

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) 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 (Dr.) 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**

Course Type: Discipline Specific Elective (DSE)

Course Title: Constitution in Administration

Course Code: NEC-PA-03

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**Netaji Subhas
Open University**

**Subject :
Discipline Specific Elective
(DSE)**

FOUR YEAR UNDERGRADUATE DEGREE PROGRAMME

Course Title: Constitution in Administration

Course Code: NEC-PA-03

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Module:- I

Introduction

Unit 1 □ Need for Constitution to Implement Sovereign Administration

Structure

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- 1.10 Glossary**
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1.1 Learning Objectives

After completing this unit, learners will be able to:

- Understand the Constitution from various perspectives
- Examine the significance of sovereignty as a crucial aspect of the state and administration
- Comprehend the distinctions within constitutional law
- Understand the historical development of administration and administrative law

1.2 Introduction

A constitution serves as the foundational framework for any sovereign administration, providing the essential principles, structures, and processes necessary for governance. It is the supreme legal document that defines the relationship between the government and its citizens, ensuring that power is exercised within defined limits and in accordance with the rule of law. The need for a constitution arises from the fundamental requirement to establish a system of governance that is legitimate, stable, and accountable.

Without a strong constitution, an administration may become arbitrary, allowing power to be exercised without proper checks, which can lead to abuse and instability. A constitution establishes that the state's authority comes from the people's consent, reflecting their collective desires and goals. It defines how power is shared among the executive, legislative, and judicial branches, preventing any one group from becoming too powerful and protecting against authoritarian rule. Additionally, a constitution protects individual rights and freedoms, shielding citizens from potential government overreach. It offers a way to resolve conflicts legally, ensuring that issues are settled through established processes rather than violence or intimidation. By creating a clear governance structure, a constitution promotes stability and predictability, which are vital for economic growth, social unity, and political order.

To put it simply, a constitution is essential for a sovereign administration that is fair and effective. It is the foundation of democracy, ensuring that the government acts transparently, responsibly, and in the best interest of its people. Without a constitution, the stability of a sovereign state would be at risk, making it susceptible to both internal and external threats that could jeopardize its sovereignty and the welfare of its citizens. The founding fathers of India's Constitution engaged in thorough deliberations and debates to unite the diverse population under a unified legal framework, known as the Constitution and constitutional law. The central objective of crafting this Constitution and its associated laws was to ensure rights and equality for every citizen. Laws are formulated by Parliament through majority consensus, and the government, via its administrative mechanisms, enforces these laws for the relevant sections of society. The administration functions in alignment with the legal framework established by the Constitution. Together, these institutions bring the Constitution's principles to life, advancing rights and equality within civil society and fostering a sense of collective unity.

The architects of the Constitution aimed to articulate the nation's ideals and establish a clear pathway and methodology for achieving them. These ideals included national unity, integrity, and social equality. They understood that genuine unity, equality, and material integrity could only be attained through socio-political and economic transformation. For a nation to adopt democratic values post-independence, it must effectively chart its course toward these ideals. In India, the vision was to establish a democratic governance system rooted in constitutional principles, informed by Western experiences. The result is a Constitution that encapsulates the spirit and structure necessary for building democratic institutions grounded in constitutional law. The makers of the Constitution aimed to establish a democratic administration that aligns with our constitutional framework and laws.

1.3 The Constitution

Constitution refers to a set of established rules and principles that define how a country or state is governed. This document is usually written formally, though some countries, like the United Kingdom, have un-codified constitutions that rely on traditions and laws rather than a single written document. A constitution typically consists of several characteristics-

First, it begins with a preamble, which is an inspiring introduction that highlights the main goals and sources of authority for the government. Second, the constitution divides power and responsibilities among the three main branches of government—the Legislature, Executive, and Judiciary—at both national and state levels, ensuring a balance of power. Third, it safeguards the fundamental rights of individuals and civil society, guaranteeing equality and justice for all. Fourth, in countries like India, the constitution is created by the people and serves as the supreme law. It outlines the structure and functions of governing institutions and includes provisions for amendments to adapt to changing social needs. Finally, in a democracy, the constitution is seen as a sacred institution of public trust. Citizens rely on it to hold the government accountable, and any violation of this trust by the government could lead to strong public opposition or even revolutionary actions. In essence, the constitution is the foundation of a nation's governance, ensuring stability, fairness, and the protection of citizens' rights.

1.4 Sovereignty as an Element of State

Sovereignty is a fundamental element of a state, representing its supreme authority and power to govern itself without external interference. It is the defining characteristic that distinguishes a state from other forms of political organizations, such as provinces or territories. Sovereignty ensures that a state has complete control over its territory, people, and decision-making processes, both domestically and internationally.

In simple terms, sovereignty means that a state has the ultimate power to make and enforce laws within its borders. This includes the authority to maintain order, collect taxes, defend its territory, and manage its affairs without being subject to the control of any external entity. For example, a sovereign state can independently decide its policies on trade, defense, education, and healthcare, without needing approval from other nations.

There are two key aspects of sovereignty: internal and external. Internal sovereignty refers to the state's absolute authority over all individuals and organizations within its territory. It means the government has the power to enforce laws and maintain order, ensuring that no internal group or entity can challenge its authority. External sovereignty, on the other hand, refers to the state's independence in the international arena. It means the state is recognized by other countries as an equal member of the global community, free from foreign control or domination.

Sovereignty is crucial for the stability and functioning of a state. Without it, a state would lack the authority to govern effectively, leading to chaos or dependence on external powers. It is also closely tied to the concept of national identity, as it reflects the ability of a people to determine their own political, economic, and social systems. In essence, sovereignty is the cornerstone of a state's existence, ensuring its autonomy, legitimacy, and ability to protect the interests of its citizens.

1.5 Understanding Administration

It is crucial to clarify the precise definition of the term "Administration." In a general context, Administration encompasses the management and organization of activities, resources, and responsibilities within a state or system to effectively achieve specific goals and objectives. Administrators, including managers and executives, play a vital role in formulating organizational policies, allocating resources, and ensuring smooth

operations. Key administrative functions include financial management, human resource management, record-keeping, and communication. Furthermore, the foundation of maintaining order, enhancing productivity, and promoting growth in both public and private sectors hinges on one key principle: effective administration. The term Administration implies the management of affairs or the responsibility of caring for individuals. More broadly, the concept of “Administrative” signifies a commitment to serving people, regardless of their social or economic backgrounds. This definition suggests that administration views itself as a service-oriented entity, dedicated to fulfilling various functions. It is a collaborative and collective effort aimed at achieving the clearly defined goals and objectives set by the government. The realization of these goals encompasses a wide range of activities, including articulating policies and objectives, establishing an appropriate organizational structure to facilitate organized tasks, and providing the necessary resources to achieve these objectives. Administrative management focuses primarily on the operations that guide an organization toward success within the broader framework established by administration.

1.5.1. Understanding Administrative Law

Administrative Law is a branch of public law that governs the activities of administrative agencies of the government. It deals with the rules, regulations, and procedures that these agencies must follow while exercising their powers. Administrative law ensures that government actions are carried out fairly, efficiently, and within the limits of the law. It acts as a bridge between the government and the public, regulating how public authorities implement policies and deliver services.

Importance of Administrative Law in Running the State:

1. **Ensures Accountability:** Administrative law holds government agencies accountable for their actions. It provides mechanisms, such as judicial review, to check whether these agencies are acting within their legal authority and not abusing their power. This prevents arbitrary or unfair decisions by public officials.
2. **Protects Citizens' Rights:** It safeguards the rights of individuals and organizations by ensuring that government actions do not violate legal or constitutional principles. For example, if a citizen is unfairly treated by a government agency, administrative law provides remedies like appeals or compensation.
3. **Promotes Transparency and Fairness:** Administrative law requires government agencies to follow clear procedures and make decisions in a transparent manner. This builds public trust in the government and ensures that decisions are made fairly and without bias.

4. **Facilitates Efficient Governance:** By setting clear rules and procedures, administrative law helps government agencies function more efficiently. It provides a structured framework for decision-making, reducing confusion and delays in the implementation of policies.
5. **Balances Power:** Administrative law ensures a balance between the powers of the government and the rights of citizens. It prevents the misuse of authority by public officials and ensures that the government acts in the public interest.
6. **Resolves Disputes:** Administrative law provides mechanisms for resolving disputes between citizens and government agencies. Tribunals and administrative courts are often established to handle such cases, offering a quicker and less formal alternative to traditional courts.
7. **Adapts to Changing Needs:** As societies evolve, administrative law allows governments to adapt to new challenges and complexities. It provides flexibility in governance while ensuring that the rule of law is upheld.

In summary, administrative law is essential for running a state because it ensures that government actions are lawful, fair, and efficient. It protects citizens from potential abuses of power, promotes good governance, and helps maintain public trust in the administration. Without administrative law, the government could act arbitrarily, leading to chaos and injustice in society.

1.6 Significance of Constitution in Administrative Law

The division of powers and responsibilities is crucial for understanding how constitutional and administrative law function together to uphold the Constitution's integrity in society. These laws grant the authority to create, implement, and enforce regulations. Here are key points that highlight the relationship between constitutional and administrative law:

- a) Both types of law are essential for managing the relationship between the state and individuals, as they help differentiate between public and private law.
- b) Constitutional law clarifies how the Constitution interacts with individuals.
- c) Distinguishing between constitutional law and administrative law can be challenging since they are interconnected. However, one way to differentiate them is that constitutional law pertains specifically to the State's Constitution.
- d) The Constitution is part of a broader legal framework. Administrative bodies implement government decisions based on these laws.

- e) Parliament, as the highest authority for law-making under the Constitution, exercises its legislative power through constitutional law.
- f) The core principles of constitutional law are shaped by the social culture, needs, and expectations of the community.

Constitutional law and administrative law are intricately linked. In practice, administrative law emerges from constitutional law. When India gained independence in 1947, the people established their sovereignty through the Constitution's Articles, believing that a solid legal framework for administration was essential for democratizing authority.

1.6.1 Doctrine of Water Shades

The doctrine of water shades is highly significant as it provides a foundation for establishing clear boundaries between the functioning of constitutional authorities and administrative bodies. Prominent English scholars like Dicey and Holland have defined the relationship between constitutional authorities (which operate through Parliament) and administrative bodies (which function through their bureaus). Their definitions emphasize that constitutional law and administrative law are interdependent and interconnected.

Over time, the roles of the Constitution, Parliament, and the Administration have evolved in response to changing circumstances and societal needs. These shifts have altered the responsibilities and activities of both the state and its citizens. This evolution has necessitated the creation of a distinct administrative system, supported by well-defined administrative laws. Today, administrative law is seen as a crucial tool to control arbitrary actions by legislative authorities, ensuring the protection of public rights and duties.

The role of government has also transformed significantly. In developing countries like India, the government's role is broader, acting not just as a regulator or facilitator but also as a provider of essential services. Citizens now expect the government to play an active role in their lives, from ensuring their safety against external threats and internal disturbances to addressing their needs from "the womb to the grave." This expanded role has made the development of administration and administrative law the backbone of modern political philosophy.

While there is a growing need to separate administrative law from constitutional law and parliamentary functions, complete separation is impossible because the two often overlap. These overlapping areas are referred to as "water shades" in administration. Administrative law incorporates various provisions and mechanisms from constitutional

law, highlighting that constitutional law is the foundation (or “mother”) of administrative law. Just as a child cannot be entirely separated from its mother, administrative law remains deeply connected to constitutional law.

In today’s world, the government’s role goes beyond merely defining individual rights. It must actively address public grievances, especially when citizens feel their rights or equality are being infringed upon. The government, through its administration, must protect vulnerable sections of society and ensure justice, rather than simply reiterating rights already enshrined in the Constitution. This necessity has driven the growth of administrative law and its processes.

Furthermore, it is widely accepted that the government has a duty to resolve conflicts and maintain peace and harmony between individuals and the state, which is essential for national development. Equally important is the government’s responsibility to manage the production and distribution of resources according to the needs of the people and the state. These responsibilities have further fueled the growth of administration and its legal framework.

In the modern era, the government is also expected to manage the challenges posed by advancements in science and technology. Issues such as unemployment, over-exploitation of natural resources, and unplanned urbanization have emerged as significant concerns. Addressing these multi-dimensional problems requires a robust administrative system and well-developed administrative laws. Thus, the growth of administrative law is not just a necessity but a cornerstone of effective governance in today’s complex world.

1.7 Role of the Constitution in Implementing Sovereign Administration

The Constitution plays a central role in implementing sovereign administration by serving as the supreme legal framework that defines the structure, powers, and limits of government. It ensures that the state operates with authority, legitimacy, and accountability while safeguarding the rights of its citizens. Here’s a brief explanation of its role:

1. Establishes Sovereignty:
 - The Constitution is the foundation of a state’s sovereignty. It declares the state’s independence and authority to govern itself without external interference. By defining the state’s territorial boundaries and legal jurisdiction, it ensures

that the government has the ultimate power to make and enforce laws within its domain.

2. Defines the Structure of Government:

- The Constitution outlines the structure of the government by dividing power among its three branches: the Legislature (which makes laws), the Executive(which implements laws), and the Judiciary(which interprets laws). This separation of powers ensures that no single branch becomes too powerful, maintaining a balance essential for sovereign administration.

3. Limits Government Power:

- While granting authority to the government, the Constitution also sets limits to prevent abuse of power. It ensures that the government operates within the rule of law and respects the rights of citizens. For example, it prohibits arbitrary actions by the state and provides mechanisms like judicial review to hold the government accountable.

4. Protects Citizens' Rights:

- A key role of the Constitution is to safeguard the fundamental rights of individuals, such as freedom of speech, equality, and the right to life. By doing so, it ensures that the government's sovereign power is used to protect and empower citizens, not oppress them. This balance between state authority and individual rights is crucial for a just and stable society.

5. Provides a Framework for Governance:

- The Constitution lays down the rules and procedures for how the government should function. It defines the roles and responsibilities of public officials, the process of making laws, and the mechanisms for resolving disputes. This framework ensures that the administration operates efficiently and transparently.

6. Ensures Legitimacy and Public Trust:

- A Constitution derives its authority from the people, making it a symbol of public trust. It legitimizes the government's actions by ensuring they align with the will of the people. This legitimacy is essential for maintaining social order and preventing conflicts.

7. Adapts to Changing Needs:

- A Constitution is not rigid; it often includes provisions for amendments to adapt to evolving societal needs. This flexibility allows the government to address new challenges while maintaining its sovereign authority. For

example, in a democracy, the Constitution can be amended to expand rights or reform institutions.

8. Resolves Conflicts:

- The Constitution provides mechanisms to resolve disputes between different levels of government (e.g., central and state governments) or between the government and citizens. By offering legal pathways for conflict resolution, it ensures stability and continuity in governance.

9. Promotes National Unity:

- In diverse societies, the Constitution acts as a unifying document that reflects shared values and aspirations. It ensures that the sovereign administration respects the diversity of its people while promoting national cohesion.

10. Guides International Relations:

- The Constitution often outlines the principles for conducting foreign policy and international relations. It ensures that the state's sovereignty is respected globally while adhering to international laws and treaties.

1.8 Conclusion

In essence, the Constitution is the cornerstone of sovereign administration. It provides the legal and institutional framework for the government to function effectively while ensuring that its power is exercised responsibly and in the interest of the people. Without a Constitution, a state's sovereignty would lack legitimacy, structure, and accountability, leading to chaos and injustice. Thus, the Constitution is not just a document but a living instrument that empowers the state to govern with authority and fairness.

1.9 Summary

The role of the Constitution in implementing sovereign administration:

- Establishes Sovereignty:
Defines the state's independence and authority to govern without external interference.
- Structures Government:
Divides power among the Legislature, Executive, and Judiciary to ensure balance and prevent abuse.

- **Limits Government Power:**
Sets boundaries to prevent arbitrary actions and ensures accountability through mechanisms like judicial review.
- **Protects Citizens' Rights:**
Safeguards fundamental rights, ensuring the government protects rather than oppresses individuals.
- **Provides Governance Framework:**
Outlines rules, procedures, and roles for efficient and transparent administration.
- **Ensures Legitimacy and Trust:**
Derives authority from the people, making government actions legitimate and trustworthy.
- **Adapts to Changing Needs:**
Allows amendments to address evolving societal challenges while maintaining stability.
- **Resolves Conflicts:**
Offers legal mechanisms to settle disputes between government levels or between the state and citizens.
- **Promotes National Unity:**
Acts as a unifying document that respects diversity while fostering cohesion.
- **Guides International Relations:**
Outlines principles for foreign policy, ensuring sovereignty is respected globally.
- **Balances Authority and Freedom:**
Ensures the government's power is used responsibly to protect public welfare and individual rights.

1.10 Glossary

- A. Constitution:** The basic laws or fundamental principles that establish how a country or organization is governed. It's the supreme law of the land,
- B. Administration:** The management and execution of public affairs, policies, and programs, encompassing the planning, organizing, directing, coordinating, and controlling of government operations

- C. Administrative Law:** Administrative laws procedure and institution that govern the Government agencies and regulate its mood of function.
- D. Law:** An official rule of a country or state that says what people may or may not do.
- E. Parliament:** The house of a group of elected representatives who make or change the laws of the Country.
- F. Bureaucracy:** Bureaucracy is a hierarchical system of administration and organization where laws and policies are implemented by non-elected officials, often following standardized procedures and rules.

1.11 Model Questions

- Write a note on differences between Constitutional law and administrative law.
- Do you agree that the Sovereignty is an essential element of the State and her administrative power?
- Write a note on the historical growth of Administration and administrative law.
- How the administrative development is materialize in constitutional matrix.
- What are the sources of Administrative law?
- Define administration and governmental administration.

1.12 References

- Sir Ivor Jennings: *The Law and the Constitution*; London, University Press of London, 1971.
- James Hart: *An Introduction to Administrative Law*; New York, F.S.Craft and Co., 1956.
- W.A.Robson: *Justice and Administrative Law*; London, Steven and Sons, 1951.
- John D. Millet: *Government and Public Administration*; New York; McGraw Hill, 1959.
- G.Austin: *The Indian Constitution: Cornerstone of a Nation*; Oxford University Press, 2018.
- R. Bhargava: "Introduction: Outline of a Political Theory of the Indian Constitution" in, R.Bhargava (Ed) *Politics and Ethics of the Indian Constitution*; New Delhi; Oxford University Press, 2008.

Unit 2 □ Historical perspective in development of the concepts- Constitution and Constitutionalism

Structure

- 2.1 Learning Objectives**
- 2.2 Introduction**
- 2.3 Development of Constitution and Constitutionalism**
- 2.4 Constitution vs. Constitutionalism: The Basics**
- 2.5 Constitution, Constitutionalism, State, Government and Administration**
- 2.6 Conclusion**
- 2.7 Summary**
- 2.8 Glossary**
- 2.9 Model Questions**
- 2.10 References**

2.1 Learning Objectives

After completing this unit, learners will be able to:

- Understand the development of Constitution and Constitutionalism
- Examine the concepts of Constitution, State, Government, Administration
- Comprehend the significance of the Constitution

2.2 Introduction

The concepts of Constitution and Constitutionalism have evolved over centuries, shaped by historical events, philosophical ideas, and the need for organized governance. A Constitution is a formal document or set of principles that outlines the structure, powers, and limits of a government, while Constitutionalism refers to the idea that government authority must be exercised within a framework of rules and laws to prevent arbitrary rule and protect individual rights. It is a political philosophy emphasizing that government authority derives from and is

limited by a constitution, ensuring actions are conducted within the bounds of law and protecting citizens' rights.

Historically, the roots of these concepts can be traced back to ancient civilizations, such as Greece and Rome, where early forms of governance and legal codes emerged. However, the modern understanding of constitutionalism began to take shape during the Enlightenment in the 17th and 18th centuries, influenced by thinkers like John Locke, Montesquieu, and Rousseau. Landmark events such as the Magna Carta (1215), the Glorious Revolution (1688), and the American and French Revolutions (18th century) played pivotal roles in establishing the principles of limited government, rule of law, and popular sovereignty.

Over time, constitutions and constitutionalism have become essential tools for ensuring democratic governance, protecting human rights, and maintaining the balance of power in states worldwide. This historical perspective highlights how these concepts have been deployed to create stable, just, and accountable systems of governance.

