govt. organizations where competition is sought to be restricted. The directive of the Central Vigilance Commission for introducing e-payment is to leverage technological advances in banking sector for the benefit of rest of the governmental set up. In view of the alarming rise in Bank frauds, the cve has undertaken a review and analysis of top 100 Banks Frauds, as on 31.03.2017. The findings have been shared with RBI and Department of Financial Services (Ministry of Finance). The Department of Financial Services has circulated the analysis done by CVC amongst all Public Sector Banks and understandably it has benefitted them in developing a rule-based prudent financial structure.

13.11 Summary

- Central Vigilance Commission was established on 2nd. February 1974, to advice in organizing planning of Governance.
- Initially in 1955 Administrative Vigilance Committee was established for three reasons: (a) to assure overall responsibility for the anti-corruption

measures; (b) to provide necessary coordination between departments; (c) to ensure sustained action against individual departments and Ministry.

- Central Vigilance Commission came into force through promulgation of an ordinance by the President of India.
- On 25th August 1998 Central Vigilance Commission formed through an ordinance, with a special Statutory status.
- The Parliament or Central Legislature approved the Ordinance in 2003.
- Draft Act on CVC sent to President, and President gave his assent on 11th September 2003.
- Central Vigilance Committee Act 45, thus came into effect on 2003.
- Central Legislature finally authorise the Central Vigilance Committee to receive written complaint for disclosure of any allegation.

13.12 Glossary

- Central Vigilance Commission unitarily recommend disciplinary action against Civil Servant.
- Central Vigilance Commission has its own jurisdictional power over executive of Central Government.
- Central Vigilance Commission probe into the cases of corruption against; Ministers and Members of Parliament.

13.13 Model Questions

Long Questions

- Narrate the historical perspective of framing of Central Vigilance Commission.
- Discuss the function of the Central Vigilance Commission.
- What significant measures are taken by the Central Vigilance Commission on any application for redressal?
- Write a briefly the jurisdiction of Central Vigilance Commission.
- How the Chief Vigilance Officer appoints?

Short Questions

- Discuss how the Central Vigilance Commission handles a complaint?
- Write any three procedures taken by the Central Vigilance Commission to resolve any complaint?

- Explain the role of Central Vigilance Commission under Section 25 of CVCA Act.
- Write a note on IIM Integrity Index case.

13.14 References

- *“Vigilance as a Management Function-Leveraging Technology”*, by Balwinder Singh, Additional Secretary, CVC.
- Report titled *“ANALYSIS OF TOP 100 BANK FRAUDS BY CENTRAL VIGILANCE COMMISSION”*; OCTOBER, 2018 COMPLAINT HANDLING POLICY of CVC (as Revised on 01.07.2019)
- *Report of the Committee on Prevention of Corruption* (K. Santhanam Committee Report) under Ministry of Home Affairs (1963).
- *White Paper on Integrity Index Development Project, as Commissioned by CVC*

Unit-14 □ Central Bureau of Investigation (CBI)

STRUCTURE

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14.1 Learning Objectives

After studying this unit, learners will be able to understand:

- Principal investigating units of the Central Government is the Central Bureau of Investigation.
- How Central Bureau of Investigation not only investigates the cause of any major crime or corruption, it also helps Central Vigilance Commission to detect the root of the corruption.
- The 11 Divisions and specialized units. Major of those sections are related with crime, corruption and economic affairs or prosecution and policy making.

14.2 Introduction

Central Bureau of Investigation is basically a Principal investigating agency mainly under the control of Central Government. It has an added responsibility of assisting the inquiry of the C.V.C: In 1941 the Government of India by an executive order, first created a Special Police Establishment. Its major function was to investigate alleged bribery and corruption in War Supply Department. Then it was called Defence Department. In 1942 the investigating jurisdiction of Special Police Establishment extended to Railway Department. Finally in 1946, it included with Home Department. In 1963 Special Police Establishment became a part of the newly created investigating authority, called Central Bureau of Investigation, which established in 1st April 1963, as an attached part of the Ministry of Home Affairs. At present it is attached with Ministry of Personnel, Public Grievances and pension; Its prime duty is to prepare a report, and to make programme for implementing a comprehensive plan of action for vigilant and anti-corruption activities. It has altogether Eight Divisions; One Unit; One prosecution Directorate and One Laboratories.

Name of Eight Divisions are: (a) Anti-corruption Division; (b) Special Crime Divisions; (c) Economic Offence Division; (d) Policy Division; (e) Administrative Division; (f) System Division; (g) co-ordination Division; (h) Training division. Name of the unit is Technical Advisory unit. The Name of the prosecution Directorate is Directorate of Prosecution. The name of the Laboratory is Central Forensic Laboratory.

14.3 Genesis

The Central Bureau of Investigation traces its origin to the Special Police Establishment (SPE) which was set up in 1941 by the Government of India. The functions of the SPE then were to investigate cases of bribery and corruption in transactions with the War and Supply Department of India during World War-II. Superintendence of the SPE was vested with the responsibility of War Department. Even after the end of the War, the need for a Central Government agency to investigate cases of bribery and corruption by Central Government employees was felt. The Delhi Special Police Establishment (DPSE) Act was therefore brought into force in 1946 with a view to investigate serious crimes related to defense of India, corruption in high places, serious fraud, cheating and embezzlement and social crime, particularly of hoarding, black-marketing and profiteering in essential

commodities, having all India and inter-state ramifications. This Act transferred the superintendence of the SPE to the Home Department and its functions were enlarged to cover all departments of the Govt. of India. The jurisdiction of the DSPE extended to all the Union Territories and could be extended also to the States with the consent of the State Government concerned.

The DSPE acquired its popular current name, Central Bureau of Investigation (CBI), through a Home Ministry resolution dated 01.04.1963. Initially the offences that were notified by the Central Government related only to corruption by Central Govt. servants was investigated by CBI. In due course, with the setting up of a large number of public sector undertakings, the employees of these undertakings were also brought under CBI purview. Similarly, with the nationalization of the banks in 1969, the Public Sector Banks and their employees also came within the ambit of the CBI.

From 1965 onwards, the CBI has also been entrusted with the investigation of economic offences and important conventional crimes on a selective basis. The SPE initially had two Wings. They were the General Offences Wing (GOW) and Economic Offences Wing (EOW). The GOW dealt with cases of bribery and corruption involving the employees of Central Government and Public Sector Undertakings. The EOW dealt with cases of violation of various economic/fiscal laws. Under this set up, the GOW had at least one Branch in each State and the EOW in the four metropolitan cities, i.e., Delhi, Madras, Bombay and Calcutta. These EOW Branches dealt with offences reported from the Regions, i.e., each Branch had jurisdiction over several States. As the CBI, over the years, established a reputation for impartiality and competence, demands were made on it to take up investigation of more cases of conventional crime. Apart from this, even the Supreme Court and the various High Courts of the country also started entrusting such cases for investigation to the CBI on petitions filed by aggrieved parties. It was therefore decided in 1987 to constitute two investigation divisions in the CBI, namely, Anti-Corruption Division and Special Crimes Division, the latter dealing with cases of conventional crime, besides economic offences.

14.4 Jurisdiction

The CBI is not a statutory body. The legal powers of investigation of the CBI are derived from the DSPE Act 1946, which confers powers, duties, privileges and liabilities on the Delhi Special Police Establishment (CBI) and officers of the Union Territories. The central government may extend to any area (except Union Territories) the powers and jurisdiction of the CBI for investigation, subject to the

consent of the government of the concerned state. Law and order being a state responsibility as “police” is a State subject, the jurisdiction to investigate crime lies with the state Police exclusively. However, the High Courts and the Supreme Court have the jurisdiction to order a CBI investigation into an offence alleged to have been committed in a state without the state's consent, according to a five-judge constitutional bench of the Supreme Court (in Civil Appeals 6249 and 6250 of 2001) on 17 Feb 2010. After the passage of the Lokpal and Lokayuktas Act, 2013, Lokpal will have power of superintendence and direction over any central Investigation agency including CBI for cases referred to them by the Lokpal. The Lokpal Act also stipulates that the Director of Prosecution, CBI will be appointed by the Central Government on the recommendation of the Chief Vigilance Commissioner for a period of not less than two years. Transfer of officers of CBI investigating cases referred by Lokpal cannot be effected without the approval of Lokpal.

The CBI being a Union subject may investigate:

- I. Offences against central-government employees, or concerning affairs of the central government and employees of central public-sector undertakings and public-sector banks.
- II. Cases involving the financial interests of the central government.
- III. Breaches of central laws enforceable by the Government of India.
- IV. Major fraud or embezzlement; multi-state organized crime.
- V. Multi-agency or international cases.

CBI can take over the investigation of a criminal case registered by the State Police in the following situations:

- (i) The concerned State Government makes a request to that effect and the Central Government agrees to it (Central Government generally seeks comment of CBI before deciding upon the request of the State)
- (ii) The State Government issues notification of consent under section 6 of the DSPE Act and the Central Government issues notification under section 5 of the DSPE Act
- (iii) The Supreme Court or High Courts orders CBI to take up such investigations.

As per section 2 of the DSPE Act, CBI can suo-moto take up investigation of offences notified in section 3 only in the Union Territories. Taking up investigation by CBI in the boundaries of a State requires prior consent of that State as per Section 6 of the DSPE Act.

Recently, much controversy had been created over the-withdrawal of ‘general consent’ for CBI investigation by the states of Andhra Pradesh and West Bengal, and the streets of Kolkata had witnessed confrontation between state police and CBI officials over jurisdictional issues. Though the matter of a federal crisis reached the Supreme Court and a working truce was achieved between the two units, drawing of jurisdictional boundaries between CBI and state police remain an unfinished agenda. While the premier investigation agency have been deeply mired in political controversy as a result, it is desirable that all anti-corruption and law enforcement agencies work in tandem to tackle the menace of corruption effectively.