2.3. Development of Constitution and Constitutionalism

The rise and development of constitutions in various countries are influenced by materialistic elements that remain latent in the social and political culture of the region. This latent potentiality and probability come to the forefront during specific material conditions and times in the course of history. As societies began to demand socially secured rights and established equality, the political and social landscape gradually unfolded, leading to the formation of institutions to ensure the sustainability of their assembly. It was at this point in time that the intellectual elite started contemplating the creation of a written document containing the rights of the people, which later became known as a constitution. The history of constitution development reflects the growth of political institutions, with its primary traits being evident in ancient Greece and Rome. During this period, there was a growing clamor from the public for the establishment of a constitution as an authoritative document for the governing process. This clamor for a constitution eventually expanded to European dimensions, capturing the attention of influential political thinkers. These thinkers were spurred by the development of various institutions and interest groups, which sought to rally around these institutions to secure their social and political rights and promote social equality. Many of these thinkers expressed their dissent in writing against political authorities whose attitudes did not align with the demands voiced by the public. They also confronted obstinate political authorities who feared that the

expansion of rights and equality would diminish their power and authority. Today, the focus of the modern world is on enhancing political institutions to establish a legitimate constitutional order.

The political landscape of ancient Greece was defined by a strong sense of separatism, as each city-state and cultural group pursued its own autonomy and independence. For the Greeks, the state was the heartbeat of social, cultural, and political life, with ordinary citizens actively engaging in governance as soldiers, judges, and assembly members.

Following the decline of the Greek city-state system, the Roman Empire introduced profound transformations. Ordinary citizens withdrew from direct political engagement, allowing independent power factions to dominate the political arena. This shift fostered a rise in individualism and cosmopolitanism, as people began to identify themselves beyond the confines of their specific state or ethnicity.

The collapse of the Roman Empire in the 6th century AD marked the dawn of the feudal age, characterized by a decentralization of political authority and a blending of public rights and responsibilities with land ownership. This precarious political and economic framework significantly shaped the evolution of European political identity.

During the Renaissance, new humanistic philosophies emerged, championing individual rights and freedoms. However, the ascent of absolute monarchies during this era hindered the formation of genuine constitutional democracies.

Britain emerged as a crucial player in the evolution of constitutional governance, with the English Civil War and the Glorious Revolution of 1688 paving the way for parliamentary sovereignty. Meanwhile, France also felt the impact of modern constitutionalism, though its journey was fraught with episodes of state chaos and Napoleonic rule before the establishment of the Fifth Republic.

The Declaration of Independence, adopted on July 4, 1776, resonated with the ideals of the 'Social Contract' and proclaimed the separation of the thirteen American colonies from British authority. It asserted that all individuals are created equal and are granted certain inalienable rights by their creator. To protect these rights, governments are established among people, drawing their legitimate power from the consent of those they govern. The declaration further emphasized that if any government becomes harmful to these principles, it is the people's right to change or dismantle it, creating a new government founded on principles that best ensure their safety and happiness. Inspired by this declaration, the founding fathers,

led primarily by Thomas Jefferson, crafted the American Constitution, which established a federal government characterized by a separation of powers, functioning as a complex mechanism of constitutional governance. This document articulates the philosophical rationale for independence, highlighting the importance of individual rights and the people's authority to challenge or replace oppressive governments. Citizens began to embrace their natural rights, which are inherent, with the government held accountable for safeguarding these rights, deriving its authority from the consent of the governed.

The Constitution plays a crucial role in a nation, acting as the essential legal framework that delineates the organization, powers, and responsibilities of government, along with the rights and duties of its citizens. Here are several key reasons highlighting the significance of a Constitution:

- Government Framework: It lays out the structure of government, clarifying the division of powers among the executive, legislative, and judicial branches, while imposing limits on their authority to avert any misuse of power.
- Rule of Law: A Constitution guarantees that all individuals, including those in government, are accountable to the law. It fosters a system where laws govern the nation rather than individuals, promoting equity and justice.
- Rights Protection: It safeguards essential rights and freedoms for citizens, including freedom of speech, religion, and the right to equality. These protections ensure that the government cannot encroach upon personal liberties.
- Stability and Order: By establishing clear laws and procedures, a Constitution helps uphold societal order and provides a stable framework that can evolve with changing times through amendments.
- Legitimacy and Unity: A Constitution embodies the collective will of the people and serves as the foundation for political legitimacy. It acts as a cohesive document that articulates the fundamental values and principles of a nation, uniting its citizens under a shared legal structure.
- Checks and Balances: It includes provisions to prevent any one branch of government from gaining excessive power by instituting checks and balances. This mechanism is vital in thwarting authoritarianism or dictatorship.

2.4 Constitution vs. Constitutionalism: The Basics

Constitution vs. Constitutionalism: The Basics

A constitution is a formal, written document (in most cases) that acts as the supreme law of a country. It outlines:

The structure of the government (e.g., how it's organized and who has power).

The powers and duties of government institutions (e.g., the executive, legislature, and judiciary).

The rights of citizens and how those rights are protected.

Think of it as the rule-book for how a country is governed. It provides the legal framework for political, legal, and social processes.

Example: The U.S. Constitution establishes the three branches of government (executive, legislative, judicial) and guarantees rights like freedom of speech.

Constitutionalism is a political philosophy that focuses on limiting government power and ensuring it operates within the rules set by the constitution. It emphasizes:

The rule of law: Everyone, including the government, must follow the law.

Checks and balances: Power is divided among different branches of government to prevent abuse.

Protection of individual rights: Citizens' freedoms are safeguarded.

Constitutionalism is not a document but an idea or practice of ensuring that the government respects the constitution and doesn't overstep its authority.

Example: In a country practicing constitutionalism, the government cannot arrest someone without a valid reason, as this would violate the rule of law and individual rights.

How Are They Related?

A constitution is the tool that makes constitutionalism possible. Without a constitution, there would be no clear rules to limit government power.

Constitutionalism ensures that the constitution is not just a piece of paper but is actively followed and respected in practice. It makes sure the government doesn't misuse its power.

Analogy: Think of the constitution as the rules of a game (e.g., soccer), and constitutionalism as the spirit of fair play that ensures everyone follows those rules.

Key Differences Between Constitution and Constitutionalism

| Aspect | Constitution | Constitutionalism |
|----------|--|--|
| Nature | A document (written or unwritten). | A philosophy or ideology. |
| Focus | Provides the structure of government. | Emphasizes principles like rule of law, limited government, and individual rights. |
| Scope | Specific: Details laws and institutions. | General: Covers broader values and norms. |
| Function | Acts as the rulebook for governance. | Ensures the rulebook is followed and respected. |

Why Are Both Important?

A constitution without constitutionalism is just words on paper. For example, a country might have a constitution that guarantees free speech, but if the government ignores it and silences critics, the constitution has no real power.

Constitutionalism without a constitution lacks a clear framework. There would be no defined rules to limit government power or protect citizens' rights.

Example: In a democratic country, the constitution might say that the judiciary is independent. Constitutionalism ensures that the government doesn't interfere with the courts, maintaining their independence.

2.5 Constitution, Constitutionalism, State, Government and Administration

Constitution

What is it? A constitution is a formal document (or set of documents) that serves as the supreme law of a country. It lays down the rules for how a country is governed.

It defines:

- The structure of the government (e.g., who has power and how it's divided).
- The rights and duties of citizens.
- The limits on government power.
- Think of it as the rulebook for running a country.

Example: The Indian Constitution establishes a democratic system, divides power between the central and state governments, and guarantees fundamental rights like equality and freedom of speech.

Constitutionalism

What is it? Constitutionalism is the philosophy or practice of ensuring that the government follows the constitution and respects the rule of law.

It emphasizes:

- Limited government: The government cannot do whatever it wants; it must operate within the rules set by the constitution.
- Protection of rights: Citizens' freedoms are safeguarded.
- Checks and balances: Power is divided among different branches of government to prevent abuse.
- It's about ensuring that the constitution is not just a document but is actively followed.

Example: In the U.S., constitutionalism ensures that the President cannot make laws on their own—they must work with Congress, and the courts can strike down unconstitutional actions.

State

What is it? A state is a political entity that has:

- A defined territory (land with clear borders).
- A population (people living in that territory).
- A government (to make and enforce laws).
- Sovereignty (the power to govern itself without outside interference).
- The state is the bigger picture—it's the country as a whole, including its people, land, and institutions.

Example: India is a state because it has a defined territory, a population, a government, and sovereignty.

Government

What is it? The government is the group of people and institutions that run the state. It is responsible for:

- Making laws (legislature).
- Enforcing laws (executive).

- Interpreting laws (judiciary).
- The government is like the management team of the state—it makes decisions and ensures things run smoothly.
- Governments can change (e.g., through elections), but the state remains the same.

Example: In the U.K., the government includes the Prime Minister, Parliament, and the courts. They manage the country, but the U.K. as a state remains constant.

Administration

What is it? Administration refers to the day-to-day functioning of the government. It involves:

- Implementing laws and policies.
- Managing public services (e.g., education, healthcare, transportation).
- Ensuring smooth operation of government programs.
- Administration is the practical side of governance—it's about getting things done.

Example: When the government passes a law to build new schools, the administration is responsible for hiring teachers, constructing buildings, and managing the schools.

2.6 Conclusion

In conclusion, the concepts of Constitution, Constitutionalism, State, Government, and Administration are interconnected and essential for understanding how a country is governed. The Constitution serves as the supreme rulebook, defining the structure of government and protecting citizens' rights. Constitutionalism ensures that these rules are followed, limiting government power and upholding the rule of law. The State represents the entire political entity, including its people, territory, and sovereignty, while the Government is the team that runs the state, making and enforcing laws. Finally, Administration handles the day-to-day implementation of policies and services. Together, these elements create a framework for fair, effective, and accountable governance, ensuring that power is exercised responsibly and citizens' rights are protected.

2.7 Summary

- In this unit we explored the social theory and philosophy underlying any constitution and the concept of constitutionalism.
- We understood the detailed historical account of how constitutions have developed, allowing us to trace the origins of the term “constitution.”
- The unit also looks at the distinctions between the state, government, and constitution.
- Additionally, it discusses the necessity of a constitution in governance, focusing on its role in managing society, which is a fundamental aspect of this research.
- Finally, the unit clarified the differences between a constitution and constitutionalism.

2.8 Glossary

- A. **Constitutionalism:** Constitutionalism refers to the political theory and practice where government power is limited by a constitution, which establishes the framework for governance, protects individual rights, and ensures accountability through checks and balances
- B. **Constitution:** The basic laws or fundamental principles that establish how a country or organization is governed. It's the supreme law of the land,
- C. **Administration:** The management and execution of public affairs, policies, and programs, encompassing the planning, organizing, directing, coordinating, and controlling of government operations
- D. **State - Government:** A state is a political entity that regulates society and the population within a defined territory, while a government is the system or group of people governing that state, responsible for making and enforcing laws

2.9 Model Questions

- Write an essay on the historical process of development of constitution.
- What are the necessities of constitution
- Discuss the relation between Constitution, State, government and administration.

- Write a note of the role of constitution in administering the society.
- How the constitution and administration differs
- Write a note on Constitution and Constitutionalism

2.10 References

- C.F.Strong: *Modern Political Constitution*; London, Sidgwick and Jackson, 1966.
- K.C.Wheare: *Modern Constitution*; London, Oxford 1956
- Blondel: *an Introduction to Comparative Government*; London, Weidenfield and Nicolson, 1969
- Field G. Lowell: *Government in Modern society*; New York, McGraw Hill Book Company Inc. 1951
- Gregor McLennan, David Held and Stuart Hall (ed): *The idea of Modern State*; Philadelphia Open University, University Press 1993.
- C.H.McIlwain: *Constitutionalism: Ancient and Modern*; Ithaca, New York Cornell, 1947.
- Chester C. Maxey: *Political Philosophy*; New York Macmillan, 1938
- F.W.Maitland: *The Constitutional History of England: A Course of Lecture*; Read Book (Paperback edition) 2007.
- J.C.Johari: *Comparative Politics*; Sterling Publishers Pvt. Ltd. 1972

Unit 3 □ Aristotelian view on the role of the Constitution in administering City-States

Structure

- 3.1 Learning Objectives**
- 3.2 Introduction**
- 3.3 Socio-political context of Aristotle**
- 3.4 Aristotle's Empirical Study of Constitutions**
- 3.5 Conclusion**
 - 3.5.1 Constitution and City-states**
- 3.6 Summary**
- 3.7 Glossary**
- 3.8 Model Question**
- 3.9 References**

3.1 Learning Objectives

After completing this unit, learners will be able to:

- Understand the socio-political condition during the time of Aristotle.
- Examine the Aristotelian version of constitution
- Comprehend the linkage between the city-states and the Constitution

3.2 Introduction

Aristotle, one of the most influential philosophers in history, had profound insights into politics and governance. In his work *Politics*, he explored the role of the constitution (or *politeia*) in administering city-states (or *polis*), which were the primary political units in ancient Greece. For Aristotle, the constitution was not just a set of laws but the very soul of the city-state, defining its identity, purpose, and structure of governance. He believed that the constitution played a central role in shaping the lives of citizens, ensuring justice, and achieving the common good.

Aristotle argued that the constitution determines the distribution of power within the city-state and establishes the ethical and political framework for its administration. He classified states into different types—such as monarchy, aristocracy, and polity—based on who ruled and whether the rulers acted in the interest of the common good or their own self-interest. According to Aristotle, a good constitution is one that promotes virtue, justice, and happiness among its citizens, ensuring stability and harmony. His ideas remain foundational in understanding the relationship between law, governance, and the well-being of society. This unit explores Aristotle's perspective on the role of the constitution in administering city-states and its relevance to modern political thought.

3.3 Socio-political context of Aristotle

To understand Aristotle's political ideas, we must examine the historical conditions that shaped them. Aristotle's political thought emerged in the context of ancient Greek city-states (poleis), particularly Athens, which was a hub of cultural, economic, and political activity. The city-states of ancient Greece were small, independent political units, each with its own form of governance. These city-states often clashed, leading to frequent wars and rivalries, especially between Athens and Sparta, which competed for dominance. These conflicts, along with the unique geographical, economic, and cultural conditions of the time, deeply influenced Aristotle's thinking about politics and governance.

Athens, where Aristotle spent much of his life, was located on the Attica plain in central Greece. The region had limited fertile land, a dry climate, and scarce rainfall, making agriculture difficult. However, Athens had other advantages: abundant natural resources like iron, silver, and high-quality clay, as well as a long coastline with natural harbors. These features allowed Athens to develop a thriving maritime economy, with early advancements in trade, industry, and a monetary system. Additionally, Athens' proximity to the ancient civilizations of the East facilitated cultural exchange, enriching its intellectual and artistic life.

The growth of slavery and trade in Athens created a class of free citizens who became the driving force behind Greek civilization. As the economy expanded, a division of labor emerged, giving rise to a class of intellectuals—wealthy individuals with the time and resources to study, reflect, and engage in philosophical and political debates. This intellectual environment made Athens the cultural and philosophical center of ancient Greece, producing thinkers like Socrates, Plato, and Aristotle.

The political life of the city-states was complex and dynamic. Different forms of governance—monarchy, aristocracy, democracy—rose and fell, often leading to instability. Athens, for example, experimented with democracy, while Sparta was known for its militaristic oligarchy. These shifting political systems, combined with territorial conflicts and cultural exchanges, created a rich tapestry of political experiences. Aristotle observed these developments closely, and his political thought reflects the diversity and complexity of Greek political life.

Thus, Aristotle's political ideas were shaped by the unique historical conditions of ancient Greece: its geography, economic development, social structures, and political experiments. By analyzing these factors, we can better understand the origins and significance of his contributions to political philosophy.

3.4 Aristotle's Empirical Study of Constitutions

Aristotle's study of constitutions remains highly relevant today, not only because it provides a historical perspective but also because it demonstrates how constitutions can be studied empirically—through observation and analysis of real-world examples. As a teacher at the Lyceum, Aristotle conducted extensive research into the constitutional histories and functioning of 158 Greek city-states. This project was a collaborative effort involving his students, who actively participated in gathering and analyzing data. Unlike purely philosophical inquiries, this research was historical and empirical, focusing on real political systems rather than abstract ideas. The findings from this research were later incorporated into Aristotle's famous work, "Politics", along with insights from his other works like "Ethics" and "Rhetoric", which also address key political issues such as justice, law, equality, and the classification of constitutions.

The Structure and Content of "Politics"

The "Politics" is not a book written in one go but rather a collection of research and observations compiled over time. It includes data gathered from various city-states, which Aristotle and his students analyzed to create a comprehensive document. Interestingly, there is some debate among scholars about whether Aristotle himself finalized the text or if it was edited by others after his death. The published version of "Politics" can be divided into two main parts:

The Search for an Ideal State:

In the first part, Aristotle focuses on the concept of an "ideal state". To develop this

idea, he and his students examined existing constitutions and identified gaps in earlier studies. They explored questions like:

What are the rights of individuals in a civil society?

What is the role of citizens in politics and society?

Based on these findings, Aristotle built a theoretical framework for what an ideal state should look like.

Analysis of Ruling Systems (Constitutionalism):

The second part of "Politics" deals with constitutionalism—the systems of governance in city-states. Aristotle examined:

How rulers exercised power.

The extent of citizen participation in governance.

The rights enjoyed by the people.

He also studied why some states deviated from the ideal system and became corrupt or unstable. This analysis is found in Books IV, V, and VI of "Politics", where Aristotle explores how to create and maintain a stable and just political system.

Aristotle's Unique Approach to Politics

Aristotle's approach to politics was groundbreaking in several ways:

Separation of Politics from Ethics:

Unlike his teacher Plato, who linked politics closely with ethics, Aristotle argued that politics should be studied as a practical science rather than a branch of philosophy. He believed that the goal of politics was to create an ideal state through effective governance, not necessarily to produce "good men." In other words, a well-managed state could exist even if its citizens were not perfectly virtuous.

Politics as the Art and Science of Governance:

Aristotle viewed politics as both an art and a science of managing society. He emphasized the importance of practical knowledge in governing, whether the state was good or bad. This idea was revolutionary because it treated politics as a skill that could be studied and applied, rather than just a moral or philosophical pursuit.

Empirical and Descriptive Approach:

Aristotle's research was empirical—based on observation and data—rather than purely theoretical. He studied real political systems, both good and bad, to

understand how they functioned and how they could be improved. This approach laid the foundation for modern political science.

Key Insights from Aristotle's Work

- **Stability of the Ideal State:**

One of Aristotle's main goals was to find ways to make the ideal state stable and prevent it from deviating into corruption. He analyzed the causes of political change and proposed mechanisms to maintain balance and order.

- **Classification of Constitutions:**

Aristotle classified constitutions into different types based on who ruled and whether the rulers acted in the interest of the common good or their own self-interest. For example, he distinguished between monarchy (rule by one for the common good) and tyranny (rule by one for personal gain).

- **Practical Governance:**

Aristotle's work emphasized the importance of practical governance. He believed that a statesman needed to be skilled in managing both good and bad states, as political expertise was essential for maintaining order and achieving the common good.

Thus, Aristotle's empirical study of constitutions and his work in "Politics" revolutionized the way we think about governance. By separating politics from ethics and focusing on practical, real-world examples, he laid the groundwork for modern political science. His insights into the ideal state, constitutionalism, and the stability of political systems remain relevant today, offering valuable lessons for understanding and improving governance. Aristotle's approach reminds us that politics is not just about abstract ideals but also about the art and science of managing society effectively.

3.5.1 Constitution and City-states

Aristotle's Book III of Politics is often considered one of his most significant contributions to political thought. In this book, Aristotle focuses on two central themes: constitutions and citizenship, which form the core of Greek political philosophy. He begins by examining the nature of the polis (city-state) and asks, What is a state? According to Aristotle, the state is made up of two essential elements: citizens and the constitution. These two components are deeply interconnected, as the constitution defines the political functions of citizenship, and citizens, in turn, shape the identity of the state through their participation in governance.

Aristotle argues that the constitution is the defining feature of a state. It determines how political power is organized and distributed, and it establishes the sovereign authority—the highest power in the state. For example, in a democracy, the people (demos) hold sovereign power, while in an oligarchy, power rests with a small group of elites. Because the constitution shapes the identity of the state, any change in the constitution fundamentally alters the state itself. This means that citizenship, which involves participating in the political functions defined by the constitution, is also tied to the constitution. In this way, Aristotle shows that the polis, citizenship, and constitution are inseparable.

In Book IV, Chapter One, Aristotle provides a detailed definition of the constitution. He describes it as the arrangement a state adopts to distribute political offices and determine sovereignty. Importantly, he distinguishes between the constitution and laws. While the constitution is the foundational framework that organizes power and authority, laws are the rules that guide how rulers govern and ensure that those who break the rules are held accountable. In other words, the constitution is the original and supreme law, while ordinary laws regulate the day-to-day administration of the state.

Aristotle's analysis of constitutions is rooted in ethics, but he also emphasizes the descriptive aspect of political systems. He recognizes that every community has its own values, ideals, and objectives, which shape its constitution. Therefore, the goodness or effectiveness of a constitution cannot be judged in absolute terms but must be understood in the context of the community it serves. Different constitutions reflect different values, and the citizens of each state uphold these values in their own way. This perspective highlights the diversity of political systems and the importance of understanding each one within its unique cultural and social framework.

The State as a Natural Institution

Aristotle believed that the state is not just a necessary institution for society but also a natural one. He argued that human beings are inherently social and political creatures, and the state arises naturally from their need to live together in organized communities. According to Aristotle, no individual can exist in isolation; human life is fundamentally tied to the state. The state, like the family or village, is a natural association that fulfills essential human needs and enables people to achieve a “good life.”

Aristotle saw the state as the highest form of human association, encompassing all other social organizations. While smaller groups like families or villages focus on specific aspects of life, the state addresses the broader needs of its citizens and

ensures their well-being. In this sense, the state is both a moral and natural institution. People obey the state not out of fear or coercion but because it fulfills their natural desire for order, security, and a meaningful life.

Aristotle famously described humans as “political animals” (*zoon politikon*), meaning that living in a state is an essential part of human nature. He argued that anyone who lives outside the state is either a beast (subhuman) or a god (superhuman). This idea reflects his belief that the state is not just a human creation but a natural extension of human relationships. From the family to the village and finally to the city-state, human associations grow naturally, culminating in the formation of the state.

Aristotle also used the organic theory to explain the relationship between individuals and the state. Just as the organs of a body perform specific functions to maintain the whole, individuals in society play distinct roles based on their abilities and positions. The constitution of the city-state ensures that these roles are balanced and that the state functions harmoniously. By organizing power and responsibilities, the constitution helps the state achieve its ultimate goal: providing a good life for its citizens.

Aristotle’s view of the constitution and city-states (*poleis*) is central to his political philosophy. He believed that the constitution is the soul of the city-state, defining its identity, structure, and purpose. For Aristotle, a constitution is not just a set of laws but the organization of political authority within the state. It determines how power is distributed, who holds sovereignty, and the roles of citizens in governance. For example, in a democracy, the people hold sovereign power, while in an oligarchy, power rests with a few elites.

The city-state (*polis*) was the primary political unit in ancient Greece, and Aristotle saw it as the highest form of human association. He argued that the state is a natural institution, arising from humanity’s inherent social and political nature. According to Aristotle, humans are “political animals” (*zoon politikon*), meaning they naturally form communities to achieve a “good life.” The city-state, therefore, exists not just for survival but to enable citizens to live virtuously and fulfill their potential.

Aristotle emphasized that the constitution and the city-state are deeply interconnected. The constitution shapes the identity of the state, and any change in the constitution fundamentally alters the state itself. He also distinguished between the constitution (the foundational framework) and laws (rules for day-to-day governance). While the constitution organizes power and authority, laws ensure order and justice.

In summary, Aristotle’s notion of the constitution and city-states highlights the importance of organized governance, citizen participation, and the natural social nature

of humans. His ideas remain foundational in understanding the relationship between law, governance, and the well-being of society.

3.6 Conclusion

Aristotle's ideas on the constitution and city-states provide a timeless framework for understanding the foundations of political life. He viewed the constitution as the soul of the state, organizing power, defining citizenship, and ensuring the state's identity and purpose. At the same time, he saw the city-state as a natural institution, arising from humanity's inherent need for community and the pursuit of a "good life." By emphasizing the interconnectedness of constitutions, citizenship, and governance, Aristotle highlighted the importance of balanced authority, ethical governance, and active citizen participation. His insights remain deeply relevant today, offering valuable lessons for creating just, stable, and flourishing societies.

3.7 Summary

- One cannot ignore the fact that Aristotle's state came into existence to preserve life and continues to exist to ensure good life. Thus, we could see that for Aristotle a state is not a mere society, having a common place, established for the prevention of mutual crime and for the sake of exchange.
- These are conditions without which a state cannot exist; but all of them together do not constitute a state, which is a community of families and aggregations of families in well-being, for the sake of a perfect and self-sufficing life.
- Such a community can only be established among those who live in the same place and intermarry. In this context the unit has dealt with-
 - Reasons why Aristotle thought the State was a natural institution.
 - Socio-political condition of Greece during the time of Aristotle
 - Relation between individual and state; state and constitution, and constitution and administration.

3.8 Glossary

- A. **Good Life:** a way of living that is moral, satisfying, and worthwhile. a life lived according to the moral and religious laws of one's culture.

- B. Citizen:** a native or naturalized member of a state or nation who owes allegiance to its government and is entitled to its protection
- C. Geographical proximity:** the physical closeness of firms or entities in a specific location, leading to enhanced interactions, knowledge exchange, and innovation within clusters.
- D. Material cause:** Material Cause is a philosophical concept proposed by Aristotle which describes The material out of which something is composed. .
- E. Formal cause:** Formal. Aristotle considers the formal “cause” as describing the pattern or form which when present makes matter into a particular type of thing, which we recognize as being of the particular type.
- F. Matter form:** A matter is a task, situation, or event which you have to deal with or think about, especially one that involves problems.

3.9 Model Questions

- Discuss the socio-political condition during the time of Aristotle
- How Aristotle viewed the relation between constitution and Administration.
- Discuss the view of Aristotle on City-State as natural institution.
- Write a note in detail the views of Aristotle on Constitution.
- “*The city-state is a hylomorphic (i.e., matter-form) compound of a particular population (i.e., citizen-body) in a given territory (material cause) and a constitution*”, Discuss.
- How Aristotle views the relation between State and Citizen.

3.10 References

- George H Sabine: *A History of Political Theory*; Oxford & B.H.Publishing Co. 1973.
- O.P.Gauba: *Western Political Thought*; National Paperbacks; June 2020.
- Robert Brown(ed): *Classical Political Theories from Plato to Marx*; New York, MacMillan, 1990
- Earnest Barker: *Political Thought in England:1848 to 1914*; London, Oxford Press, 1959.

- Elizabeth M James: *Political Theory – An Introduction to interpretation*; Chicago Rand McNally, 1976.
- Dante Germino: *Beyond Ideology: The revival of Political Theory*; New York, Harper & Row, 1967
- Subrata Mukherjee and Sushila Ramaswamy: *A History of Political Thought Plato to Marx*; PHI Learning Private Ltd. 20118.

Unit 4 □ Chankya and Rule of the Government

Structure

- 4.1 Learning Objectives
- 4.2 Introduction
- 4.3 Chanakya's Life and Works
- 4.4 Chanakya's Principles to Run an Organization
- 4.5 Chanakya's views on State, Administration and Government
- 4.6 Conclusion
- 4.7 Summary
- 4.8 Glossary
- 4.9 Model Questions
- 4.10 References

4.1 Learning Objectives

After studying this unit, learners will be able to:

- Understand the gist of Chanakya's *Arthashastra* and *Nitishastra*
- Elucidate how Chanakya has portrayed the political set up and administration principles for the King
- Evaluate how Chanakya attempted to legitimize his concepts by actualizing the standards

4.2 Introduction

When considering the ancient Indian state system, there is a growing interest among modern scholars to explore the administrative practices established by Chanakya and implemented by Chandragupta Maurya for the effective governance of Patliputra. Chanakya is historically recognized as the 'King Maker,' who guided the son of a maid to the throne of Magadha. Chanakya, also referred to as Kautilya, made significant contributions to ancient Indian polity and philosophy. He was a distinguished teacher, philosopher, economist, and strategist, best known for helping to establish the Maurya

Empire and for writing the Arthashastra, a key text on governance, economic policy, and military tactics.

Living around 350–275 BCE, Chanakya was a prominent figure in ancient India, remembered for his role in advising Chandragupta Maurya, the dynasty's founder. His influential work, the Arthashastra, is studied in various fields, including political science, international relations, diplomacy, security studies, economics, management, and public administration. He excelled in diplomacy, statecraft, and military strategy, advocating for a practical approach to leadership that emphasized realpolitik, moral realism, and effective governance to ensure social order.

Chanakya's political theories, sayings, and strategies have earned him recognition as one of ancient India's greatest thinkers, often likened to the "Indian Machiavelli." His insights on power, ethics, and governance have impacted many generations, not only in India but globally. He is also celebrated for his keen intellect, steadfast determination, and skill in forming strong alliances.

4.3 Chanakya's Life and Works

The history of ancient India is often shrouded in mystery, and the life of Chanakya is no exception. While the exact details of his origins remain unclear, it is widely accepted that he lived during the 4th century BCE, a time that coincided with the reign of Chandragupta Maurya (321–297 BCE) and the era of the great Greek philosopher Aristotle and conqueror Alexander the Great. Alexander's invasion of India in 326 BCE, particularly his victory over King Puru at the Battle of Hydaspes, created a power vacuum in the region after his death in 323 BCE. This instability provided an opportunity for Chanakya to rise as a key political strategist.

Chanakya, originally a teacher in the court of the Nanda dynasty in Patliputra (modern-day Patna), grew disillusioned with the weak and corrupt rule of Dhana Nanda. Determined to bring change, he sought out Chandragupta Maurya, a young and ambitious leader, and helped him overthrow the Nanda dynasty. By 322 BCE, Chandragupta established the Maurya Empire, with Chanakya serving as his chief advisor. Together, they laid the foundation for one of the largest empires in ancient India, stretching across much of the Indian subcontinent.

Chanakya's Identity and Legacy

Chanakya's identity is as intriguing as his achievements. He is known by various names, each reflecting different aspects of his personality. As Vishnugupta, he is seen

as a devout follower of Lord Vishnu, while the name Kautilya (derived from kutil, meaning cunning) highlights his sharp intellect and strategic mind. His most significant contribution is the Arthashastra, a comprehensive treatise on statecraft, economics, military strategy, and governance. Often compared to Machiavelli's *The Prince*, the Arthashastra offers a pragmatic, sometimes ruthless, approach to politics, emphasizing the importance of a strong central authority, diplomacy, espionage, and resource management.

Chanakya's Political Philosophy

Chanakya believed that the welfare of the state was paramount. He advocated for a ruler who was both wise and decisive, willing to use any means—whether diplomacy, war, or espionage—to ensure stability and prosperity. His teachings emphasized the importance of a well-organized administration, a strong military, and an efficient economic system. He also played a crucial role in establishing Takshashila, an ancient university that became a renowned center of learning.

Chanakya's legacy as a scholar, strategist, and political philosopher remains unparalleled. His role in the rise of the Maurya Empire and his timeless work, the Arthashastra, continue to inspire leaders and thinkers worldwide. By blending pragmatism with ethical governance, Chanakya laid the groundwork for effective statecraft, leaving an indelible mark on Indian and global political thought. His life and teachings remind us of the enduring power of wisdom, strategy, and vision in shaping history.

Chanakya's *Arthashastra* was actually a compilation of 15 Books. He narrate the whole matter in 180 divisions, 150 Chapter and approximately 6000 *Shlokas*.

- **Book:-1**, He narrated about the King, his ministers and other officers role in administering the state.
- **Book:-2**, In book 2 he laid down the duties of the various officers of the state and state's role in activities like agriculture, mining etc.
- **Book:-3** The main theme of Book 3 are law and administration.
- **Book:- 4** It has highlighted suppression of crime.
- **Book:-5** Miscellaneous topics like salary of officials are covered in Book 5.
- **Book:-6** In this book detail analysis of a state and foreign policy have been discussed.
- **Book:-7** It covers additional detail on foreign policy.
- **Book:-8** The calamities that may hamper the normal functioning of the state have been narrated in this Book.
- **Book:-9** Detail of preparation for war have been given in this Book.

- **Book:-10** This Book contains the art of fighting and its different modes during war.
- **Book:-11** Here the theme of discussions are, how a conqueror should tackle oligarchies governed by a group of chief, instead of a single King.
- **Book:-12** Book 12 highlights how a weak king can overcome a strong king.
- **Book:- 13** Described the technique of conquering an enemy's fort.
- **Book:-14** Book 14 dealt with occult and secret practices.
- **Book:-15** The last Book highlights the logical techniques and methodology used in Arthashastra.

If we examine the 15 books of Chanakya's Arthashastra, it becomes clear why he is often called the 'management guru' of ancient India. His contributions to economics, governance, and military strategy were groundbreaking and remain relevant even today. Chanakya's pragmatic approach to politics, often referred to as realpolitik, has left a lasting impact not only in India but across the world. His ideas on leadership, power dynamics, and statecraft continue to be studied and admired, and his aphorisms on diplomacy and management are frequently quoted. Chanakya's name has become synonymous with political wisdom and strategic thinking.

Chanakya lived during a time of great political turmoil, but it was also a period that gave rise to enduring ideas on governance, diplomacy, and leadership. His role in the rise of the Maurya Empire and his intellectual contributions make him one of the most significant figures in Indian history. His work, the Arthashastra, is not just a historical text but a treatise on the science of politics, offering practical insights into administration, economics, and military strategy.

Chanakya's Modern Outlook

One of Chanakya's most remarkable contributions was his ability to separate politics from religion. He believed that dharma (religion or moral duty) was a personal pursuit aimed at spiritual growth and self-salvation. However, he emphasized that artha (wealth and economic prosperity) was an end in itself and essential for the functioning of the state. Unlike many of his contemporaries, Chanakya did not see politics as subservient to religion. Instead, he treated politics and economics as independent domains, focusing on practical governance and statecraft. This separation of religion from politics was a revolutionary idea, foreshadowing similar developments in the 16th century when the supremacy of religion was challenged by the authority of the state.

Chanakya's Arthashastra: A Political and Economic Discourse

The Arthashastra is fundamentally a political and economic discourse, offering a detailed guide on how to govern a state effectively. Chanakya also introduced the concept of Nitishastra, which focuses on policy-making, discipline, punishment, and sanctions. His approach was pragmatic and often ruthless, emphasizing the importance of a strong central authority, efficient administration, and strategic diplomacy. His ideas were so advanced that even Max Weber, one of the founders of modern social science, recognized Chanakya's significance in his works, such as *Politics as a vocation* and his studies on economics and statescraft.

4.4 Chanakya's principle to run an Organization

Chanakya, the ancient Indian scholar and strategist, laid down several principles for efficient governance and administration that remain strikingly relevant to modern management practices. His guidelines for running a state, as outlined in the Arthashastra, closely align with the principles advocated by today's management experts. Here are some of the key principles Chanakya emphasized:

1. Planning

Chanakya placed great importance on planning as the foundation of effective administration. He stressed the need to answer critical questions like what to do, when to do, how to do, and who will do before starting any task. He believed that a well-thought-out plan was essential to anticipate outcomes and ensure success. This idea resonates with modern management thinkers like Frederick Taylor, who also advocated for a dedicated planning department in organizations. Chanakya's emphasis on foresight and preparation remains a cornerstone of successful management.

2. Organization

Chanakya emphasized the importance of organizational structure in governance. He advocated for clearly defined roles and responsibilities for every individual in the administration, ensuring better coordination and efficiency. This principle mirrors Henri Fayol's theory of management, which highlights the need to divide tasks, delegate authority, and promote specialization. Chanakya's hierarchical setup, where each person knew their role, is a timeless concept that modern organizations continue to follow.

3. Discipline

For Chanakya, discipline was a non-negotiable aspect of good governance. He believed that everyone, from the king to the lowest official, must adhere to established rules and respect authority. This principle of discipline is equally vital in modern management, where adherence to protocols and respect for organizational structure are essential for smooth functioning.

4. Espirit De Corps

Chanakya recognized the importance of team spirit and unity among officials. He advised that extreme decisions should only be taken in unavoidable circumstances and when no alternatives were available. This aligns with Fayol's principle of Espirit De Corps, which emphasizes fostering harmony and teamwork while avoiding unnecessary conflicts. Chanakya's focus on collaboration and mutual respect remains a key aspect of effective management.

5. Motivation

Chanakya introduced the concept of motivation centuries ago, advocating for a system of rewards and penalties to encourage good performance and deter negligence. He believed in promoting officials based on merit, performance, and suitability, ensuring a fair and transparent system. This idea of positive and negative motivation is still widely used in modern organizations, where rewards like promotions and salary hikes incentivize employees, while penalties discourage poor performance.

6. Controlling

Chanakya emphasized the importance of control in administration. He recommended daily monitoring of public servants to ensure accountability, as he believed humans tend to be lazy. Each department head, or Adhikarana, was responsible for overseeing their team's performance and taking corrective actions when necessary. This principle aligns with modern management theories, such as those of Robert Mockler, who highlighted the need for continuous monitoring to ensure that actual performance aligns with planned goals.

7. Departmentation

Chanakya's administrative setup included departmentation, where each department had a designated head responsible for its performance. This structure ensured specialization and efficiency, with the king as the ultimate authority overseeing all departments. Modern management experts like Harold Koontz and Cyril

O'Donnell have echoed this idea, defining departments as distinct areas of an organization where managers have authority over specific activities. Chanakya's approach to departmental organization remains a fundamental principle in modern management.

8. Centralization

Chanakya favored centralization, with power concentrated in the hands of the king. He proposed a three-tier management structure: top-level (strategic), middle-level (tactical), and low-level (operational). The top level formulated policies and strategies, while the other levels implemented them. This centralized approach ensured clear decision-making and accountability, a concept that still finds relevance in organizations with hierarchical structures.

Chanakya's principles for running an organization, as outlined in the Arthashastra, are remarkably similar to modern management theories. His emphasis on planning, organization, discipline, motivation, control, departmentation, and centralization reflects a deep understanding of governance and administration. These timeless principles continue to guide leaders and managers, proving that Chanakya's wisdom transcends centuries and remains relevant in today's world. His contributions to management and governance make him a true pioneer, whose ideas continue to inspire and shape organizational practices globally.

4.5 Chanakya's views on State, Administration and Government

Chanakya's ideas about the pre-state condition of society bear a striking resemblance to the views of contractualist thinkers like Thomas Hobbes. He described the pre-state era as a condition of "Matsya Nyaya"—a metaphor where the bigger fish (strong individuals or groups) dominate and exploit the smaller fish (weaker individuals or groups). This chaotic and lawless state, according to Chanakya, made human life unbearable. To end this disorder, people collectively chose a king to establish order, security, and stability. This idea mirrors Hobbes' concept of the "state of nature", where life is "nasty, brutish, and short," prompting individuals to form a social contract and create a governing authority. For Chanakya, the king's primary duty was to ensure the well-being of the people, maintain order, and protect them from internal and external threats.

Chanakya's Vision of the State as a Living Organism

Chanakya viewed the state as a living organism, much like Aristotle's philosophy. In this analogy, individuals are the organs of the state, and their identity and purpose are tied to the state. Just as a body suffers if its organs are damaged, the state weakens if its citizens are neglected. The king, in Chanakya's view, is akin to the head of this organism, responsible for guiding and protecting the state. An ideal king, according to Chanakya, must possess exceptional leadership qualities, intellect, energy, and personal virtues to govern effectively.

The Duties of a King

Chanakya outlined the prime duties of a king, emphasizing that the ruler's happiness lies in the welfare of his subjects. The king's dharma (moral duty) was to serve all people in the empire, especially the vulnerable, such as pregnant women, orphans, newborns, the destitute, and the elderly. Specifically, the king's responsibilities included:

- Protecting citizens from internal and external threats.
- Safeguarding people from five calamities: famine, fire, flood, drought, and epidemics.
- Maintaining law and order in the state.
- Ensuring universal and free education based on the Vedic system.

Abandoning the six enemies of the self: lust (kama), anger (krodha), greed (lobha), vanity (mana), haughtiness (mada), and overjoy (harsha).

Why State Management Was Important to Chanakya

For Chanakya, the management of state affairs was crucial because it formed the foundation of a stable, prosperous, and secure society. His work, the Arthashastra, serves as a comprehensive manual on statecraft, emphasizing strategic governance, resource management, and maintaining order. Here are the key reasons why state management was vital to Chanakya:

Security and Sovereignty: A well-managed state could defend itself against external threats and maintain internal stability. Chanakya stressed the need for a strong administration, a capable army, and a disciplined bureaucracy to ensure the state's survival and growth.

Economic Prosperity: Chanakya believed that a state's wealth and the prosperity of its people depended on efficient resource management, proper taxation, and the promotion of trade. A thriving economy could fund military operations, public welfare, and infrastructure projects.