The International Police Criminal Organization (ICPO or Interpol) has emerged as an important institution for strengthening cooperation amongst law enforcement agencies of various countries. As Interpol of India, CBI acts as an interface between the law enforcement agencies of India and other countries to ensure such cooperation. It facilitates exchange and sharing of information by these agencies. It also gets the red notices of the fugitive criminals, wanted. in India, published. Besides above it also plays a role in negotiation and finalization of Mutual Legal Assistance Treaties (MLATs) and Extradition Treaties between India and other countries. CBI also facilitates execution of Letter of Requests for Investigation in India and out of India.

14.5 Divisions of Central Bureau of Investigation (CBI)

CBI has grown into a multi disciplinary investigation agency over a period of time. Today it has the following three divisions for investigation of crime.

- (i) **Anti-Corruption Division**-for investigation of cases under the Prevention of Corruption Act, 1988 against Public officials and the employees of Central Government, Public Sector Undertakings, Corporations or Bodies owned or controlled by the Government of India-it is the largest division having presence almost in all the States.
- (ii) **Economic Offences Division**-for investigation of major financial seams and serious economic frauds, including crimes relating to fake Indian currency notes, Bank frauds and cyber-crime.
- (iii) **Special Crimes Division**-for investigation of serious, sensational and organized crime under the Indian Penal Code. and other laws on the requests of State Governments or on the orders of the Supreme Court and High Courts. The laws under which CBI can investigate Crime are notified by the Central Government under section 3 of the DSPE Act.

14.6 Controversies around the appointment of Director of CBI

The CBI is headed by a Director. He is assisted by a Special Director or an Additional Director. Additionally, it has a number of joint directors, deputy inspector generals, superintendents of Police and all other usual ranks of police personnel. The Director of CBI as Inspector-General of Police, Delhi Special Police Establishment, is responsible for the administration of the organization. With the enactment of Central Vigilance Commission Act, 2003, the superintendence of Delhi Special Police Establishment vests with the Central Government save investigations of offences under the Prevention of Corruption Act, 1988, in which, the superintendence vests with the Central Vigilance Commission. The Director of CBI has been provided security of two-year tenure in office by the CVC Act, 2003 (Vineet Narain Case).

In *Vineet Narain & Others v Union of India* AIR 1996 SC 3386, the Supreme Court ruled that the Central Vigilance Commission should have a supervisory role over the CBI. The Court agreed that the CBI had failed in its responsibility to investigate allegations of public corruption. It laid down guidelines to ensure independence and autonomy of the CBI and ordered that the CBI be placed under the supervision of the Central Vigilance Commission (CVC), an independent governmental agency intended to be free from executive control or interference. This directive removed the CBI from the supervision of the Central Government thought to be partly responsible for the inertia that contributed to the CBI's previous lack of urgency with respect to the investigation of high-ranking officials. The Court in this case had struck down the validity of a directive issued by the Ministries and Departments in the Central Government that required the CBI to seek approval of the Central Government before pursuing investigation against bureaucrats of the level of Joint Secretary and above on grounds that it violated the independence of the investigative process. However, the Central Vigilance Commissioner Act, 2003, reinstated this requirement. This directive was again struck down by the Supreme Court in the course of another judgment in 2014 on the basis that it violated the right to equality guaranteed by the Constitution.

Before the Lokpal Act was legislated, the CVC Act, 2003 used to provide the mechanism for the selection of the Director of CBI and other officers of the rank of SP and above in the CBI. Now, the Lokpal Act, 2013 governs the appointment of the CBI director. The amended Delhi Special Police Establishment Act 1946 (as amended through The Lokpal and Lokayuktas Act, 2013) empowers an Appointment

Committee to appoint the director of CBI. The committee consists the. following dignitaries:

1. Prime Minister-Chairperson
2. Leader of Opposition of Loksabha-Member (LOP)
3. Chief Justice of India or a Supreme Court Judge recommended by the CJI-Member.

In the absence of a formal Leader of Opposition in the Lok Sabha, the leader of the floor of the largest opposition party takes part in the search committee meetings. The process of selecting the CBI director begins in the Home Ministry, which prepares a list of IPS officers, who are eligible for the post on the basis of their seniority and experience in the field of probe. The Home Ministry list goes to the Department of Personnel, which prepares the final list on the basis of “seniority, integrity and experience in the investigation of ant-corruption cases”.