Diplomacy and Foreign Relations: Effective state management included maintaining good relationships with neighboring states through diplomacy, alliances, and intelligence gathering. Chanakya advocated using both soft power (diplomacy) and hard power (military strength) strategically to safeguard the state's long-term interests.

Preventing Corruption: Chanakya emphasized the importance of surveillance and accountability to minimize corruption within the administration. He believed that strict monitoring of officials was necessary to prevent the misuse of power.

Balancing Pragmatism and Ethics: While Chanakya was pragmatic and sometimes ruthless in his approach, he also believed in moral governance. He argued that rulers should balance tough decisions with ethical principles, ensuring that their actions ultimately served the greater good.

Thus, Chanakya's vision of statecraft was a blend of strategic thinking, economic acumen, political insight, and moral leadership. He viewed governance as a science that required careful planning, efficient resource management, and ethical decision-making. For Chanakya, the effective management of state affairs was not just about survival but about creating a strong, self-sufficient, and prosperous society. His principles, as outlined in the Arthashastra, continue to offer valuable lessons for leaders and administrators, highlighting the timeless relevance of his ideas.

4.6 Conclusion

In conclusion, discussing Chanakya and his views on governance requires us to combine his ideas about leadership and social order. Chanakya, an Indian philosopher, economist, and political strategist from the 4th century BCE, is widely recognized for his work, the Arthashastra, which details his thoughts on governance, statecraft, and diplomacy. His approach is practical, focusing on the importance of a ruler in ensuring stability, security, and prosperity for the kingdom. Chanakya's insights into governance provide valuable lessons on leadership, the state's role, and the balance between authority and justice. His focus on practical wisdom, effective statecraft, and ethical governance remains relevant today, influencing modern political ideas and power management. He believed that the government should prioritize serving the people, delivering justice, and diligently safeguarding both internal and external state security.

4.7 Summary

- A ruler must be Strong Leadership and pragmatism, wise, decisive, and sometimes even ruthless, as circumstances dictate. Chanakya's famous strategy of "realpolitik" highlights that effective governance requires adapting to changing times and being prepared to make hard decisions for the greater good.
- Chanakya believes that both law and justice are important for maintain peace and order. While Chanakya supported a ruler's authority, he also emphasized the necessity of a just and equitable legal system. A ruler must create laws that protect citizens and ensure that justice is impartial, thereby ensuring the long-term stability of the kingdom.
- Chanakya stressed the importance of a well-organized bureaucracy and a robust network of spies to maintain control and prevent corruption. A ruler must be vigilant in understanding the state's workings at all levels and take proactive measures against subversion or decay.
- Even though his political philosophy sometimes condones harsh measures, Chanakya also believed that a leader's personal ethics should align with their role as a guardian of the people. A ruler should be trustworthy, compassionate, and protective of their subject.
- Chanakya understood that the prosperity of a kingdom depends on its economic health. Effective management of resources, trade, and commerce is vital for the stability of the state. Likewise, the welfare of the people through social and public welfare schemes is critic.

4.8 Glossary

- Nitishastra:** Nitishastra, also known as ethics or moral philosophy, is the study of moral values, right and wrong behaviour, and how to live an ethical life
- Management:** Management can be defined as a process of getting the work or the task done that is required for achieving the goals of an organisation in an efficient and effective manner.
- Pragmatic:** Dealing with problems in a practical way rather than by following ideas or principles
- Strategic:** The decision that help one to achieve a plan; giving an advantage.

It is also connected with a country's plans to achieve success in a war or in its defence system

- **Realpolitik:** Realpolitik is the approach of conducting diplomatic or political policies based primarily on considerations of given circumstances and factors, rather than strictly following ideological, moral, or ethical premises.

4.9 Model Questions

- Write a short historical narration of Chanakya's time.
- Write in short the subject matter of 15 Books that compiled by Chanakya.
- How Chanakya viewed the relation between politics and religion. How he explained the role of *Dharma*
- What are the basic principles for efficient management? Narrate the principles of efficient management in short.
- How Chanakya viewed state, administration and management?
- What are the points of similarities between oriental and occidental thinking on statecraft and management system?

4.10 References

- Subrata Kumar Mitra and Michael Liebig: *Kautilya's Arthashastra: An Intellectual Portrait- The Classical Root of Modern Politics in India*; Rupa Publishing India Pvt. Ltd. 2017.
- K.S.Padhy: *Indian political Thought*, PHI Learning Pvt. Ltd. New Delhi, 2011.
- L.N.Rangarajan: *Kautilya; The Arthashastra*; Penguin Books India (P) Ltd.1992.

Unit 5 □ Sovereign Law and Constitution

Structure

- 5.1 Learning Object.**
- 5.2 Introduction**
- 5.3 Constitution, Sovereignty and Law**
- 5.4 Conclusion**
- 5.5 Summary**
- 5.6 Glossary**
- 5.7 Model Questions**
- 5.8 References**

5.1 Learning Objectives

After studying this unit, learners will be able to:

- Understand the concepts of law and constitution
- Distinguish between different important process of implementation of law through legitimate sovereign power
- Gauge the importance of law, state and sovereignty in organization of many states

5.2 Introduction

Sovereignty is a crucial aspect of a state that sets it apart from other political groups within a society and similar entities on the global stage. The concept of sovereignty has deep roots in the emergence and evolution of modern territorial states, which is why its interpretation has changed over time. Despite its various meanings, sovereignty retains a fundamental essence. According to Hensley, a distinguished political scientist, sovereignty can be defined as the idea of having ultimate and absolute political authority within a community, with no other authority surpassing it. In this sense, sovereignty represents a belief in an authority that possesses the unchallengeable power to create and enforce laws for society. It can be viewed as the foundational assumption of

authority in contemporary political life, both domestically and internationally. Authority refers to the right or title to govern, and the state holds this title on behalf of its sovereignty. This means that the government of a state is considered both supreme and independent, having authority over everyone within its territorial boundaries and operating free from other governing powers.

The notion of sovereignty has sparked debate among scholars, largely due to the differing interpretations of independence and autonomy. Independence relates to authority and rights, while autonomy pertains to power and capability. Historians, international lawyers, and political theorists typically focus on the former, whereas political economists and sociologists lean towards the latter. It is essential to recognize these distinct perspectives on sovereignty as we delve into this key concept in political thought.

5.3 Constitution, Sovereignty and Law

The concepts of constitution, sovereignty, and law are deeply interconnected in the governance of liberal or constitution-based countries. In such systems, sovereignty is often vested in the people, a principle famously established in the United States Constitution and later adopted by many democracies, including India. The preamble of the Indian Constitution explicitly states that sovereignty resides with the “people of India,” making it clear that the constitution derives its legitimacy from popular sovereignty. This means that the Indian Constitution is grounded in the idea that ultimate political authority lies with the people, and the state’s sovereignty is a status that the Indian political community enjoys, alongside democracy and a republican form of government.

However, the relationship between popular sovereignty and constitutionalism is not without tension. Some argue that these two concepts are inherently incompatible. The reasoning is that true popular sovereignty exists only before the establishment of a constitution. Once a constitution is in place, the people’s power is either limited or exercised through the framework of the constitution, meaning they are no longer truly sovereign. This tension gives rise to what is known as the “paradox of constitutionalism.”

The Paradox of Constitutionalism

The paradox of constitutionalism arises from two conflicting principles at the heart of modern governance. On one hand, governmental power must originate from the

“consent of the people,” reflecting the idea of popular sovereignty. On the other hand, for governance to be effective and sustainable, this power must be divided, constrained, and exercised through established institutional forms. In other words, the people, as the sovereign, cannot directly exercise their sovereignty; instead, their power is channeled through the constitutional framework. This creates a paradox: while the people are the ultimate source of authority, their power is limited by the very constitution they create.

This paradox highlights the tension between the idea that governmental power must flow from the absolute sovereignty of the people and the need for that power to be regulated by legal rules and principles. Sovereignty, by its nature, is absolute and unrestricted, yet constitutionalism requires that power be bound by laws and institutions. This tension seems irreconcilable because sovereignty implies the freedom to shape the constitution in any way, while constitutionalism imposes limits on how that power is exercised.

Sovereignty and Constitutional Authority in Practice

In modern democracies, the people’s sovereignty is acknowledged and institutionalized through the constitution. The constitution serves as the highest law of the land, providing the framework for governance and ensuring that power is exercised responsibly. However, the actual exercise of this sovereign power is delegated to the state and its elected government. The government, in turn, uses this constitutional authority to rule and administer society for the common good. In this way, the sovereign power of the people is not directly exercised by them but is instead channeled through the structures and processes established by the constitution.

The concepts of constitution, sovereignty, and law are central to the functioning of liberal democracies. While the principle of popular sovereignty places ultimate authority in the hands of the people, the framework of constitutionalism ensures that this power is exercised in a structured and accountable manner. The paradox of constitutionalism captures the inherent tension between these ideas, reflecting the challenge of balancing absolute sovereignty with the need for legal and institutional constraints. Despite this tension, the constitution remains the cornerstone of modern governance, providing the foundation for a stable, just, and democratic society. Through the constitution, the sovereign power of the people is both recognized and regulated, ensuring that governance serves the collective good while respecting the rule of law.

The way authority is exercised depends on the political structure of the state. Here's a brief overview:

- - A state is formed when a group of people organizes itself under a government that creates and enforces laws.
- - Within this group, there must be a dominant will and power.
- - There should be an individual or a group whose commands are followed and who can enforce those commands if needed.
- - This individual or group holds sovereignty, and their commands are referred to as laws.
- - Clearly, there cannot be any legal limits to sovereignty, as that would suggest the existence of a higher authority, which would also be sovereign.
- - Therefore, the state is considered legally sovereign.

Constitution and Sovereignty

Sovereignty can be understood as a normative principle that defines the authority and power of the state. It is central to the concept of the state, capturing two essential elements: first, the state's claim to authority over its territory, and second, its ability to enforce that claim effectively. To formalize this enforcement, the state creates institutions that carry out its orders and maintain control within its boundaries. Sovereignty, therefore, is not just about authority but also about the practical ability to exercise power.

There are two key forms of sovereignty: legal sovereignty and political sovereignty. Legal sovereignty is based on the idea that the ultimate authority resides in the laws of the state. This is often referred to as *de jure* sovereignty, where the state's power is defined by legal authority. For example, Bordin argued that law is the command of the sovereign, and subjects must obey it without question. On the other hand, political sovereignty focuses on the actual distribution of power, known as *de facto* sovereignty. Thomas Hobbes, for instance, described sovereignty in terms of power rather than authority, defining it as a monopoly of coercive power vested in a single person or body. Political sovereignty is about the ability to command obedience through the control of force, regardless of legal justification.

While legal sovereignty emphasizes authority and political sovereignty emphasizes power, in practice, the two are closely intertwined. Sovereignty always involves a claim to exercise legal authority, but this authority must be backed by the ability to enforce compliance. Laws alone cannot always ensure obedience, as

there will always be individuals or groups who disregard them. Therefore, the state must have the power to enforce its laws, meaning that legal authority must be supported by coercive power. This interplay between authority and power is what makes sovereignty viable.

However, citizens in a democratic society expect the right to protest or challenge the government's monopolistic power, especially when it uses brute force to enforce laws. This right to dissent is crucial for maintaining a balance between state authority and individual freedoms. At the same time, governments justify their power by claiming the authority to create and enforce laws for the betterment of society. To legitimize this authority, states establish governments through the mandate of the people and build ruling ideologies that reinforce their legal and moral right to govern.

In summary, sovereignty is a complex concept that combines legal authority and political power. While legal sovereignty is rooted in the laws of the state, political sovereignty depends on the ability to enforce those laws. The two are interdependent, as authority without power is ineffective, and power without authority lacks legitimacy. In democratic societies, this balance is maintained by ensuring that citizens have the right to challenge authority while the state retains the power to enforce laws for the common good. This dynamic relationship between authority, power, and citizen rights is at the heart of modern governance.

5.4 Conclusion

The relationship between the constitution and sovereign law is foundational to the functioning of any state. The constitution serves as the supreme legal framework that defines the structure of governance, the distribution of power, and the rights of citizens. It embodies the principle of sovereignty by establishing the authority of the state and the rule of law. Sovereign law, in turn, derives its legitimacy from the constitution, as it reflects the will of the people and the legal authority of the state. Together, the constitution and sovereign law create a balance between authority and accountability, ensuring that power is exercised within defined limits while protecting individual freedoms. This interplay ensures that governance is both legitimate and effective, upholding the rule of law and the sovereignty of the state in service of the common good.

5.5 Summary

- Sovereignty is also understood to mean that the people have supreme power and that they are the source of all powers.
- Every state exercises its sovereign power with the help of certain material and ideological apparatuses. Material apparatuses are those which make the sovereignty of the state effective in a material way or in a real visible way.
- Ideological apparatuses are those which make or generate a habit of obedience in the general public and create an atmosphere in which the consent of the people towards sovereignty may be achieved.
- Material apparatus of the state uses physical force to obtain obedience and thus, makes the command of the sovereign effective. Ideological apparatuses make sovereignty effective by generating a mood of obedience in the general public and provide legitimacy to the existing socio-economic and political order.

5.6 Glossary

- A. Sovereignty:** In political theory, sovereignty is a substantive term designating supreme legitimate authority over some polity.
- B. Rule of Law:** Rule of law is a principle of governance in which all persons, institutions and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated.
- C. Monistic Sovereignty:** The monistic theory proposed by some thinkers like Austin, who believes that sovereignty as absolute and indivisible power held by the state.
- D. Legal sovereignty:** Legal sovereignty is that authority of the state which has the legal power to issue final commands. It is the authority of the state to whose directions the law of the State attributes final legal force.
- E. Political sovereignty:** Political sovereignty means the ultimate power resides in the hands of the people who elect their representatives.
- F. De jure sovereignty:** De jure sovereignty is officially recognized by the law, such as when a country has a law stating what the government can do. In other

words, de jure means that an entity has the legal right to do something or to enforce something.

- G De Facto Sovereignty:** De facto sovereignty refers to the independence of a state or political entity. It means that this independence exists not only in law, but in fact, as well. Sometimes a state can achieve de facto sovereignty, but not de jure (legal) sovereignty, or vice versa.

5.7 Model Questions

- Write a note on the compatibility of Constitution, Sovereignty and Law
- Discuss in detail the relation between sovereign and non-sovereign functions of the state.
- Discuss on the relation between Constitution and Sovereignty.
- Do you think that law is a system of rules in the society? :
- Explain that sovereignty is the ultimate authority of imposing Law in the society.
- Write an essay on the meaning and utility of constitution.

5.8 References

- M.Mohanty, “Does India Need a New Constitution”, in S.N.Misra, Subhas Chandra Hazary and A.Misra (eds): *Constitution and Constitutionalism in India*, New Delhi, APH Publishing Corporation, 1999.
- G.Austin: *Working a Democratic Constitution: A History of the Indian Experience*; New Delhi: Oxford University Press 2002.
- R Dworkin: *Freedom’s Law*; Harvard: Harvard University Press, 1997.
- B Ackerman: *We the People*; Boston: Balknap Press, 1993.
- A.V.Dicey: *An Introduction to the Study of the Law of the Constitution (10th. Edition)*; London, Macmillan 1958
- N.MacCormick: *Questioning Sovereignty*; Oxford, Oxford University Press 1999.
- U.Baxi, “Some Reflections on the Nature of Constituent Power”, in R.Dhavan and A.Jacob (eds): *The Indian Constitution: Some Trends and Issues* ; Bombay; N.M.Tripathi P Ltd. 1978
- Sudhir Krishnaswamy: *Democracy and Constitutionalism in India: A Study of the Structure Doctrine*; Oxford University Press, India, 2023

Module:- II

**Background of Making Indian
Constitution**

Unit 6 □ Prequel and Sequel Effect of Acts and Regulation from 18th to 20th Century

Structure

- 6.1 Learning Objectives**
- 6.2 Introduction**
- 6.3 Acts, Regulation and Law:- their meaning and Social Need**
- 6.4 History of Prequential Acts and Regulation during Company Rule and the Rule of the Crown.**
- 6.5 The pre-consequential effects on the consequential acts and regulation of our Constitution**
- 6.6 Conclusion**
- 6.7 Summary**
- 6.8 Key-Terms**
- 6.9 Model Questions**
- 6.10 Further Readings**

6.1 Learning Objectives

The Constitution of India was adopted on 26 November 1949 by the Constituent Assembly of India. The provisions relating to citizenship, elections, and provisional parliament, temporary and transitional provisions were given immediate effect from November 26, 1949. The whole Constitution became effective on 26 January 1950. Here attempts will be made to find out the roles of Acts and Regulation that adopted in consequent of ruling pre and post independence period in India, now the quest of this paper is:

- What role was played by those acts and regulation as motivator in directing our Constitution?
- Did those have any important role in motivating the text of our Constitution?
- Thus here the central concern is not only the government but also of the governance.

- The fact is those acts and regulation have a special kind of activity in forming the Constitution.
- Generally the Political Scientist defines the role of these acts and regulation as different functions of the Government to rule the society.
- Once those were used to minimise the social tension and to achieve a new kind of unanimity.

6.2 Introduction

The Indian struggle for freedom started at the end of the 19th century. Since from that time we had only one agenda, and that was to get ourselves free from the British Rule, our leadership was inspired by the American Declaration of Independence (1776), the French Declaration of the Rights of Man (1789), as well as the constitution of the Irish Republic. The French revolutionary slogan of Liberty, Equality, and Fraternity finds an echo in the Preamble of our Constitution. It is interesting to know that our Constitution has been in the making since the Indian Councils Act of 1861 and has also drawn upon the Indian Councils Act of 1892, the Morley-Minto Reforms of 1909, the Montague-Chelmsford Reforms of 1919, the Simon Commission Report of 1942, and the Indian Independence Act of 1947. The provisions in our Constitution for a parliamentary form of government, legislative councils, provincial autonomy, and many other features are traceable to the above-mentioned Government Acts of British times. Thus, it is clear that the Indian Constitution has a rich historical background preceding its formulation.

It can fairly be argued that the prime features of our constitution had evolved over a long time through various acts and regulation enacted and imposed by colonial power during the time of their rule, i.e., from 1858 to 1935. The first protest of Indian against colonial rule was got its way when colonial ruler takes the full initiative to establish their own rule. If the transfer of rule from the East India Company was a reaction to the revolt of 1857, then the subsequent Acts and regulations were the British response to the national movements against them. The idea and purpose of the British rulers of doing so in the name of ruling, was to continue colonial rule and to adapt it to the changing challenge against their rule by the pro-agitated Indians. Thus facing the situation British government introduced different rules which later laid foundation of our constitution or used as a background of making constitution. During this period the British Parliament introduced acts which defined the nature of organs

of government, and introduced an acceptable notion of representative democracy, though of a limited nature. Along with that they also introduced decentralization, minority rights, communal representation and provincial autonomy. It is important to note here that these features very significantly added with our constitution, made after independence by the member of our “Constituent Assembly”. Although there are some significant differences between what British ruler adopted to establish their authority and the process of inclusion made by our constitution makers.

Especially since 1857 British government started to introduce different act for India to strengthen their dominance and hegemony over India and Indian people. Since 1857 following acts were introduced in pre-independent period: ‘Government of India Acts of 1857, 1919 and 1935; the council of India Acts of 1861, 1892; the Morley-Minto Reform 1909. These Act aimed at putting separate provisions about the legislative, executive and judicial branches which till now scattered in different Acts into one single Act. The Congress opposed the provision of the Government of India Act 1919 and launched non-cooperation movement.

This hindsight of our constitution can only be fulfilled if we go through different Act and Regulation that were taken by the colonial ruler to put their control and hegemony strong in India. This will give us an proper insight of the process of framing of Indian Constitution. After all the in the period before independence and its immediate aftermath, the teaching of politics and law complimented one another. In that sense Indian Constitution is an epiphenomenon of different act and regulation adopted by the colonial ruler during the 18th. to 20th. Century, and for understanding the utility and effectiveness of all those governmental activities, it is essential to refresh our memories on those acts and regulations.