14.7 Caged Parrot

The Supreme Court had raised questions on the CBI’s independence while hearing the. Coal gate seam case, and had called it a “caged parrot speaking in its master's voice”. It was revealed before the Court that a classified enquiry report of the CBI in the Court-monitored investigation had an unauthorized accessed by a Union Minister. The Supreme Court had then asked the Centre to make the CBI impartial and said it needs to be ensured that the CBI functions free of all external pressures. In response, the Central Government had filed an affidavit saying that the CBI director would be appointed by a collegium comprising of the Prime Minister, Chief Justice of India and Leader of the Opposition. The CBI director cannot be appointed or removed without the consent of this collegium, it assured the Supreme Court. As per the affidavit, the CBI director can be removed before expiry. of fixed tenure of minimum two years on the ground of misbehaviour only. But the President can issue such an order only after an inquiry. It also stated that there will be an accountability commission headed by three retired Supreme Court or High Court judges which will look into cases of grievances against the CBI director.

Eventually the Lokpal and Lokayukta Act, 2013 has incorporated the conditions stated in the said affidavit and indeed a collegium comprising of the Prime Minister, Chief Justice of India and Leader of the Opposition has exercised its power to appoint the Director of the CBI in the subsequent period. However, the debates around the independence (or the lack of it) of the CBI has refused to die in popular

nomenclature, and the ‘caged parrot’ remark has returned to create a political furore over every high-profile investigation by the CBI involving political personalities in the subsequent years. As a result, the image of the CBI as an impartial agency has been damaged irreversibly and the main anti-corruption agenda has somewhat been lost in the political conundrum.

14.8 Infighting in the Central Bureau of Investigation or CBI vs. CBI

Murky and ugly details of an embattled CBI came out in the open in July, 2018 when the CBI told the Central Vigilance Commission (CVC) that special director Rakesh Asthana was not authorized to represent director Alok Verma in the search committee meetings. The fight became a full blown war by mid-October, 2018 when the CBI lodged an FIR against special director Rakesh Asthana on charges of bribery. A week later, the government intervened through a midnight order on October 23, 2018 appointing M. Nageshwar Rao as interim. director of the CBI. Director Alok Verma and special director Rakesh Asthana were sent on forced leave. This unprecedented situation certainly revealed that all is not well in the top echelons of the CBI and it was known to authorities under whose jurisdiction the agency functions. In-house mechanisms to probe complaints against CBI personnel accused of bribery in pursuit of cases was put under severe scrutiny which eventually threatened to engulf the very credibility of the CBI.

Former head of Bureau of Police Research, N.R. Wassan, who had a stint in. the CBI, termed the quagmire as a “culminated result of decline in its overall functioning and standards of probity that started few years ago. The successive Directors, some of whom have been under a' cloud, failed to stem the rot so much so that some insiders believe that the corruption in the organization at various levels has reached alarming proportions and will require a massive purge and overhaul to restore its original glory.”

14.9 Conclusion

While anti-corruption activism in India has seen both upswing and downswing in the past decade, the CBI vs. CBI infighting has bared the filth hiding beneath the facade. An agency battling to recover lost reputation in a politically charged

milieu has no graver danger than an infighting which exposes its very credibility. The purge by the government may have diverted the popular attention, but the stain on CBI has become permanent. Sadly, this has potential for far-reaching consequences in the fight against corruption in India.

14.10 Summary

- Central Bureau of Investigation, is given the charge of number of cases for investigation. But it utterly suffers from the shortage of Staff.
- The disproportion of number of cases and number of available staff is in reality the bar to the successful and sustainable investigation.
- The Central Bureau of Investigation generally used to unveil the corruption at the Government level, specially of upper ranking officials. For this generally Central Bureau of Investigation get minimum time to investigate at the lower level of the Government officials.
- Commonly it is believed that C.B.I officials are closely related with the high ranking Officers. Even they have a collegial unity among them. For that it is alleged that C.B.I, in case of any high level investigation either maintain tactical silence and abstain them to go deep into the issue, or silently sustain the unofficial obstruction made by the Ministers of top level office members.
- The investing authority initially requires permission from the Central Government before undertaking any investigation. The Central Government use that powers to handle C.B.I to serve their political purpose and planning. Accordingly the Government controls the steering of the C.B.I.'s proactivity either to activate or to inactivate their initiative of inquiry.
- This steering ability of the Central government is frequently used by the Cabinet of Ministry to balance its political dominance.

14.11 Glossary

- C.B.I: Non judicial body which investigate the corruption or crime, and submit reports to administrative department.

14.12 Model Questions

Long Questions

- Narrate briefly the controversies around the appointment of C.B.I. Director.
- Why the Central Bureau of Investigation is called “caged Parrot”?
- Discuss in detail the jurisdiction of Central Bureau of Investigation on which the CBI can investigate?
- Discuss briefly the genesis of Central Bureau of Investigation
- On which occasion Central Bureau of Investigation can take the charges of any criminal cases from the State's Police Authority?

Short Questions

- Bring out, in short, the incidents of infight within the Central Bureau of Investigation.
- How the appointment of C.B.I. Director is made?
- How many Divisions are there in the Central Bureau of Investigation?
- When the Lokpal can supervise and direct over the Central Bureau of Investigation?

14.13 References

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Unit-15 □ Right to Information: Objective & Role, Information Commission—Composition, Role & Fractions

STRUCTURE

- 15.1 Learning Objectives**
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15.1 Learning Objectives

After going through this unit, the learners will be able

- Right to Information Act 2005, designed for setting a “practical regime of Right to Information” for the citizens.
- The norms of this Act, any citizen may request any information from any public authority.
- How the Public Authority remain bound to provide the information to

the citizen who has made his request, within thirty days from the day of receiving the “request for information”.

- How some Members lodged their protest against the implementation of this Act. But Supreme Court, in State of U.P. Vs. Rajasthan Case, stated that Information is inherent in the right to freedom of speech and expression.

15.2 Introduction

The basic purpose of RTI Act are to: (a) foster the democratic value; (b) People's participation in Governmental decision; (c) Combating the corruption and misuse of power; (d) to augment the responsibility of the Government to inform the people, the reason and rational of its decision for necessary rectification if necessary; (e) to ensure the exchange of opinion of the Government with the people.

The Act is important because it helps to ensure the transparency, accountability of the Representative Government to the people. This act actually synthesise the Democratic administration and effective performance of the Government. This synthesisation is important because it creates an ambiance of good Governance. To enhancement of efficiencies and competencies of the Government, is considered as the basic focus of New Public Management. In modern age people who are interested to establish and activate their right in decision making process, always require proper information regarding functioning of the Government. Thus they use information regarding governmental activities. With this they participate in the process at least indirectly. Logically therefore, “People’s governance, emerges, only when the Representatives assured the good governance”.

15.3 Genesis

In 1982 the Supreme Court of India, hearing a matter relating to the transfer of judges, held that the right to information was a fundamental right under the Indian Constitution. The judges stated that:

“The concept of an open Government is the direct emanation from the right to know which seems implicit in the right of free speech and expression guaranteed

under Article 19(1)(a). Therefore, disclosures of information in regard to the functioning of Government must be the rule, and secrecy an exception justified only where the strictest requirement of public interest so demands. The approach of the Court must be to attenuate the area of secrecy as much as possible consistently with the requirement of public interest, bearing in mind all the time that disclosure also serves an important aspect of public interest,” (SP Gupta & others vs The President of India and others, 1982, AIR (SC) 149, p. 234).

From the early 1990s, the Mazdoor Kisan Shakti Sangathan (MKSS) started a grassroots movement in the villages of Rajasthan, demanding access to government information on behalf of the wage workers and small farmers who were often deprived of their rightful wages or their just benefits under government schemes. The MKSS transformed what was till then mainly an urban idea pushed by a few activists and academics, into a mass movement that quickly spread not only across the state of Rajasthan but also to other parts of the country. It was mainly as a result of this rapid spread of the demand for transparency that the need to have a national body, that coordinated and oversaw the formulation of a national RTI legislation, began to be felt.

In August, 1996, a meeting was convened at the Gandhi Peace Foundation in New Delhi where the National Campaign for People’s Right to Information (NCPRI) was formed. The NCPRI and the Press Council of India formulated the initial draft, under the guidance of Justice P.B. Sawant, retired judge of the Supreme Court of India and Chairman of the Press Council. The draft was then presented to the Government of India which set up another committee. This committee came up with a somewhat watered down version of the act in 1997. This draft was further amended and introduced in Parliament, in 2000, as the Freedom of Information Bill. Soon after, the Freedom of Information Bill was introduced in Parliament, in 2000, it was referred to a select committee of Parliament, which invited comments from the public. In the National Democratic Alliance (NDA) regime, the Bill was passed by Parliament, with almost no amendments or changes, in December 2002. Essentially, the five indicators of a strong transparency law can be seen to be minimum exclusions, mandatory and reasonable timelines, independent appeals, stringent penalties and universal accessibility. The 2002 Act failed on most of these counts. It excluded a large number of intelligence and security agencies from the ambit of the Act, it had no mechanism for independent appeals and prescribed no penalties for violation of the Act.

Soon after the United Progressive Alliance (UPA) government, came to power in 2004. The National Advisory Council was formed. The National Advisory Council (NAC) of this regime had, a good number of members, many who had either been central to the RTI movement or were sympathetic to its demands. This led to the NAC recommending to the Government of India the enactment of an RTI Bill that had been drafted by civil society groups and adopted by the NAC. The passage of the Bill was not smooth and there were many ups and downs, but finally in May 2005 the Indian Parliament passed the RTI Act? which got the assent of the President of India in June 2005.

15.4 Global Agenda

UNESCO has been designated by the UN General Assembly as the custodian agency for global monitoring of part of the Sustainable Development Goal target 16.1 0.2 in terms of which all countries should ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements. Since 2016 UNESCO marks 28 September as the "International Day for Universal Access to Information" (IDUAI), following adoption of the 38 C/Resolution 57 declaring 28 September of every year as International Day for Universal Access to Information (IDUAI). As per Transparency International, globally approximately 120 countries have right to information laws. In some countries these laws are appreciable, while in others, the laws either don't exist or need significant improvements.