6.3 Acts, Regulation and Law:- their meaning and Social Need

The main differences between an act and a regulation is that an act is a broader piece of legislation that outlines the general principles and rule of law, while a regulations a more specific set of rules and requirements created by a government agency to enforce the provision of the act. Procedurally acts are a law passed by a legislative body, like parliament, that establishes broad principles or framework of governmental policy. After adopting laws or act government directs to frame rules to the government agencies or authority to implement and enforce the provision adopted in the laws or

acts. Thus in a democratic or colonial autocratic country, a body of representatives enacted acts or broad principle of administrative possibilities through formal legislative process. This possibility gets its form or the form of implementation by respective government agencies through regulation. So far the authorities behind the promulgation are concerned, the act is enacted by the elected body but the regulation is a rule or directive of an administrative agency that has created by a government to implement any specific rule in view of the enacted acts. So naturally Acts have a broader goal and objectives, the aim of which is to provide a definite frame for law. Regulation, on the other hand carries only the objective specified in the act, so in that sense, it's only objective is to apply the enacted law in practice. As an act is processed with an objective and aim, so it is very much essential to make the drafting tightly, so that the oppositions do not get any chance to make debate on it or specifically argue about it. But on the other hand regulations are supplementary to acts. They link to existing acts and they are designed to aid a person to apply the principle of the act. Moreover regulations are essentially a formal guidelines, and breaching them is necessarily enforceable in courts. This can be explained with an example compatible with it:

Example of Act: - The Health and Safety at work Act 1974.

Example of subsequent regulations based on this act:

- The health and safety (First Aid) Regulation 1981
- The management of Health and Safety at work regulation 1999
- The Health and Safety (Display screen equipments) Regulation 1992.

Thus In summary, an Act is a broad legal framework created by a legislative body, while a Regulation provides the specific rules needed to implement and enforce that framework.

There are some basic differences between Act and Law.

- First of all, Law has broader space in government that act which may be considered as a specific piece of legislation that has been passed by a legislative body like parliament. But law has a wide encompasses where all rules, regulation and principle are included.
- Secondly, Acts refers only the individual statue that addresses specific issues. While law includes apart from act, the judicial decisions, administrative regulation and constitution.
- Thirdly, from stand point of enactment, an act requires only a formal legislative process, including drafting, debate and voting, But law can arise from various sources which may include statues, court ruling, establish practices.

- An act can be amended or repealed through legislative process, while law evolves over time through amendments, judicial interpretation and changing of social practices.

Now to clarify legal part in the regulation it can be said that a regulation in law is a directive formulated by a governmental body to specify and enforce particular aspects of a law. It serves to elucidate the precise procedures and requirements for compliance within the broader legal context. Through regulation governmental agencies provide detailed guidelines to individuals or organizations on how to adhere to the overarching legal framework, thereby ensuring consistent implementation and enforcement of law.

6.4 History of Prequential Acts and Regulation during Company rule and the Rule of the Crown

The British East India Company ruled over the Indian subcontinent during the period known as ‘company rule’ in India. There are two theories regarding British company rule and the Rule of the Crown. One theory holds that this began in 1757, following the Battle of Plassey. Another theory holds that this began in 1765 when the Company was granted Diwani or the right to collect taxes in Bengal and Bihar, or in 1773 when the Company abolished local rule in Bengal and established a Capital in Calcutta.

By renewing the East India Company’s charter for twenty years at a time, the British parliament maintained control over the organization. The Company’s commercial rights and trading monopolies were gradually reduced by those granted in 1793, 1813, 1833 and 1853. The Company ruled until 1858 following the Indian Rebellion of 1857 and the “Government of India Act”.

Observing the increasing power and authority of East India Company, the British government deemed it unfit to remain outside the state and ultimately Clive and Hastings became bound to accept the constitutional relation with the Crown. To serve the interest of the entire influential elite class of Britain, the British decided to control company’s Indian administration. Thus **the Regulating Act of 1773** brought some structural change in the domestic territory:

- The Act made a change in the constitution of the Court of Directors of the company, and it brought under the direct supervision of the British Government.
- The Director of the company was asked to present all corresponding pertaining to India’s civil and military affairs to the Ministry.

- Governor's post raised to Governor General of Bengal, consisted with four members
- The Act established Supreme Court at Calcutta to administer justice to Europeans, their employees and the citizen of India.
- But the British Government did not impose effective control over the company, so very soon it broke down to practice.

After the failure of Regulating Act 1773, **Pitt's India Act 1784** came into force.

- The act gave British Government supreme control over the company's affairs.
- To materialize this control it established the Board of Control consisting six Commissioners including two Cabinet Ministers.
- The Act gave the Governor General and a Council of three members to control over the government of India.
- The Act expressly granted Bengal precedence over other Presidencies in all matters relating to war, diplomacy and finance.
- This Act began a new phase of the British conquest of India. The Company became the instrument of British policy, and Indian interest declared as subordinate to the interest of the British aristocratic class.

Then Charter Act of 1793 came into force. It was a significant piece of legislation in British India. **a)** It focused on the governance of the East India Company and its territories. It renewed the company's charter for next 20 years, allowing its trade and administrative power. **b)** East India Company allowed trading certain specific goods. **c)** The act introduced measures to improve the administration under the control of the Company. **d)** this Act established the system of Civil Service. **e)** This Act also made an outline of power of the judiciary. **f)** Overall the 1793 Act aimed to strengthen the Company's control over its Indian territories while addressing administrative and governance challenge.

Charter Act of 1833 was a great landmark in the history of India. It brought significant changes to the governance of British India. **a)** It made centralization of the administration of British India by creating a unified government structure. **b)** It effectively ended Company's commercial privileges, transforming it into a purely administrative entity. **c)** The Act established a system of law for all subjects in India laid the primary groundwork for a uniform legal system. **d)** This act first took initiative to establish professional/vocational Indian Civil Service, to enhance the efficiencies of administration. **f)** It emphasized the promotion of education in India, acknowledging the need for

educated Indians to assist in administration. **g)** The act included provisions for protecting the rights of the Indian people and promoting their welfare, marking an early recognition of the need for social and economic reforms. **h)** Initial attempt was taken to form more inclusive governance in India.

Charter Act of 1853 was also important for some particular reasons. **a)** It separated the power and functions of executive and the legislature. **b)** This act declared that all vacancies in Civil Service in India were to be filled in by competitive examination. **c)** All provinces were given the opportunity to send at least one representative to the Central Legislative Council.

After the Indian Rebellion of 1857, several important acts were passed that significantly affected the governance and administration of British India As for example:

- a) Government of India Act 1858 marked the end of the East India Company's rule. The Queen of England acquires the power. Company transferred its authority to the British Crown. Crown established the office of the Secretary of States for India. He was given charges of maintaining Indian administrative affairs.
- b) Indian Council Act 1861 following the previous act expanded the legislative council and allowed for the inclusion of Indian member as an appointed candidate instead of elected one.
- c) Indian Council Act 1892 further expanded the scope of a small number of inclusions of Indian members who would be elected by the Council.
- d) Government of India Act 1909 (Morley-Minto Reform) added the number of representatives in the legislative council and also recommended a separate electorate for Muslim as minority group. Later this creates a significant effect in the post independent Indian landscape.
- e) Government of India Act 1919 (Montagu-Chelmsford Reform) first introduced the system of diarchy where certain areas of governance were transferred to Indian ministers.
- f) Government of India Act 1935 proposed a federal structure in India and significantly increased the autonomy of provinces. It also introduced a more comprehensive system of elections and was a precursor to India's eventual independence.

These acts reflect the gradual evolution of governance in India, moving from direct company control to a system overseen by the British Crown, while also beginning to incorporate Indian voices into the legislative process.

6.5 The pre-consequential effects on the consequential acts and regulation of our constitution

There is a significant effect of pre-consequential acts and resolutions on the post-independent period of India, especially when it went to write its constitution through its constituent assembly. There is no doubt that the effect was not only crucial, those pre-consequential acts and regulation also casted a influential shadow on the members of the constituent assembly. Some of its significance have already noted in the ‘introduction’ column above. There are a good number of provisions in Indian Constitution, which were introduced through different Acts in the pre-independent period. Government of India Act of 1857, 1919, and 1935; The Council of India Acts of 1861, 1892; The Morley-Minto Reform 1909. These acts were consolidated into a single Act, i.e., Government of India Act 1935. This Act aimed at putting separate provisions about the legislative, executive, and judicial branches which till now scattered in different Acts into one single Act.

However the distinction between pre-consequential acts and regulations and their consequential counterparts is crucial in constitutional law. This cannot be denied that pre-consequential Acts and Regulation played a vital role in action and laws enacted prior to the establishment of certain consequences or legal frameworks. They often set the groundwork for future regulations and policies. For example, a foundational law may outline the responsibilities of government bodies or establish rights that influence later legislation. This effect we call consequential effect on the process of forming constitution through constituent assembly in pre-independent India. Thus the effect of Consequential Acts and Regulations in promulgating laws and regulations is very positive and effective. This effect is the cause of emerging a direct result of making a pre-existing frameworks of our constitution. They operationalize the principles set forth in the foundational laws, detailing specific procedures, penalties, or guidelines. For instance, if a pre-consequential act guarantees the right to education, the consequential regulations might specify how schools are funded or what curriculum standards must be met. Thus there are many effects of pre-consequential period on our Constitution framed after independence.

We have in our constitution adopted those provisions pre-consequential acts which has given power to our judiciary to interpret and evaluate the constitutional provisions. This proves that the foundation of laws enacted by the colonial ruler were clear in its motive and functions. That has later guided us to develop our subsequent regulations

for judiciary. This development and addition have no doubt added a new value in our constitutional system. Even if we see the constitution minutely then we will find the legal precedent that has been adopted in our constitution, got its actual shape in application of consequential regulation. Now our supreme court rely on the precedents established by the colonial ruler to assess the validity and enforcement of laws now enacted.

The interaction between pre- and consequential acts reinforces the system of checks and balances. If a consequential act is seen as overstepping the boundaries set by a foundational law, it may be challenged in court, prompting judicial review.

Pre consequential contribution in framing rights and protections of the citizen are also a significant contribution that helped our makers of constitution in framing of a chapter on Fundamental Rights. Pre-consequential acts often establish fundamental rights. Consequential regulations must respect these rights, creating a framework for enforcement and accountability of the citizen of India through fundamental rights and duties. We have also learnt the process of adopting Flexibility in applying the constitutional provisions. The interplay allows the legal system to adapt over time. As societal values shift, new consequential regulations can be developed while remaining grounded in the principles laid out by earlier laws.

In summary, pre-consequential acts provide the foundation upon which consequential acts build, influencing legal interpretation, establishing precedents, ensuring checks and balances, protecting rights, and allowing for legal evolution. This relationship is a key to maintaining a dynamic and responsive constitutional framework

6.6 Conclusion

The making of Indian Constitution largely consisted of two phases – 1857 to 1935 and 1946 to 1949. With the transfer of power from the Company to the British Crown, the British government introduced different elements of governance through different Acts. These also included the elements of representation of Indians in the institutions of governance. The motive of the British to introduce them was to serve their colonial interests rather than to provide democratic rights to them. The provision for communal representation introduced through the Morley-Minto Reforms in 1909 and through the Communal Award in 1932 was opposed by the leaders of the Indian National Movement, particularly in case of the Depressed Classes. Gandhi's fast which resulted in the Poona Pact resulted in the abolition of the separate electorate

but in giving the reservation to the depressed classes in the provincial legislature. After the Congress emphasised the need for making of a Constitution of India by their own Constituency, the British reluctantly realised the urgency for establishment of the Constituent Assembly of India for Indians in the changed political situation following the Second World War and change of government in Britain.

It is very difficult to determine the precise features of constitution of any country which gone through a long time under colonial rule and economic dominancy. These countries have recently emerged as a sovereign country through transfer of social and political power and authority. Their main hard struggle from the beginning was to establish a sovereign state under the guidance of self written constitution. With this ambition they also struggled hard to achieve the ideal of a social welfare state. In the process of achieving this goal they could not avoid the idea of developing welfare economy for the majority poor people. It appears that a country like India remained a long time under the dominance of colonial rule. Outgoing ruler left at the time of transfer of power, a well made administrative system. The result or outcome of their left-out ruling system can easily be understood, if one follow and analyze their reigns. There is, in fact, no doubt that this experience helped our Constitution Makers to a large extent. Thus India, “a newly independent country”, during the period of colonial rule experimented the imported acts and regulation as well as a constitutional arrangement from her strong political and economic root of hitherto colonial power. So after independence, the normal tendencies of her Constitution Makers will be to make synthesis between ideas of liberal democratic constitutional state on the one side and the demand and aspiration of the local people on the other.

In summary, the prequel effect refers to how past regulations set the stage for current interpretations and implementations, influencing stakeholders’ expectations and behaviours. This historical context shapes the legal landscape, guiding the actions of individuals and organizations.

Conversely, the sequel effect underscores how contemporary regulations can modify or redefine existing practices, creating a ripple effect for future legislation and compliance strategies. The interplay between these effects emphasizes the importance of understanding the continuity of legal norms and the adaptive nature of regulatory frameworks.

Overall, examining both effects provides valuable insights into how laws evolve, the necessity for adaptability in regulatory practices, and the ongoing dialogue between past and present legislation. This understanding can help inform better policymaking and regulatory strategies moving forward.

6.7 Summary

The prequel and sequel effects of acts and regulations refer to the influence that past legislation (prequels) and subsequent laws (sequels) have on the interpretation, implementation, and evolution of legal frameworks.

- Understanding the prequel and sequel effects is crucial for effective legal analysis and policy making.
- Prequel effects demonstrate how earlier laws establish foundational principles and precedents that shape current legal contexts,
- While sequel effects highlight the adaptive nature of legislation in response to changing societal needs and challenges.
- Together, these effects underscore the importance of continuity and change in legal systems,
- The legal system is emphasizing that laws do not exist in isolation but rather as part of an evolving tapestry of governance.
- This dynamic interplay ensures that regulations remain relevant and effective in addressing contemporary issues while respecting historical contexts.
- The conclusion of the prequel and sequel effect of acts and regulations often highlights the intricate relationship between legislative frameworks and their real-world implications.

6.8 Key-Terms

- A. **Prequel:** A prequel is made about an earlier stage
- B. **Sequel:** Something that happens after, or is the result of, an earlier event
- C. **Consequential:** That happening as a direct result of a particular situation or event
- D. **Acts:** A formal decision of law, or the like, by a legislature, ruler, court or other authority, decree or edict, statue, judgment, resolved or award.
- E. **Regulation:** An official rule or the act of controlling something safety, health, security regulation.
- F. **Charter Act:** A charter act is a law passed by a government to establish or renew the rights and privileges of a corporation, company, or other entity:

- G. Colonial rule:** Colonial rule is the practice of one nation controlling a dependent area or people, often through the establishment of colonies. The goal of colonial rule is usually economic dominance.
- H. Enactment:** The act of putting something into action, especially the act of making something law. For example, “The goal of the legislators was enactment of a tax bill”
- I. Subcontinent:** A large land mass that forms part of a continent, especially the part of Asia that includes India, Pakistan and Bangladesh
- J. Promulgation:** The public announcement of something, especially a new law: The Secretary is authorized to take actions that include the promulgation of rules and regulations.

6.9 Model Questions

- “The making of Indian Constitution largely consisted of two phases”, Discuss those phases in making of Indian Constitution.
- “There is a significant effect of pre-consequential acts and resolutions on the post-independent period of India”, Write a note on the significance of the effect.
- Discuss how the Acts and Resolution promulgated by the Company became the weapon of ruling India?
- How you will differentiate Acts, Regulation and Law in the process of governmental rule.
- Write a note on the importance of “The Government of India Act 1935.
- Discuss the prequel and sequel effects on legal analysis and in the process of ruling

6.10 Further Reading

- Brij Kishore Sharma, *Introduction to the Constitution of India*, Prentice Hall of India Pvt. Ltd., New Delhi, 2007.
- Subhash C. Kashyap, *Our Constitution*, National Book Trust, New Delhi, 2004.
- Sunder Raman, *Amending Power Under the Constitution of India – A Politico Legal Study*, Eastern Law House, Kolkata, 1990

- Durga Das Basu, *Introduction to the Constitution of India*, Lexis Nexus Butterworth's Wadhwa, Gurgaon (Haryana), 2008
- P.M. Bakshi, *The Constitution of India*, Universal Law Publishers, New Delhi, 2013
- S.K. Chaube, *The Making and Working of the Indian Constitution*. New Delhi, India: National Book Trust. 2009
- Granville, Austin. *The Indian Constitution: Cornerstone of a Nation* (17th ed.). New Delhi, India: Oxford University Press, 2012
- Sumit Sarkar, *Modern India 1885-1947*. New Delhi, India: Macmillan. 1983

Unit 7 □ Formation of Constituent Assembly and Its Administrative Process in Framing the Constitution

Structure

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7.1 Learning Objectives

India has already come across nearing three-fourth years of a century of her independence. This long time may fairly be allowed to consider on the beginning of the historical process of writing of a constitution for an independent country, the basic aim of which is unity in diversity. Leaving many important facets of the political history in one side for our discussion, a new narrative can be created with some other dimensions, which have so far not been discussed. This new narrative begins with the establishment of a legitimate relation between constituent assembly and administrative process. This narration has been built up with the following areas:

- What we mean by “administrative process”.
- Uniqueness of the relation between constitution and administration.
- The process through which the administration helps to build up the constituent assembly, to led foundation of the constitution.
- In view of this an attempt has been made to relate administrative process and constituent assembly to make edifice of the constitution – the base of ruling system of independent India.
- With this, an attempt has also been made in summarise form the unique features of Indian constituent assembly

7.2 Introduction

India got her independence in August 1947 after a long ‘national movement’ of different kinds. Of these kinds most important were ‘extremist movement’, Pro-revolutionary movements’, ‘pro-revolutionary nationalist movement’ and ‘non-violent pro-constitutional process’, etc,. Left wing also had a positive but without much fury, role to add strength to the ‘pro-extremism’ The result of all these movements was ultimately ended through a negotiated act of transfer of power from British colonial hegemony and power, to an underdeveloped country, who was under the direct ruling arena of British Parliament, especially since 1857. The ultimate fact was that, British colonial supremacy finally pulled up their power and hegemony from Indian continent and transfers it not to one authority. It transferred its power to two political sovereign countries: India and Pakistan. Before transfer of Power colonial ruler partitioned the continent into two sovereign states on a principle of religious minorities and then gave effect to their parliamentary decision.

Colonial ruler using their administrative process and power demarcated provinces of Muslim minorities and constituted a new territorial boundary in two wings. One wing was on the west, and other was in the east. In this territorial partitioning process, two provinces of undivided continent were significantly affected. These were Punjab and Bengal. These two provinces were themselves partitioned according to religion composition of the district population of these provinces. This partition formula was actually the brainchild of the Radcliffe Commission, which actually drew the line of partition. Thus even before the formulation of Indian Constituent Assembly, the administrative process led by the colonial rule started its operational activities to make a guideline for coming constituent assembly of new born India as a sovereign power.

7.3 What is Administrative Process. Unique Features of Administrative Process

The administrative process, to a large extent, is a technique of running the Political process of the government. It is an important source of making administrative decision by the government. Administration and its capability fixes up the tune of ruling technique, and mix up the governmental activities with the basic principles of the constitution. The administrative process in framing a constitution as well as in its working, involve to help the government to take several systematic steps and procedure, that ensure the creation of a comprehensive legal framework for governance. Thus it plays the role of chief motivational force in choosing out the approaches and techniques of building up the functional structure of the state through the process of constitution, made and adopted by the Constituent Assembly.

Administrative process is an extension of the sense of political and social activities. Here the case of all administrative agencies and structures figure in that, have their role in the decision making process with the help of constitutional provisions. Thus to study the effect of administrative in the functioning of constituent assembly, in fact, help us to understand the result of the inclusion of non-state administrative agencies.

Thus in this context the formation and functioning the constituent assembly is considered as the initial step of making constitution, where administration from the very beginning tie up itself with this function of building up the ruling idea and system. The major function of the constituent assembly is to arrange those ruling ideas and principle in particular way, so that the government can implement those in administering the society as a whole. To give a democratic structure of the constituent assembly administrative process initially make all necessary possible actions of making the structure of the assembly with duly elected representatives from various political parties, provinces and communities. Even at the time of framing drafting the proposed constitution the framers of constitution takes legal and expertise help from administrative advisors. A committee made to serve this purpose, remains responsible for preparing the initial draft. This committee generally includes non-elected legal, social, economic and political expert with the committee. Their role remains restricted to space of giving advice and imparting knowledge. One of the major responsibilities of the drafting committee is to conduct extensive social, political and economic research and consultation before forming and imparting any idea on the principle focus of the ruling method. To examine various national and international constitution, legal framework

and practices the process of administration tries to collect extensive information to make the drafting committee knowledgeable on practical situation.