15.5 Meaning of 'Information' and Matter of Rights

The basic object of the Right to Information Act is to empower the citizens, to promote transparency and accountability in the working of the Government, to contain corruption, and to enhance people's participation in democratic process thereby making our democracy work for the people in a real sense. It goes without saying that an informed citizen is better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed.

Section 2 (f) of the RTI Act treats information as any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, log book, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

A “public authority” is defined as any authority or body or institution of self-government established or constituted by or under the Constitution; or by any other law made by the Parliament or a State Legislature; or by notification issued or order made by the Central Government or a State Government. The bodies owned, controlled or substantially financed by the Central Government or a State Government are also public authorities. Non-Government organizations substantially financed by the Central Government or a State Government also fall within the definition of public authority. The Act does not define substantial financing. Public authorities have designated some of its officers as Public Information Officers. They are responsible to give information to a person who seeks information under the RTI Act.

A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; and taking certified samples of material held by the public authority or held under the control of the public authority. It is important to note that only such information can be supplied under the Act that is available and existing and is held by the public authority or is held under the control of the public authority. The Public Information Officer is not supposed to create information that is not a part of the record of the public authority. The Public Information Officer is also not required to furnish information which require drawing of inference and/or making of assumptions; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions. The Act does not require the Public Information Officer to deduce some conclusion from the ‘material’ and supply the ‘conclusion’ so deduced to the applicant. It means that the Public Information Officer is required to supply the ‘material’ in the form as held by the public authority, but not to do research on behalf of the citizen to deduce anything from the material and then supply it to him.

15.6 Information Exempt from Disclosure

The RTI Act has over-riding effect vis-a-vis other laws. It implies that if any of the provisions of the RTI Act are not consistent with any other law for the time being in force including the Official Secrets Act, 1923, the provisions of the RTI Act would have effect.

Sub-section (1) of section 8 and section 9 of the Act enumerate the types of information which is exempt from disclosure. Sub-section (2) of section 8, however, provides that information exempted under sub-section (1) or exempted under the Official Secrets Act, 1923 can be disclosed if public interest in disclosure overweighs the harm to the protected interests. The information which, in normal course, is exempt from disclosure under subsection (1) of Section 8 of the Act, would cease to be exempted if 20 years have lapsed after occurrence of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, even after lapse of 20 years, to give any citizen-

- (i) Information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interest of the State, relation with foreign state or lead to incitement of an offence;
- (ii) Information, the disclosure of which would cause a breach of privilege of Parliament or State Legislature;
- (iii) Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other Officers subject to the conditions given in proviso to clause (i) of sub-section (1) of Section 8 of the Act.

Third party information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, is exempt from disclosure. Third party in relation to the Act means a person other than the citizen making a request for information. Such information should not be disclosed unless the competent authority is satisfied that larger public interest warrants the disclosure of such information. If third party has treated that information as confidential then third party should be given full opportunity to

put his case for non-disclosure if he desires that the information should not be disclosed. If an appeal has been filed by the third party against the decision of the Public Information Officer to disclose the third party information, the information should not be disclosed till the appeal is decided.

Intelligence and security organizations specified in the Second Schedule to the RTI Act, 2005 are exempt from furnishing information under the Act. However, this exemption does not apply if the requested information pertains to the allegations of corruption and human rights violations.

15.7 Working Mechanisms of the RTI Regime

Public authorities are the repository of information which the citizens have a right to access under the Right to Information Act, 2005. The Act casts important obligations on public authorities so as to facilitate the citizens of the country to access the information held under their control. Government may prescribe categories of information to be published by any public authority. It need be stressed that publication of the information as referred to above is not optional. It is a statutory requirement which every public authority is bound to meet. The mandate for suo motu or voluntary disclosure of information through website and other medium is contained in Section 4(1)(b) of the Act. This section has now emerged as the focal point at which most disclosure related efforts of the Public Authorities converge.

As per the mandate of the Act, every public authority is required to designate Public Information Officers (PIOs) and Assistant Public Information Officers in all the administrative units or offices under it. All public authorities with more than one PIO should create a RTI Cell within the organization to receive all the RTI applications and first appeals and to route them to the concerned PIOs/First Appellate Authority (FAAs). The first Appellate Authority has a very important role under the RTI Act, 2005. The independent and judicious examination of appeals by the First Appellate Authorities (FAAs) would lead to higher satisfaction to the appellants. This would, in turn, result in less number of second appeals to the Information Commission.

A citizen, who desires to obtain any information under the Act, should make an application to the Public Information Officer of the concerned public authority in writing in English or Hindi or in the official language of the area in which the

application is made. He should make payment of application fee at the time of submitting the application as prescribed in the RTI Rules, 2012.

Sub-section (8) of Section 7 of the RTI Act provides that where a request for information is rejected, the Public Information Officer shall, inter-alia, communicate the particulars of the Appellate Authority to the person making the request. If the applicant does not receive information or decision about rejection of request or communication about payment of additional fee within the specified time, he can make an appeal to the First Appellate Authority. Appeal can also be made if the applicant is aggrieved by the decision of the Public Information Officer regarding supply of information or the quantum of fee decided by the Public Information Officer. The applicant may prefer the first appeal within thirty days from the expiry of such period or from the receipt of such a decision of the Public Information Officer. The first appellate authority should dispose off the appeal within 30 days of receipt of the appeal. If the first appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant.

Where the Information Commission at the time of deciding any complaint or second appeal is of the opinion that the PIO has without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished subject to the condition that the total amount of such penalty shall not exceed twenty-five thousand rupees. The Public Information Officer shall, however, be given a reasonable opportunity of being heard before any penalty is imposed on him.

While the clause of monetary penalty does make RTI a potent law, section 21 of the Act does provide some immunity cover to PIOs and FAAs in stating that no suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done. A Public Information Officer should, however, note that it would be his responsibility to prove that his action was in good faith.

15.8 Composition of Central Information Commission (CIC) and Tenure of Office

Under the provision of Section-12 of RTI Act, 2005 the Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Information Commission. The Central Information Commission shall consist of the Chief Information Commissioner (CIC) and such number of Central Information Commissioners not exceeding 10 as may be deemed necessary.

Section 12(5) of the RTI Act 2005 provides that the Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance. Section 12(6) of the RTI Act 2005 provides that Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union Territory as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

Section 13 of the RTI Act 2005 had provided that the Chief Information Commissioner (CIC) shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment. Also Section 13(2) of the RTI Act 2005 had originally provided that the Information Commissioner (IC) shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment as such Information Commissioners provided. However, the Right to Information (Amendment) Act, 2019 has modified the terms of office for CIC and IC. The original Act allowed a five year term or until the age of 65, whichever is earlier. The amendment proposes that the appointment will be “for such term as may be prescribed by the central government.” In the original Act, the Chief Information Commissioner (CIC) was paid as much salary as the Chief Election Commissioner and the Information Commissioners were paid as much salary as Election Commissioners. The amendment provides for salaries to be “prescribed by the Centre”.

The Central Information Commission has been constituted with effect from 12-10-2005 under the Right to Information Act, 2005. The jurisdiction of the Commission extends over all Central Public Authorities. The Commission has

certain powers and functions mentioned in sections 18; 19, 20 and 25 of the RTI Act, 2005. These broadly relate to adjudication in second appeal for giving information; direction for record keeping, suo-motu disclosures receiving and enquiring into a complaint on inability to file RTI etc., imposition of penalties and Monitoring and Reporting including preparation of an Annual Report. The decisions of the Commission are final and binding.

15.9 Jurisdiction and Powers of Central Information Commission (CIC)

As Second Appellate Authority, the Commission has jurisdiction over all public authorities under Government of India which are established, constituted, owned, controlled and substantially financed by funds provided directly or indirectly by the Central Government or the Union territory administration including NCT of Delhi. These include all Ministries/Departments, Public Sector Undertakings under the Government of India. Central Information Commission does not have jurisdiction over a State Information Commission nor a complaint or appeal can be filed in this Commission against an order of a State Information Commission.

A second appeal under section 19 (3) of the RTI Act, 2005 is filed against an order of the F AA in a public authority or when the F AA does not make a decision within the specified time. A complaint under section 18 of the Act may be filed directly on the grounds mentioned in sub-section (1) of this section. The main difference between a complaint and a second appeal is that in the case of an appeal, this Commission may pass orders directing the CPIO to provide the requested information to the appellant in appropriate cases whereas such orders cannot be passed while dealing with a complaint. In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to—

- (a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—

- by providing access to information, if so requested, in a particular form;
 - by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;
 - by publishing certain information or categories of information;
 - by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
 - by enhancing the provision of training on the right to information for its officials;
 - by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;
- (b) require the public authority to compensate the complainant for any loss or other detriment suffered;
- (c) impose any of the penalties provided under this Act;
- (d) reject the application.

Where the Central Information Commission or State Information Commission, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof. The Central Information Commission or State Information Commission, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908. Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission may, during the inquiry of any complaint under RTI Act, examine any record to which the RTI Act, 2005 applies which is under the control of the public authority, and no such record maybe withheld from it on any grounds.

15.10 Conclusion

While the initial premise of the RTI regime seemed ground breaking, there has to be some frank and honest assessment of the dispensation in has entailed. Many stumbling blocks have emerged in the operational aspect that were hitherto not envisaged, as a result of which the RTI story is not shining anymore.