To materialise this process extensive public engagement is essential. This engagement included soliciting public opinion and feedback. The drafting assembly sought inputs from different sections of society, including various interest groups, committees and expert, to ensure the constitution addressed diverse needs. In the drafting assembly deliberates numerous debates and discussion on various provision proposed in the draft. These deliberations were essential for reaching consensus and addressing different viewpoints among members. In this vital process the role of administration is not only to collect inputs and feedback but to make the deliberation and debate successful. Based on this deliberation and debate, discussion and feedback, the draft underwent several amendments and revision. Logically this iterative process allowed for refinement and adaptation to the concerns raised during deliberation. As we know, the characteristics and moral of the constitution largely depends on this debate and deliberation held in the drafting assembly. After approval and adaptation the constitution formally, the administrative process included ensuring the necessary legal framework for its implementation and the establishment of institutions to uphold constitutional provision. It is fact that administration played a key role in setting up the necessary implementation mechanism to make the constitution instrumentals including judiciary, legislature and executive in the society.

Thus the process of framing the constitution the administrative process helps to structured it in collaboration with research consultation, drafting, deliberation and approval. It helps the framers to create a legal document that reflects the aspiration of the people and provides a robust framework for governance. Administrative process is, in fact, a systematic procedure of functioning and it is also an organizational efforts that facilitates the assembly's functioning in drafting the constitution. This process encompassed various aspects, including the formation, organization and operational dynamics of the assembly. To clarify the role of administration, it can be said that Indian Constituent Assembly initially constituted under the Cabinet Mission Plan of 1946. The Commission suggested including representatives elected from various provinces and princely states, reflecting India's diverse population. Even the organizational structures as well as the technique of framing committees on different issues were also suggested by the administrative process. Such as, elections of President, formation of various committees like drafting committee to manage the task properly were streamlined by the administrative process through drafting committee. The role of administrative process included extensive research on existing legal framework,

presenting constitutional models from other countries and historical context of the land. These documents, prepared by the administration, provided a foundation for informed deliberation. One of the major task played by the administration is to engage public indirectly with the framing process to get their feedback. The feedback input from public and various stakeholders are important specially for reflecting the aspiration and concern of the different parts and community of the society.

The administrative process involved iterative discussions where members could propose amendments to the draft. These revisions were crucial for addressing issues raised during debates and ensuring consensus. Apart from that the role of administrative process involves in an effort to ensure its implementation and establishment of institution to uphold its provision. So the administrative process of the constituent assembly involved the organization, coordination and management of activities that enabled the assembly to function effectively in drafting the constitution. This process ensured that the constitution was a comprehensive and representative document reflecting the will and aspiration of the people of the sovereign land.

7.4 What is Constituent Assembly. Unique features of Indian Constituent Assembly

The Constituent Assembly is a body of representatives tasked with drafting or adopting a constitution for a state or nation. In the context of India, the Constituent Assembly was established to frame the Constitution of India, which serves as the fundamental legal document governing the country.

7.4.1 Key Features

- The Constituent Assembly of India was formed in 1946 under the Cabinet Mission Plan, proposed by the British government. It was created to satisfy the demand of Indian people to address the demand for self-government and to prepare a constitution for independent India.
- The assembly was composed with 389 elected members. Members were elected by the provincial assemblies. It attempt was to include representatives from various political parties, communities and religion especially to reflect the diversity of Indian society. Unfortunately Indian Communist party did not have any member of their Party in the assembly.
- Dr. Rajendra Prasad was elected as the president of the Assembly and Dr. B.R.Ambedkar was the chairman of drafting committee. The primary goal of

the drafting committee was to frame a constitution that would reflect the aspiration of the Indian people and to ensure their fundamental rights. Other important aim of the drafting committee was to built up an effective structure of government.

- All matter in the drafting committee were resolved through debate and discussion within a democratic framework on various issues, including fundamental rights, the structure of government, federalism and social justice. In most of the cases the decisions were taken on consensus or through democratic norms of majority opinion. This process no doubt creates later a common consensus among the citizen of India, on the ruling of the government.
- These processes later help the ruler to give a concrete shape of modern India. Initially the aim promised by the makers of Indian constitution that they look forward to assure a strong foundation of democracy, justice and equality. Later that become true, at least in the formal form, to Indian citizen
- Thus the Constituent Assembly was a historic body that played a crucial role in India's journey toward independence and self-governance by framing a comprehensive and inclusive constitution.

7.4.2 Importance of Constituent Assembly

Constituent Assembly is an important structure for framing constitution. Its primary function is to bring together a group of representatives from various Political Parties, communities and religion in a platform through a generally accepted selection process to discuss different perspectives and alternative for future constitution. The main source of legitimacy of the constituent assembly is its process of “generally accepted selection/election process. The basic characteristic of this process is that it makes the members selected/elected in the assembly remain accountably and responsible to the people. The main and basic functions of the process of inclusion of members are to instill the confidence in the new legal framework. The foundation of faith of this legal framework is strengthening through extensive debate and discussion among the members within the assembly. These debates and discussion actually shows that the electorate of different sections and segments of the society are represented properly through their representatives. The Assembly to consider those suggestions for addition, alteration and any proposal for inclusion of any items proposed by the embers in the wake of their debate and discussion, judged the merit of each one with the help of legal, political, economic and social experts, who are generally being nominated or invited members of the assembly. Experts help the elected members to take decision providing

valuable insights of the issue and also help them to prepare appropriate draft on it. Their presence and expertise helped to ensure that the document, as noted, was well-informed and comprehensive.

The fundamental structure of the government and administration are also framed by the assembly. To make a democratic balance between the different structures, the system of ‘separation of power’, checks and balances among three vital wings of government, and the protection of fundamental rights etc., are incorporated as well as enacted by the constituent assembly. The assembly at the period of writing the final draft of the constitution. It tries to incorporate provision for social justice, equality etc.. The members of the Constituent Assembly aimed to create a forward-looking constitution that would adapt to the evolving needs of society. Their vision helped ensure that the document remains relevant over time.

Thus the Constituent Assembly was essential in framing the Indian Constitution because it ensured representation, democratic legitimacy, and a comprehensive approach to governance, rights, and social justice. Its legacy continues to shape India’s democratic framework and legal principles.

7.5 What Role is Played by the Administrative Process in Framing Constituent Assembly

The formation of the Indian Constituent Assembly was a crucial step in the country’s transition to independence and self-governance. The administration played during this phase an important and deciding role. An example can be set as an example by remembering the role of British colonial government, which understood the need for a more structured approach to governance in India. The idea especially stems from the demand of the Indian people for self-rule grew institution for framing the constitution. In the first step of materializing this aspiration British government implemented “Government of India Act 1935”, which suggested to prepare the groundwork for a federal structure and provided for the establishment of a Constituent Assembly? Although the inward purpose of the Act was not the establishment of federal structure for Indian colony, but with the passing of time it became a significant administrative step toward self-governance. Again in 1942 the Cripps Mission came to India with an aim to secure Indian cooperation in the World War-II. British failed to get affirmation from Indian, but the plan indirectly highlighted the need for an Indian-led assembly to draft a constitution, promoting discussions about constituent assembly.

Thus after failure to involve India in World War-II, in 1946 “Cabinet Mission Plan” made an outline plan for the formation of the Constituent Assembly, which would be composed of representatives from provinces and princely states. It also suggested for initiating the election process for forming the structure. The British Administration also organized elections in 1946 for the Constituent Assembly to include diverse group and community to represent the Assembly as members. After formation of the Constituent Assembly the administration provided all sorts of logistical and procedural assistance for smooth functioning of the Constituent Assembly. In lieu of this assistance in drafting the constitution, the administrative framework began to shift towards Indian leadership in the post independent government.

In short, the administration played the pivotal role of a navigator of political demands and laid the foundation for democratic framework through various means, including facilitating processes, providing support and ensuring conducive environment for the constituent assembly’s work. This “various means” indicates the role of administration in providing necessary resources, includes arranging venues, help to organize debate and discussion, providing necessary background information and data to assist in informed decision-making, documentation and communication facilities.

One of the important role of the administration is to assist the assembly with the advice of the legal expert in making draft. The legal expertise is essential to fix up various legal and constitutional issues. The involvement of constitutional experts and scholars, some of whom were part of the administrative framework, enriched the drafting process. Their insights helped to shape the key provisions of the Constitution. After the Constitution was adopted, the administration played a crucial role in implementing its provisions, helping to establish institutions and processes that adhered to the new constitutional principles.

Thus the administration was instrumental in creating a supportive environment for the framing of the Indian Constitution, from logistical arrangements to providing expert advice and facilitating public engagement. This collaboration between elected representatives and the administrative machinery helped ensure that the Constitution reflected the aspirations and needs of the diverse Indian populace.

7.6 Relation Between Constituent Assembly and Administration in India

The Constitution laid the groundwork for an impartial and efficient civil service,

essential for effective administration. The framework established by the Assembly facilitates the functioning of the bureaucracy in a structured manner.

Administration and the Constitution are deeply connected, as the Constitution provides the legal and structural framework within which public administration operates. The Constitution establishes the legal basis for government institutions and the extent of their powers. It sets the parameters for what administrative bodies, such as ministries, departments, and agencies, can and cannot do. Administrative bodies are responsible for implementing policies passed by the legislative branch, guided by constitutional principles. This makes administration an essential part of fulfilling the goals and mandates of the Constitution in real-world governance. In short, the Constitution provides the foundational framework for administration, guiding its scope, functions, and accountability to the public.

Thus in short the relationship between the Constituent Assembly and administration in India is foundational. The Assembly's work created a comprehensive legal framework that continues to guide the administration, ensuring accountability, efficiency, and responsiveness to the needs of the people. From this point of view administration is inseparably attached with the ruling system of the executive. The infrastructure of administration provides confidence to the government that its ruling will get its way for implementation.

7.7 Conclusion: Importance of Constituent Assembly and its Administrative process

This cannot be denied that the constituent assembly and its administrative processes played the most vital role in successful framing of the Constitution. Their joint efforts were the sources of materializing the document for future ruling in India. Assembly was in fact a place where diverse representatives met together to exchange their opinion and ideological stand regarding the future nature of ruling and administration. The assembly successfully brought together representatives from various regions, communities and social background, fully ensuring that the constitution would reflect the country's diverse perspectives and needs. Although the members were indirectly elected, the Assembly's formation lent democratic legitimacy to the Constitution, as it was seen as a body that represented the will of the people. The involvement of legal scholars and social reformers, including Dr. B.R. Ambedkar as the Chairman of the Drafting Committee, ensured that the Constitution was informed by both legal expertise

and social insights. Its prime task was envisioning the future of a newly independent nation. So it proposed to establish principles of justice, liberty, equality and fraternity as foundational tenets, shaping the nation's identity.

Equal importance like constituent assembly is also due to administrative process. Administrative process provided the organized setting for discussion, debate and decision-making. It also helped for proper and meticulous documentation of all those debates and discussion which especially appeared as important for future preparation of the text of the constitution. Apart from this the content and intent of those debate and discussion bore a historical importance to our future generation to follow the motivational logistic of those participants in the constituent assembly.

To summarise the discussion, the Constituent Assembly's importance lay in its representative nature, extensive deliberation, and vision for a democratic India, while its administrative process provided the necessary structure, documentation, and facilitation to support these efforts. Together, they ensured the successful framing of a Constitution that aimed to unite a diverse nation and promote justice and equality for all citizens.

7.8 Summary

The relationship between the Constituent Assembly and the administrative process is rooted in the foundational role the Assembly played in the creation of the Indian Constitution, which in turn directly shaped the functioning of the administrative machinery of India.

The Constituent Assembly shaped the administrative process by establishing the legal and institutional framework for governance in India. The Constitution they crafted defines the roles of the executive, legislature, and judiciary, ensuring that the administrative process is structured to function within a framework of democratic accountability, rule of law, and separation of powers. The Constitution continues to guide the functioning of the administrative machinery in India, ensuring that it aligns with the principles of justice, equality, and efficiency. Key aspects of this relationship are as follows:

- The Constituent Assembly (1946–1950) was responsible for drafting the Constitution of India, which provided the legal framework within which the administrative process would function.

- The administrative process, which includes the implementation of laws, public policy, and governance at various levels of government, operates according to the rules and guidelines established by the Constitution. For example, it defines the powers and responsibilities of the executive branch (i.e., the Prime Minister, Council of Ministers, and civil servants).
- The Constituent Assembly designed the framework for governance that the administrative process must adhere to, such as the federal structure (distribution of powers between central and state governments) and fundamental rights that safeguard citizens against arbitrary administrative actions
- The Constituent Assembly emphasized democratic governance, ensuring that the administrative process remains accountable to the people. This was achieved through the establishment of democratic institutions, such as the legislature, which scrutinizes the work of the executive, and mechanisms for citizens' participation and redresses of grievances.
- Over time, the Constitution has been amended to adapt to the changing needs of administration. While the Constituent Assembly laid down the original framework, successive amendments have shaped the administrative process to meet contemporary challenges, such as decentralization and greater emphasis on social justice

7.9 Key-Terms

- A. **Decentralization:** Decentralization is the process of distributing power or functions from a central authority to smaller groups or locations.
- B. **Constituent Assembly:** Constituent assembly is a group of elected representatives that create or change a country's constitution.
- C. **Administrative process:** The administrative process refers to the procedures and steps followed by administrative agencies when making decisions or taking actions.
- D. **Checks and Balances:** Checks and balances is a system that prevents any one branch of a government from having too much power. It's a principle of government that gives separate branches the power to limit the actions of other branches.
- E. **Deliberation and Debate:** Deliberation and debate are both strategies for discussion and argumentation that can help people to recognize different points of view.
- F. **Logistical:** A way that relates to logistics of an activity or organization.

7.10 Model Questions

- Discuss in detail the relation between Constituent Assembly and Administrative process in India.
- Narrate the role of Constituent Assembly in framing the Constitution
- Write a note on the unique features of Administrative process in framing of the constitution.
- Write a note on the importance of Constituent Assembly and its Administrative process.
- Write a note on the logistic function of the administrative process.
- Discuss the key features of Constituent Assembly.

7.11 Further Readings

- Partha Chatterji (Ed): *State and Politics in India*; Oxford university Press India, 2022.
- A. Hirschman: *Exit, voice and Loyalty*; Cambridge, Mass.: Harvard University press, 1970.
- J.L.Mackie, "Causes and Condition" in E.Ross (Ed) *Causation and Conditional*; London OUP 1975.
- David Selbourne: *An Eye to India: The Unmasking of a Tyranny*; Harmondsworth Penguin, 1977. .

Unit 8 □ Indian Constitution and Administrative Structure and Establishment

Structure

- 8.1 Learning Objectives**
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- 8.3 Definition of Administrative Structure**
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8.1 Learning Objectives

The primary object of reading on the topic ‘Indian Constitution and Administration’ is to understand the structure, functioning and principles of the Indian Constitution, as well as the working of the administrative system in India. Because this will help us to understand:

- The framework of Indian Constitution which is consisted with preamble, fundamental rights and corresponding duties of the citizen, directive principles. Apart from that it will help us to make clear the three major facets of Centre –State relation and functioning process of legislature, executive and judiciary in their respective jurisdictions.
- It will explain the comprehensive relation and key role of administration in the process of law making and its implementations.

- There are some legal and political processes in our Constitution which help to evolve the constitutional framework and its functioning with the change of time and situation. The role of different organs of the constitution continuously adopt this evolution but in the process of this role they are not go through checks and balances in their functioning.
- The Framers of our Constitution adopted democracy and federalism to combat with the changing political and social realities. Their primary focus was to amalgamate the diverse cultural, communal differences within the single frame of unified India.
- In this process our constitution plays two vital roles: a) shaping government policies to get at a developed stage of social and economic condition and b) to apply constitutional principles in administrative decision making and governance.
- Thus the objective of studying this topic is to gain a comprehensive understanding of how India's political and administrative systems are structured and how they operate under the guidance of the constitution.

8.2 Introduction

Introducing the topic of Indian Constitution and Administration requires setting the stage by explaining the importance of the Constitution in shaping the nation's governance, the functioning of its institutions, and the rights and responsibilities of its citizens. The Indian Constitution is the supreme law of the land, serving as the cornerstone of India's democratic governance and legal framework. Adopted on 26th January 1950, it provides the foundation for the country's political, social, and economic systems. The Constitution defines the structure of government, distributes powers between different levels of government, and guarantees fundamental rights and duties for the citizens.

Understanding the Indian Constitution and Administration is not only crucial for anyone interested in political science, law, or public administration, but it is also fundamental to being an informed and responsible citizen. By studying this, we gain insight into the workings of the Indian democracy, the challenges it faces, and the dynamic nature of its governance structures.

At its core, the Indian Constitution is a document that establishes a federal system with a strong central government. It carefully balances the interests of a diverse nation

by recognizing the importance of unity in diversity while respecting local and regional autonomy. In addition to detailing the distribution of power among the Legislature, Executive, and Judiciary, it sets out the fundamental rights of the citizens, ensuring the protection of civil liberties, equality, and justice.

The administration in India refers to the machinery through which the Constitution is implemented and public policies are executed. The Indian administrative system is largely based on a bureaucratic model, with a complex structure that includes the central government (at the Union level) and state governments, as well as various institutions at the local level. At its heart, the administration works to implement laws, ensure public welfare, maintain law and order, and promote socio-economic development across the country.

Base of the Indian Constitution started with a strong verdict that sources of Indian sovereignty is People of India. Constitution protects them from the governmental law and its administration with the constitutional guarantee of Fundamental Rights and ensured the services of the government by Directive principles. Indian law are framed by the Parliament, which is formed by the representatives of the people. Executive branch of the Parliament implement those law with the direct help of the administration.

According to the Constitution, Parliament and the state legislatures in India have the power to make laws within their respective jurisdictions. This power is not absolute in nature. The Constitution vests in the judiciary, the power to adjudicate upon the constitutional validity of all laws. If a law made by Parliament or the state legislatures violates any provision of the Constitution, the Supreme Court has the power to declare such a law invalid or ultra verse. This check notwithstanding, the founding fathers wanted the Constitution to be an adaptable document rather than a rigid framework for governance. Hence Parliament was invested with the power to amend the Constitution. **Article 368** of the Constitution gives the impression that Parliament's amending powers are absolute and encompass all parts of the document. But the Supreme Court has acted as a brake to the legislative enthusiasm of Parliament ever since independence. With the intention of preserving the original ideals envisioned by the constitution-makers, the apex court pronounced that Parliament could not distort damage or alter the basic features of the Constitution under the pretext of amending it. The phrase 'basic structure' itself cannot be found in the Constitution. The Supreme Court recognised this concept for the first time in the historic Kesavananda Bharati case in 1973. Ever since the Supreme Court has been the interpreter of the Constitution and the arbiter of all amendments made by Parliament.

8.3 Definition of Administrative Structure

Very commonly the structure and functions of any constitution are both in a state of being and becoming. The task before the constitution after India's painful transition from British Rule bearing the curse of partition into India and Pakistan was to create a 'constitution for a civilization'. India has a diversity of people's regions, culture, tradition, language which has no parallel in the world. India's decision to become a secular state meant that this rich and ebullient diversity had to be accommodated within the framework of a parliamentary democratic, secular, federal republic with neutral and vocational administrative structure. Although important, even then adoptions of fundamental rights are not enough to assure human rights and equal opportunity for all, irrespective of class, caste, community or creed. The system of governance was designed and redesigned. So that group aspirations, too, found recognition in the structure of governance.

By the term administrative structure, we mean to refer to the organizational framework within the rule of the constitution. This framework of constitution outlines the hierarchy, roles, responsibility and relationship within an organization, institution or governmental body. It defines how tasks, authority, decision-making and communication flow from higher levels of authority to lower levels, ensuring effective management and operation.

To make the administrative structure functionalised within the framework of constitution and constitutional rule and norms, some components are essential to get the structure properly workable and adoptable to the decision of the executive. The administrative structure is required to differentiate the levels or layers of its operation within its framework or organization like executive, managerial staff, office staff. These managerial staff and office maintenance staff are divided in different division or team within the organization. Each part of the structure (like Finance department, HR., marketing etc.) remains responsible for the work assigned to it. The roles and responsibilities and related obligation are pre-determined, and that has to be followed meticulously.

Each department or Division take the decision on those matters assigned on it, and they enjoy authority to make them materialise in their respective jurisdictions. The pathway of command within the Department or Division, through which information shared across the structure, are by administrative rule ensure coordination and efficient operation. The prime function of the administration, as determined by the constitution is to help the executive. It is also expected that an administrative structure will help ensure clarity, accountability, and smooth functioning within an organization or system.

8.4 Constitutional role of Administration

The constitutional role of administration refers to the functions, responsibilities, and powers of administrative agencies and civil servants in the framework of a country's constitution. Administrative functions are an integral part of the executive branch of government, ensuring the implementation and enforcement of laws passed by the legislature and the policies of the executive. The role of administration can vary based on the specific constitutional structure of a country.

Implementation of law, enacted by the Parliament, is the primary function of the administration. Implementation means a) enforcement of law, here the administration is responsible for executing the law passed by the Parliament. In this process administration is required to give special importance to two related issues: primarily it sees whether law has passed within the legislative framework and secondly it judges the probable effect of implementation in the society. These two criteria indirectly empower the administration to determine the policy in implementing the law. Executive branch in most cases depends on different agencies of administration and their programme and regulation in the matter of implementation of law. Constitutionally the administration does never take any direct part in the law making process. It is actually a regulatory body who is empowered to frame detailed rules and regulation necessary to implement law of the legislature. These rules and regulation framed by the administrative management actually operates as the force behind the law indirectly over sighting the norms of the court or legislative direction. This role is essential because legislative bodies generally cannot provide detailed guidelines for every situation, so administrative agencies fill in the gaps through rulemaking. The administration often exercises discretion in implementing laws and policies. This involves making judgments about how to apply the law in specific situations. While this discretion is guided by legislative intent and regulations, it allows administrative bodies to tailor their actions to particular circumstances. Administrative discretion can raise concerns about accountability, especially if it appears to go beyond or conflict with legislative intent.

Administration also has some positive role and function in public service and welfare. Especially to common people of villages or even of the urban section administration is ensuring the delivery of public services to citizens. This can range from social welfare programs, health services, education, transportation, and more. Administrative bodies manage government spending and allocation of resources to meet public needs.

But in all cases administrative actions and decisions are subject to judicial review to ensure they do not violate constitutional principles or overstep legal authority. Courts assess whether administrative agencies are acting within the scope of their powers and if they are following due process. But that not indicate that there are no checks on the function of the administration. Administration always requires to act to keep balance between executive instruction an legislative decision. Because in parliamentary democracy most constitutional systems, the executive branch of the government (which encompasses administration) is held accountable by the legislature (through oversight and budget control) and by the judiciary (through judicial review of administrative actions). It is very common that administration will take care to protect the fundamental rights of the citizen. In some cases, when the government turns into a “bulldozer government”, the administration remains forcefully bound to carry the order of the executive. In such cases the Supreme Court comes forward to save the fundamental rights of the citizens. It is very commonly expected that in a democratic frame, administrative actions must respect and protect citizens’ fundamental rights as enshrined in the constitution. Administrative agencies are required to act in ways that uphold equality, justice, and due process, and avoid arbitrary or discriminatory practices.

Indian constitution highlighted the system of separation of power as one of the guiding principle of governmental system. Administration is also an indivisible part of the norms of ‘separation of power’. Because it is an essential part of the executive branch of government, and thus, it operates within the framework of the separation of powers doctrine. While it works closely with the legislature and judiciary, the administration’s role is to implement and enforce the decisions of the legislature and executive, without encroaching on the legislative or judicial domains. Indian Constitution, being an administrative agency plays a central role in national security, law enforcement, and maintaining order. This includes managing defence, foreign policy, and the internal security apparatus. In compliance with the ‘Emergency Provision in our constitution the administration also have some provision concerning the emergency powers, and administrative agencies are required to bear an additional responsibilities in cases of national crisis or emergencies.

Our administrative agencies also enjoy some control on preparing, projecting and implementing budget provisions adopted in the parliament. The administration typically controls the implementation of the national budget, distributing funds for various public services and projects. The executive branch is responsible for ensuring that government expenditures align with legislative appropriations. Thus in short, The bureaucracy or administrative structure refers to the civil servants and public servants

who work within government agencies to ensure the smooth running of state functions. Their work is guided by laws, rules, regulations, and the ethical standards laid out by the constitution or legal framework.

General Citizens expect a few qualities or characteristics from administration and from their bureaucrats. These are:-

- **The due process clause:** Ensures that individuals are treated fairly and have the right to challenge administrative decisions
- **Transparency and accountability:** Provisions requiring administrative processes to be open, transparent, and subject to scrutiny.
- **Protection from abuse of power:** Administrative actions must be based on law and should not violate citizens' rights.

The role of administration of India can be compared with United States by way of giving example of relation to executive and legislature. The U.S. Constitution primarily outlines the powers and structure of government, and administrative agencies derive their authority from legislation. The executive branches administer the laws and their powers are checked only by the Judiciary through 'judicial review'.

The Indian Constitution sets out the framework for the administration under the executive branch, led by the President and managed by the Council of Ministers. Administrative agencies, known as "bureaucracy", function under the supervision of the legislature and judiciary. The system of judicial review approves the legality of administrative functions. There it is ensured that administrative activities are complied with the constitutional provisions. The constitutional role of administration is central to the functioning of modern Indian governments, ensuring the implementation of laws, policies, and services. It involves a balance between effective governance and accountability to prevent abuses of power and ensure the protection of fundamental rights.

8.5 Indian Constitution and Its Administrative Structure

The Administrative Structure is closely related to the Indian Constitution because the Constitution provides the legal and institutional framework that shapes the organization and functioning of the government, both at the central and state levels. It defines the roles, powers, and responsibilities of various government institutions, such as the Executive, the Legislature, and the Judiciary, and establishes the guidelines for how administrative bodies should operate within the country.

8.5.1 Features of Indian Administration

The administrative system of India has some unique features that distinguish it from other countries. These features have evolved over centuries and reflect India's diverse history, culture, and complex challenges. Some of the main characteristics of Indian administration are as follows:

- **Federal structure:** India has a federal structure with powers distributed between the union government and the state governments. Each state has its own elected government, legislature, high court, and administrative mechanisms. This federal structure helps accommodate India's diversity and ensures some autonomy for states.
- **Separation of powers:** The Constitution separates powers among the legislature, executive, and judiciary. The parliament makes laws, the executive implements them, and the judiciary interprets these laws. This system of checks and balances ensures no single institution can exercise absolute powers.
- **Civil service based on merit:** The civil services in India are merit-based, and selection is made through a highly competitive pan-India exam. Every year lakh of candidates appear for the civil service exams. Officers are allotted cadres based on their preferences and merit. This ensures talent spreads across all states.
- **All India services:** India has the unique feature of All India services like IAS, IPS, and IFS, whose officers serve both the union and state governments. These services provide a steady workforce of professionally trained officers who can be transferred across the country.
- **Role of collectors:** The role of district collectors is a legacy of the British system. Collectors are in charge of maintaining law and order, collecting revenue, and implementing development programs in a district. They have enormous powers within their jurisdictions.
- **The rule of law:** India follows the principle of the rule of law, where everybody is treated equally under the law. The Constitution is the supreme law, and all authorities function within its framework. The judiciary acts as a watchdog to ensure the executive functions as per the law.
- **Democratic setup:** India is a democratic republic where all adult citizens can vote to elect their representatives. Elections are held regularly at different levels. An independent election commission conducts free and fair elections. People's participation in governance is ensured through elections.

- **Planned economic development:** India follows the mixed economy model where both private and public sectors co-exist. Since independence, the government has focused on planning economic development through the mechanism of five-year plans. Various targets are set, and policies are framed to achieve these goals.
- **Welfare orientation:** The Indian Constitution promises justice, liberty, equality, and welfare for all citizens. The government provides a welfare safety net through numerous schemes for poverty alleviation, education, healthcare, and social security. However, the implementation of welfare schemes has been uneven.
- **Federal character:** Efforts are made to maintain the federal and secular character of the administration. The allocation of civil service posts across states and the representation of different social groups ensure the administrative apparatus has an all-India character.
- **Local self-governance:** The Constitution envisages a system of local self-governance through Panchayat and municipalities. Regular elections are held for these bodies. However, local bodies need to be strengthened to become more effective institutions of people's participation.

In summary, the key features of the Indian administration are its federal and democratic structure, rule-bound civil services, provision of local governance, and a mix of both welfare and developmental orientations. While these features enable India to function as a large and diverse democratic nation, constant improvements are needed to realize the full potential of India's administrative system. More decentralization, use of technology, and emphasis on administrative reforms can help make the system more citizen-centric and responsive to the needs of a fast-changing India.

8.5.2 How Administrative Structure is Related with Constitution

Administrative structure, by default, closely connected with Indian constitution. Indian Constitution distinctly defined the area jurisdiction or items for exercising law making power of Union Government and State Government. Constitution also lays out the division between these two units, through 'Union List' and 'State List'. The residual items have been listed in Concurrent List', where Union legislature enjoys more power in comparison to state legislature. This division actually defines the area and responsibility both for Union and State legislature based on which the administrative structure of centre and state are formed. Respective structures of Administration of state and centre are designed

to implement and execute laws and political decisions within the framework set by these lists.

Administrative structure of both centre and state government operate with the executives of their respective area determined by the list of the constitution. Constitution has also empowered the President of India to act as the Head of Union Administration, while the Prime Minister and Council of Ministers in the Parliament lead the central government (See article 52 – 78) . Similarly for State government Governor is the Head of State and the Chief Minister heads the administration.

To build up the basic infrastructure of Indian Administrative Services, the constitution also established ‘civil services’, which includes ‘Indian Administrative Services or IAS, Indian Police Services or IPS etc. This administrative structure of our country is called, the backbone of our administration and governance at both the national and state level. Article 312 -323 deal with the Union Public Service Commission (UPSC) and State Public Service Commission (SPSC), both commissions are responsible for recruiting officers to the civil services.

As we have seen, the administrative structure is directly related with the executive branch of the Government. This structure is responsible for implementing laws and regulations made by the legislature. The laws and regulations framed by the legislature in accordance with the norms of the constitutional principles as overseen by the Judiciary. This balance between legislation and opinion of the Judiciary is maintained by the administration and administrative structure implement those in adherence to the plan and programme of the government. The constitutional safeguard of Administration is judiciary. Judiciary as per Article 124 and others guards the judiciary from direct dominance of the executive. Constitution empowers the Judiciary independence to ensure that executive actions performed with the direct help and assistance of the administration are constitutional. Their action should be within the jurisdiction of ‘rule of law’. Courts have the authority to review the action of the administration and the dominance of the executive. This power has given to protect the rights of the citizens.

India’s administrative structure is designed to reflect the federal nature of the Constitution. This is particularly visible in the structure of State Governments and the establishment of local self-governments through Panchayat (Article 40) and Municipalities (Article 243). The Constitution allows for decentralized governance, with local bodies having administrative powers and duties in areas like education, health, and urban development. This decentralization strengthens local administration and ensures better public service delivery.

The Directive Principles of State Policy (Articles 36-51) guide the administrative structure in India by outlining the welfare goals and aspirations that the state should aim to achieve. While these principles are non-justifiable (not enforceable in a court of law), they provide a framework for the administration to follow in order to work toward social and economic justice.

The Indian Constitution emphasizes accountability and transparency in public administration. For example, the Constitution establishes Comptroller and Auditor General (CAG) (Article 148) to ensure financial accountability and audits of government expenditures, which directly impacts the functioning of the administrative structure.

The administrative structure in India is a reflection of the constitutional framework that ensures the smooth functioning of government at all levels. The Indian Constitution creates a system of governance where the Executive (administration) implements laws and policies, the Legislature enacts them, and the Judiciary oversees their legality and constitutionality. This interconnectedness ensures that the administration operates in a structured and accountable manner, aligned with constitutional principle. For viable accountability of the administration, the constitution establishes CAG (Article 148 of the constitution). The essential function of the 'Comptroller and Auditor General is to audit and report on the public finance, ensuring that the administration functions transparently and within the law. This role ensures accountability in the administrative establishment and helps maintain financial discipline. Article 239- 241 regulate the governance and administration of Union Territories. Union Territories may have a legislative assembly or be governed directly by the President, and their administrative structures are defined accordingly. Apart from that Constitution has also made an act on 'Right To Information' (RTI) in 2005, This act enables citizens to access government records, ensuring that the administrative structure is accountable to the public. Articles 315 – 323 have made a constitutional body, called 'Union and State Public Service Commission'. This body is responsible for ensuring that recruitment into the administrative structure is based on merit, ensuring a fair and transparent process in selecting civil servants.

Thus to conclude, the **administrative structure** in India is deeply embedded in the framework provided by the **Indian Constitution**. The Constitution not only defines the roles, powers, and responsibilities of various government institutions but also sets limits and safeguards to ensure that the administration functions within the boundaries of the rule of law and is accountable to the people. Through the division of powers, separation of functions, and establishment of oversight mechanisms, the Constitution

ensures that the administrative structure operates transparently, fairly, and in service of the public interest.

8.6 Constitutional Process of Framing Administrative Establishment

The Indian Constitution determines the administrative establishment by laying down a detailed framework for the structure, functioning, and responsibilities of the Executive (which includes the civil services and administrative bodies) at the central, state, and local levels. The Constitution defines how the administrative establishment operates through provisions that govern the organization of government, civil services, public accountability, and the relationship between the branches of government.

Thus an administrative establishment refers to the organizational framework and staffing of an administrative system within a government, institution, or organization. It encompasses the personnel, resources, processes, and structures needed to carry out administrative functions and ensure the efficient implementation of policies, rules, and regulations. The term is often used to describe the overall body of civil servants, staff, and supporting systems that form the backbone of the administration.

Executive: The constitution framed its executive branch by Article 52-78: These articles define the Executive branch of government, consisting of the President (the formal head of state), the Council of Ministers (headed by the Prime Minister), and the Governor at the state level. The President and Governors is the constitutional heads, but executive powers are exercised on their behalf by the Council of Ministers. This establishes the basic structure of the executive, within which the administrative establishment functions.

The Prime Minister and the Council of Ministers lead the executive at the national level, while Chief Ministers and Council of Ministers head state governments. The administrative machinery at both levels is set up to assist in policy implementation

Civil Services and Administrative Bodies: Basic administrative structure is based on the function of civil Services and function of the bureaucrats. Article 312 of Indian Constitution has made the process of creation, recruitment and training of Civil Servants in India. This article allows Parliament to create new All-India Services (like the Indian Administrative Service (IAS), Indian Police Service (IPS), and Indian Forest Service (IFS)) and define their functions. These services form

the core of the administrative establishment, executing the government's policies and ensuring continuity in administration across regions.

Article 315-323: These articles deal with the Union Public Service Commission (UPSC) and State Public Service Commission (SPSC), which are responsible for recruiting civil servants. The UPSC and SPSC ensure that appointments to the administrative services are based on merit, maintaining the integrity of the administrative establishment. The civil services are considered as the heart of the Indian administrative establishment. The Constitution empowers the UPSC to manage recruitment, promotions, and disciplinary actions for civil servants, ensuring that the administrative machinery operates efficiently, impartially, and in accordance with the law.

Civil services are non-partisan and professional, meant to implement laws and policies passed by the Legislature. These services are accountable to the executive, which guides the policy direction.

Decentralized Administration:

The system of decentralized administration has been built up by the Articles 40, 243, and 243P: These articles establish the framework for decentralized governance through Panchayat and Municipalities. Local self-governments have their own administrative establishments that handle local governance and services, in line with the Constitution's provisions for rural and urban local bodies. The Constitution promotes federalism, allowing both the central and state governments to have their own administrative establishments to handle respective responsibilities, with a shared role in areas listed under the Concurrent List.

The Indian Constitution lays a strong foundation for the administrative establishment by defining the structure, roles, and functions of government institutions and civil services. It sets the framework for recruitment, organization, accountability, and the relationship between various branches of government. The Constitution ensures that the administrative system is professional, non-partisan, and operates within a system of checks and balances, with judicial oversight to ensure adherence to constitutional principles. Through these provisions, the Indian Constitution creates a comprehensive and accountable administrative framework to implement government policies and serve the public effectively.

8.6.1 Key Features of Administrative Establishment

The term "administrative establishment" typically refers to the formal creation or setup of a structured organization, institution, or government body designed to carry out specific administrative functions or manage certain tasks. This can involve processes

such as assigning responsibilities, defining rules, allocating resources, and setting operational guidelines.

The key features of an administrative establishment can vary based on the specific organization, but generally include some specific features which can be said inseparable. The feature like hierarchical arrangement of the structure creates chains of command that establish authority and responsibility within the organization. To maintain the leadership within the department senior staff comes as managers who oversees the entire organization and make strategic decisions. The processes of maintaining the working environment, administrative structure frame its own rules and guideline and protocols that govern the action and decision of employee and leaders. Leaders or senior manager bear the responsibility for high level decision, approval and governance.

Administration in the process of its decision making essentially follow the legal compliance for the sake of organizational accountability and transparency. To build up the administrative structure and stable establishment the primary requirement is to assemble appropriate human resources. Human resources are assembled through recruitment, training and performance evaluation. The aim of administrative establishment is to develop the efficiencies of its staff and to ensure the placement of right talent in the right place. Right talent is in place. This can only be effective, when the funding will be proper. Proper funding is essential for its necessary materialization of plan and program of the government. Without supplying the fund for implementation of governmental plan program will never become materialise. of the administrative unit is to supply necessary financial resources to the department through allocating the necessary fund in the budget proper allocation of fund and financial resources can only enable the department to materialise the plans and program of the Government.

Communication Systems, both internal and external, between departments, teams and leadership are important to maintain the working flow of department. Communicative channel should also be established with the external stakeholders, such as clients, the public and government entities like press, media. All these will help to create an image to the administration.

The administrative establishment includes all employees involved in the day-to-day operations of an organization or government body, from senior management to clerks and other support staff. These are typically individuals working within the civil service or administrative services. It involves a clearly defined hierarchy or organizational structure that specifies the distribution of responsibilities, reporting lines, and authority. This structure allows for coordination, accountability, and clarity in the decision-

making process. The establishment handles a wide range of administrative tasks, such as policy implementation, public service delivery, record-keeping, financial management, human resources, legal compliance, and more. It serves as the operational arm that carries out the decisions made by elected officials or executives.

The budgetary resources, facilities, and tools (like IT systems, offices, etc.) required to perform administrative duties. The administrative establishment often manages the allocation and use of public funds, ensuring efficient delivery of government services.

Administrative establishments operate within the boundaries set by laws, policies, and regulations. These frameworks guide how administrative processes should function, ensuring accountability, fairness, and adherence to the principles of public administration. One of the main roles of an administrative establishment is to implement the policies and laws passed by the legislative or executive branches of government. This could involve tasks like managing public welfare programs, enforcing laws, or carrying out regulatory oversight. The administrative establishment is often tasked with managing official records, documentation, and archives, ensuring proper filing systems, legal compliance, and transparency. Effective coordination between various departments or levels of administration (central, state, and local) is a crucial function of the administrative establishment. This ensures smooth functioning and avoids duplication of efforts.

An administrative establishment is the backbone of an organization or government that ensures the efficient functioning of its administrative tasks. It is responsible for implementing policies, managing human resources, allocating resources, and coordinating activities within the established framework. Its main goal is to provide support and execute the decisions made by policymakers, thereby contributing to the smooth operation of the system.

8.7 Conclusion

The Indian Constitution is the supreme legal document that defines the framework of the Indian state and establishes the rules and principles of governance. It serves as the foundation for the country's administrative structure and guides its administrative establishment. Together, the Constitution and the administrative structure work to ensure that India's democratic system functions efficiently, lawfully, and in a manner that respects the rights and welfare of its citizens..

The administrative structure in India is largely shaped by the Constitution. It is based on a hierarchical system that ensures efficiency, accountability, and coordination between

different levels of government (central, state, and local). The Central Government (Union Government) is headed by the President of India, with executive powers vested in the Prime Minister and the Council of Ministers. It controls all matters of national importance such as defence, foreign policy, and national economic planning. The State Governments have autonomy over regional matters, with Governors representing the President at the state level, while Chief Ministers and their Cabinets head the executive functions. The local government system, as outlined in the 73rd and 74th Constitutional Amendments, strengthens decentralized governance through Panchayat (rural) and Municipalities (urban).

The Indian Administrative Service (IAS), Indian Police Service (IPS), and other central and state civil services are pivotal to the functioning of the administrative structure. These services ensure that the policies formulated by elected representatives are effectively implemented on the ground. Bureaucracy in India is designed to be neutral, apolitical, and professional, serving the needs of the government, irrespective of the political party in power. The All-India Services (IAS, IPS, and IFS) are the backbone of India's governance, and they are governed by the rules laid out in the Constitution and other legal frameworks. These services play a key role in administration at both the state and central levels.