Studies conducted by RTI Assessment and Advocacy Group (RAAG) and Samya-Centre for Equity Studies (CES) exhibit some startling pictures. Their research finds there is poor awareness about the RTI Act, worse in rural areas than in urban areas. In 64% of the rural Focus Group Discussions (FGDs) and 62% of urban FGDs, no participant had heard of the RTI Act. The participation of women in the RTI process, especially as applicants, has been minimal, with a national average of 8%. Except for first appeals filed with the central government or Delhi government, there is less than 4% chance of getting any information by filing a first appeal. Applicants, especially from the weaker segments of society, are often intimidated, threatened and even physically attacked when they go to submit an RTI application, or as a consequence of their submitting such an application. In some cases there is resentment among PIOs as they have to deal with a large number of RTI applications in addition to their normal work. One major constraint faced by PIOs is the poor state of record management in most public authorities. Nearly 45% of the PIOs have not received any training on the RTI Act. There are huge and growing delays in the disposal of cases in many of the information commissions, with pendency of cases growing every month. The main reasons behind the delays seem to be the paucity of commissioners in some of the commissions.

A Commonwealth Human Rights Initiative (CHRI) report titled “State of Information Commissions and the Use of RTI Laws in India” (March, 2018) concurs on the above findings and offers some negative perspectives. By 2018 a total of 153 posts of Information Commissioners (including the Chief Information Commissioners) had been created across the country (including the JKSIC). The report finds that there are 146 posts of Chief Information Commissioners and Information Commissioners created across the country of which more than 25% of the posts (Chief ICs and ICs) are lying vacant. Almost 90% of the Information Commissions (25 of 28) are headed by retired civil servants and more than half (53.6%) of the Chief Information Commissioners are retired IAS officers. While the volume of RTI applications received by all reporting jurisdictions between 2005-2017 has gone up to 2.23 crores, the report also notes that despite the Central RTI Act being in existence for more than 13 years and the J&K RTI Act being in existence for more than 9 years, the proportion of RTI users has not risen to even 0.5% of the population or even 1% of the electorate.

The blame for mixed results of the RTI regime should not be put to awareness issues or structural constraints alone. Government offices/Public Authorities have failed the system. A Transparency Audit of Disclosures U/S 4 of the Right to Information Act, commissioned by the Central Information Commission, reveals that certain vital information is not voluntarily disclosed on the official websites of the different government departments. The missing information falls in the following categories:

- Decision-making process, the delegation of powers, duties, and responsibilities of officials and the system of compensation paid to them;
- Information relating to consultation with public on the proposed major policy decisions, as required, are not available;
- Minutes of meetings of various committees and boards, details of the relevant Acts, rules, instruments, manuals, office orders, custodians of various categories of documents held by the organization;
- Policy on transfer and posting of senior officers deployed at important and sensitive places;
- RTI applications and appeals received and their responses, details of Public Information Officers, Appellate Authority, Nodal Officer and other facilities available to citizens for obtaining information;
- Details of domestic and foreign visits undertaken by the senior officials;
- Details of the mechanism to redress grievances of affected persons, mainly employees, clients, and customers;
- Discretionary and Non-discretionary Grants and details of the beneficiaries of subsidy;
- Criteria/for allocation and utilization of CSR funds by the Public Sector Enterprises;
- Sources and methods of funding political parties or identification of donors; and, Details about Public-Private Partnerships and outcomes of sucventures.

15.11 Summary

- The RTI Act empowered every citizen to ask question either to the Government or to any Institution established by the Act of Central or State Legislature.
- This is to be noted that World bank, The European Union, and the United national Development Programme, have adopted RTI Act as a part of their Governmental Policy.
- RTI Act effectively ensure the public participation in decision making process of the Government.
- It is an effective weapon of public to combat with corruption and malpractices.
- This act directoly make the Government accepted to the Public.
- It enables the Government to become transperant, and accoutable to the society.
- Credit of pressurizing for enactment and spreading the RTI Act movement goes to Mazdoor Kisan Shakti Sangathan under the leadership of Arun Roy.
- RTI act was first implemented in 2005. There are number of States like Tamilnadu (1997); Goa (1997); Rajasthan (2000); Karnataka (2000); Delhi (2001) enacted this act in their respective State.
- The RTI Act is applicable to all Constitutional authorities, including executive, legislature and judiciary.
- It is also applicable to any Institutional Bodies establish or formed by the Act of Parliament and State Legislature.

15.12 Glossary

- PLO: Public Information Officer.
- APIO: Assistant Public Information Officer.
- RTI: Right to Information Act.

15.13 Model Questions

Long Questions

- Discuss in detail the jurisdiction and power of Central Information Commission.
- What is Right to Information Act? Discuss the genesis of the Act.
- How the RTI Act function to give response to any query for information from the public.
- Discuss the composition of CIS.
- Which information cannot be given or shared with the public.

Short Questions

- Explain the meaning of Information and what you mean by “matter of Right”?
- Write a note on public authority
- What are the provision, that relate with power to secure the compliance with the information
- What do you mean by missing information.

15.14 References

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