The accountability of the executive to the legislature and the judiciary is a crucial aspect of India's administrative structure. This includes parliamentary oversight, judicial review, and checks and balances that prevent the abuse of power. Despite the robust design of the Indian Constitution and administrative structure, challenges such as bureaucratic inefficiency, corruption, and political interference in the functioning of civil services continue to exist. The need for administrative reforms, the use of technology, and greater emphasis on e-governance are ongoing efforts to improve efficiency and service delivery.

The administrative structure in India, though based on the Constitution, is continuously evolving in response to societal changes, global challenges, and new technological advancements. The focus on good governance, transparency, and public participation is helping modernize administrative practices.

The Indian Constitution provides the foundation for a robust administrative establishment, balancing centralized and decentralized governance, ensuring a broad division of powers and duties among the various organs of the state. India's administrative structure, guided by the Constitution, aims to serve the diverse and dynamic needs of its citizens, promote justice and equity, and uphold the democratic values enshrined in the Constitution.

While there are challenges in the implementation of these systems, ongoing reforms, increased focus on transparency, and the adoption of technological tools promise to strengthen India's administrative framework, improving governance and the delivery of public services to all citizens.

8.8 Summary of Indian Constitution and Administrative Structure

The Indian Constitution is the supreme legal document that outlines the framework for the governance of India, establishing the country's political, social, and economic systems. It defines the structure, powers, and functions of the government, and guarantees the rights and freedoms of its citizens. . It sets up a federal structure, a separation of powers, and a system of checks and balances to ensure fair and effective governance. The administrative structure ensures that the Constitution's principles are implemented at all levels of government—central, state, and local—through professional bureaucratic systems, supported by independent bodies for oversight and accountability.

While the system faces challenges such as bureaucratic inefficiency and political interference, ongoing reforms and the integration of technology aim to strengthen the administrative framework, ensuring the delivery of efficient and transparent services to the public. To summarise the basic features Indian constitution and the administrative structure, following can be mentioned:

- **Sovereign, Socialist, Secular, Democratic Republic:** India is a democratic republic where the people have the ultimate power. The Constitution ensures justice, liberty, and equality for all citizens.
- **Federal Structure with Unitary Bias:** The Constitution establishes a federal system, dividing powers between the Central Government and State Governments. However, in times of national emergency, the powers of the central government can override those of the states, giving the system a unitary character.
- **Central Government:** The President of India is the ceremonial head of state, while the Prime Minister and the Council of Ministers hold executive powers and form the government. The Central Government manages national policies, defence, foreign relations, and major economic activities.
- **State Governments:** Each state has its own government headed by a Governor (appointed by the President) and a Chief Minister with a Cabinet. The State Governments manage regional affairs like health, education, and policing.

- **Local Governance:** The Panchayat (rural) and Municipalities (urban) form the third tier of governance, promoting decentralized decision-making and local development. These local bodies are empowered by the 73rd and 74th Constitutional Amendments.
- **Bureaucracy and Civil Services:** The Indian Administrative Service (IAS), Indian Police Service (IPS), and other civil services form the backbone of India's bureaucracy. They are responsible for implementing government policies at both the central and state levels. Civil services are designed to be professional, neutral, and apolitical, ensuring efficient governance.
- **Independent Constitutional Bodies:** The Constitution provides for bodies like the Election Commission, the Comptroller and Auditor General (CAG), and the Judiciary, which maintain transparency, accountability, and fairness in the administration.

8.9 Key-Terms

- A. **Parliament:** An assembly of the representatives of a political nation or people, often the supreme legislative authority.
- B. **Legislature:** A group of people who have the power to make and change laws
- C. **Judiciary:** The judiciary is that branch of the government that interpretes the law, settle disputes and administer justice to all citizens. The judiciary is considered the watchdog of democracy, and also the guardian of the Constitution.
- D. **Bureaucracy:** In simple terms you can say that Bureaucracy refers to a body of government officials who are not elected but form an administrative policy making group. In old times, bureaucracy was referred to a government administration which was formed by non-elected officials and run by departments that are employed by them.
- E. **Administration:** The full meaning of administration are, 1) the act or process of administering. 2) Performance of supervising duties : management. 3).the work involved in managing public affairs as distinguished from policy-making.
- F. **Administrative structure:** An administrative structure refers to a complex system of managerial roles responsible for decision-making regarding the maintenance of an industrial plant, including formulating objectives, strategies, organization, and resource allocation.
- G. **Administrative establishment:** The word administrative is relating to the

management of an organization. The meaning of the word establishment is, a business or other organization, or the place where an organization operates: an educational/training/religious establishment.

8.10 Model Questions

- What are the key Features of Administrative Establishment
- Discuss in detail on the constitutional Process of Framing Administrative Establishment:
- What you mean by Decentralization of Administration? How Indian Constitution used this process in framing its administrative structure?
- How administrative structure is related with Constitution?
- “The Indian Constitution is the supreme legal document that defines the framework of the Indian state and establishes the rules and principles of governance”, explain the comment.
- Explain the constitutional role of Administration

8.11 Further Readings

- R. Bellamy: *Constitutionalism and Democracy*; Dartmouth Ashgate Publishing, Aldershot, 2006
- M.K.Bhandari: *Basic Structure of the Indian Constitution: A Critical Reconsideration*; Deep and Deep Publication, New Delhi, 1993
- F.Z.Frankel, R.Hassan, R.Bhargava and B Arora (eds): *Transforming India: Social and Political Dynamics of Democracy*; Oxford University Press, New Delhi, 2000.
- Sudhir Krishnaswamy: *Democracy And Constitutionalism In India: A Study of the Basic Structure Doctrine*; Oxford University Press, New Delhi, 2023
- Rajeev Bhargava (ed): *Politics and Ethics of the Indian Constitution*; Oxford University Press, New Delhi, 2014.
- Partha Chatterjee (ed): *State and Politics in India;(Editorial Portion)* Oxford University Press, New Delhi, 2022.
- Partha Chatterjee: *The Truths And Lies Of Nationalism*; Permanent Black, Mall Road, Ranikhet Cantt, 2022.

Unit 9 □ Socio-Political Roles of Citizens in View of Fundamental Rights and Duties

Structure

9.1 Learning Objectives.

9.2 Introduction.

9.3 Roles of Citizen's Fundamental Rights and Duties

9.4 Differences between Rights and Duties in Liberal Democratic Countries.

9.5 Socio-Political Roles of Citizens in Liberal Democratic Countries

9.6 What are Fundamental Duties, Why it has been mentioned in Our Constitution?

9.7 Conclusion

9.8 Summary

9.9 Glossary

9.10 Model Questions

9.11 Further Readings

9.1 Learning Objectives

This topic addresses the relationship between citizens' rights and duties, as well as their socio-political roles within a society governed by law. It is necessary to understand the importance of fundamental rights and duties, and how they impact the functioning of democracy and society as a whole. Thus the basic objectives of this topic are:

Primary object of this topic is to distinguish between fundamental rights (e.g., right to equality, right to freedom of speech) and fundamental duties and to understand the rationale behind granting rights and imposing duties on citizens

It is essential to discuss the interdependence between citizens' rights and their corresponding duties in maintaining the social and political order. This will help us to understand how an individual's responsibility toward society and nation enhances the protection and effective exercise of their own rights.

Citizens play a critical role in the democratic process through active participation in politics, social actions, and civic duties. Thus the concept of 'informed citizenship'

and its importance in decision making along with their roles as voter, protestor, petitioner or any other process of public dialoguing are also important to understand the nature of democratic liberalism.

One of the objectives of this topic is to critically examine how individual rights must be balanced with the collective good, public interest, and national security. One of the basic aims of fundamental duties is to make Indian citizen legally and ethically oblige to democratic society, and to make a shape of their participation in socio-political processes. Further these duties also infused and recognize the role of citizen in contributing to national development, peace-building and social cohesion by engaging the citizens to solve some important national issues like poverty, inequality and environmental sustainability.

This topic has tried to give a comprehensive understanding of the socio-political roles of citizens, the importance of fundamental rights and duties, and how these elements work together to shape a democratic society.

9.2 Introduction

In any democratic society, the relationship between the state and its citizens is a crucial foundation for ensuring both individual freedoms and collective well-being. Central to this relationship are Fundamental Rights and Fundamental Duties, which provide a framework for citizens' participation in the socio-political life of a nation. These rights and duties not only empower individuals but also guide them in contributing positively to the functioning of the nation.

Fundamental Rights are the basic rights guaranteed to all citizens, irrespective of their social, economic, or cultural backgrounds. They are essential for ensuring individual freedoms and dignity, enabling citizens to live in an environment that promotes justice, equality, and personal autonomy. These rights often include freedoms such as speech, religion, and assembly, along with rights to education, equality before the law, and protection against discrimination.

On the other hand, Fundamental Duties are the moral obligations that every citizen is expected to uphold in the interest of society and the state. These duties act as a counterbalance to the rights granted to individuals, emphasizing that personal freedoms come with corresponding responsibilities. Duties include respect for the Constitution, promoting harmony and the spirit of common brotherhood, safeguarding public property, and contributing to national development.

Together, these rights and duties shape the socio-political roles of citizens by defining their participation in the democratic process and their contributions to societal well-being. While rights ensure the freedom of the individual, duties reinforce the collective responsibility towards the state's health, stability, and progress.

Citizens are not mere recipients of rights but active participants in shaping the direction of their nation. The interplay between Fundamental Rights and Fundamental Duties enables citizens to engage in political processes: Citizens are empowered to participate in elections, express political opinions, and even protest for just causes. These actions ensure the continuous renewal of democratic governance, where people's voices directly influence lawmaking and policy decisions. Fundamental Duties like promoting harmony and respecting the diversity of cultures foster a sense of unity and national identity. In pluralistic societies, citizens' roles as agents of peace, tolerance, and mutual respect are paramount. Citizens have a duty to contribute to the economic welfare of the country, either through active participation in the workforce or by adhering to policies that promote sustainable growth. Additionally, their rights to education and employment enable them to contribute productively to society.

In summary, the socio-political roles of citizens, shaped by their Fundamental Rights and Duties, are integral to the functioning of a democratic state. Rights empower individuals to assert their freedoms, while duties guide their responsibilities towards their fellow citizens and the nation as a whole. Together, they create a harmonious balance that ensures individual and collective progress.

9.3 Roles of Citizen's Fundamental Rights and Duties

The **socio-political context** in which citizens live plays a pivotal role in shaping how their **Fundamental Rights** and **Fundamental Duties** are understood, exercised, and balanced. In a democracy, this dynamic relationship influences the way citizens interact with the state, the legal system, and one another. To the perfect promotion of social equality and social justice, impact of citizens' fundamental rights and duties in a particular socio-political factor cannot be denied. In a society where there is social inequality, discrimination, or exclusion, the ***Fundamental Rights*** of citizens (such as the right to equality, freedom from discrimination, and the right to education) become essential tools for combating social injustice. The socio-political environment must actively ensure that these rights are not only constitutional promises but are also practically enforced.

In this process role of a) politics and b) citizens are important. Governments and political leaders are responsible for formulating and enforcing policies that promote equal opportunities for all citizens, regardless of their caste, gender, religion, or social background. Political activism and social movements often push for the recognition and protection of the rights of marginalized groups, ensuring that societal inequities are addressed through law and policy. Apart from politics citizens, as both individuals and groups, have a duty to challenge discrimination, promote inclusion, and contribute to social reforms. Their involvement in advocacy and movements for social justice aligns with the ***Fundamental Duties*** of promoting harmony and brotherhood among citizens.

But many things depend on the desire of citizens to participate in democratic governance. Democracy thrives on the active participation of its citizens, and **Fundamental Rights** provide the framework within which this participation can occur. Citizens have the right to vote, run for public office, express political opinions, and assemble peacefully—rights that form the backbone of democratic engagement. There are two predominant factors which have some role. These are a) Politics or political institutions, such as the judiciary, electoral systems, and legislature, must function transparently and impartially to uphold citizens' rights to free speech, free assembly, and the right to a fair trial. A robust political system supports citizens in exercising their rights without fear of repression or bias. b) Citizen also play a key role in shaping the political environment by voting, engaging in public discourse, joining political parties, or participating in civil society organizations. Additionally, citizens' duties include abiding by the law, respecting democratic institutions, and promoting the public good, ensuring that democratic processes remain strong and healthy.

Fundamental Rights are designed to protect citizens from state overreach and ensure that their personal freedoms and civil liberties are respected. These rights cover freedoms such as speech, religion, movement, and privacy, all of which are integral to individual autonomy and dignity. In socio-political contexts where rights are threatened by authoritarian regimes, corruption, or excessive surveillance, political systems and judicial bodies play an essential role in defending individual freedoms. Activists, lawmakers, and judges often act as protectors of these rights. Citizens' duties include standing up for their own rights and the rights of others, participating in activism when necessary, and holding the government accountable for protecting personal freedoms. Their responsibility extends to ensuring that their actions do not infringe upon the rights and freedoms of others, maintaining a balance between individual

liberty and collective responsibility.

Thus it may be said that the **socio-political roles** of citizens and their **Fundamental Rights** and **Duties** are deeply intertwined. While **Fundamental Rights** guarantee personal freedoms and liberties, **Fundamental Duties** encourage citizens to contribute to society's overall well-being. Together, these rights and duties enable citizens to shape and sustain the socio-political order of their country, ensuring that democracy, justice, and national progress are upheld. The active involvement of citizens, in both political and social realms, is crucial for ensuring that the values of equality, freedom, and fraternity are preserved for future generations.

9.4 Differences Between Rights and Duties in Liberal Democratic Countries

In a liberal democratic system, rights and duties are two fundamental concepts that shape the functioning of society and the relationship between individuals and the state. While they are closely related, they represent different aspects of social and political life. Here through a table the differences can be shown breaking down the differences:

| | Rights | Duties |
|------------|--|---|
| Definition | Rights are the entitlements or freedoms granted to individuals, often by law that allow them to act in certain ways or to claim certain benefits from society or the government | Duties are the obligations or responsibilities that individuals owe to others, society, or the state |
| Nature | Rights are typically negative (freedom from interference) and positive (entitlements to certain goods or services). Common examples include the right to free speech, the right to vote, the right to life, and the right to privacy | Duties are typically positive obligations to act in certain ways. They involve behaviour that contributes to the well-being of others and the functioning of society. |
| Source | Rights often stem from legal frameworks (such as constitutions, human rights laws, | Duties can arise from social contracts, laws, moral obligations, or ethical principles. In liberal |

| | | |
|---------|---|--|
| | or international agreements) or are inherent in the principles of justice and equality. | democracies, they are often embedded in the legal system or cultural norms. |
| Purpose | The primary purpose of rights is to protect individual freedoms and ensure that people can pursue their personal interests, beliefs, and goals without undue interference. | The primary purpose of duties is to ensure that rights are respected and that individuals contribute to the common good. Duties are necessary to maintain social order, justice, and a balanced distribution of rights within society. |
| Example | Civil rights (e.g., freedom of speech, religion) Political rights (e.g., right to vote, run for office) Economic rights (e.g., right to own property) Social rights (e.g., right to education, healthcare) | Legal duties (e.g., obeying the law, paying taxes) Moral duties (e.g., treating others with respect, ensuring fairness) Civic duties (e.g., voting, serving on a jury, participating in community service) |

Rights generally focus on what individual are entitled for their civilized social life. It is mainly the duties of the state machinery to uphold those individual's entitlement. But duties on the other hand are individual's responsibility towards the society, state and their neighbour. This is because, rights emphasize the freedom and liberty of the citizen but duties are obligation of the individual for the well-being of the state and others. In liberal democracies, the balance between rights and duties is essential. While individuals are granted freedoms and entitlements, these come with corresponding duties that maintain social harmony and prevent the abuse of rights. Rights are protected by laws and constitutions, and violations can lead to legal action or redress. Duties, on the other hand, are enforced through legal or social mechanisms, and neglecting one's duties can lead to penalties or societal consequences.

So rights are privileges or freedoms granted to individuals to protect their personal autonomy, while duties are the obligations individuals have to contribute to the common good and respect the rights of others. Both are crucial for the functioning of a liberal democratic society.

9.5 Socio-Political Roles of Citizens in Liberal Democratic Countries

In liberal democratic countries, citizens play an essential role in shaping the political landscape and maintaining the democratic system. Their involvement extends across multiple domains, encompassing both formal and informal mechanisms for participation and oversight. One of the most fundamental role that citizen should exercise is voting right. Exercise of this right makes him part of the decision making process, because through voting citizen select their representatives. Their pragmatic use of these rights makes their representative accountable not only to his voters but also to the public in general. The conscious and participation with other in the political society through debate and discourses not only open their ways to the policy making but also create an ideological ambience in the society. Such ambience is essential for the enrichment of public policy, societal norms and above all democracy. To materialize this process of participation political parties play the most crucial role, which a citizen can use as an effective platform to ventilate them and other's opinion.

In a democracy, citizens hold the government accountable through mechanisms like public hearings, protests, legal challenges, and petitions. The judicial system also allows citizens to challenge laws or government actions that may infringe on their rights. Citizens play an active role in demanding transparency in governance, preventing corruption, and ensuring that public officials remain answerable to the public. In a liberal democracy, citizens are expected to respect the law, including constitutions, statutes, and regulations. This legal framework ensures individual rights, social order, and fairness in the political system. Citizens serve as jurors, witnesses, and sometimes in the enforcement of legal rights, further ensuring the system works as intended.

Many citizens are involved in local politics, such as attending city council meetings, volunteering for local projects, or running for local office. These grassroots activities help shape policies that directly affect communities. Citizens often engage in grassroots efforts, such as organizing local campaigns, environmental initiatives, or social justice movements. This helps to foster civic engagement at the community level.

Citizens who participate in media (as journalists, bloggers, or through social media) help spread information, provide transparency, and hold government actions under scrutiny. They contribute to a free press that is vital in maintaining accountability. Educated and informed citizens are essential for the proper functioning of democracy. They make decisions based on facts and are better equipped to demand accountability.

In liberal democracies, citizens are encouraged to engage in continuous learning about their rights, duties, and the political process. Education helps citizens make informed decisions about governance. By fostering critical thinking, citizens can better evaluate policy proposals, question government actions, and ensure a more robust democracy. In liberal democratic countries, the socio-political role of citizens is multifaceted and dynamic. Their active participation—whether through voting, advocacy, protest, or public discourse—ensures that democracy remains responsive to the needs and aspirations of the people. Each citizen's involvement contributes to a functioning democratic system where human rights, equality, and accountability are upheld.

9.6 What are Fundamental Duties, Why it has been mentioned in Our Constitution?

On November, 2, 1976, Fundamental Duties were first included in the constitution. The proposal of inclusion of fundamental duties was made by the “Sardar Swaran Sing Committee” in the year 1976. On the recommendation of the Committee a new part, 4A, was included where in 51A Article noted ten fundamental duties for citizen. Here our leaders in parliament followed the example of ‘now extinct’ Soviet Union’s Constitution, and constitution of Japan, where fundamental duties have been directly mentioned in the Constitution. The Swaran Sing Committee suggested the idea of inclusion of fundamental duties to make people realize their basic responsibility to the society and social democracy. In Article 51A emphasize have given on ethics, moral values, and civic culture. Swaran Singh Committee recommended ten duties, later in the year 2002; eleventh duty was added with it through 86th Constitutional Amendment. This eleventh duty stated clearly that, any sort of transgression of fundamental duties, as mentioned in Article 51A, would be considered as tantamount to the transgression of Indian Constitution. Such transgression will be judged under the principle of rule of law. Transgression will be punished as per “National Honour Act 1971”, which prohibits the desecration or insult to the country’s overall and motto.

Fundamental duties are considered as an indivisible part of our Constitution. These are like ethical values and ethical command to the citizens of a democratic country. The success of democracy depends on a) larger people’s homogenous inclination to take part directly or indirectly to the decision making process, b) federal mentality of the citizen to be a part of management system of the government and c) citizens’ conscious attention to the role of the government. These are the main

ingredient of citizens' consciousness and their moral and ethical unison with national democratic system.

Target of "Swaran Singh Committee" was to frame those as fundamental duties in the constitution which would appear as an 'ethical order' of the Sovereign. The committee also wanted to bring a social behavioural change among citizens. To make parliamentary democracy successful, the change should bring to the attitude, behaviour and values of the real stake holders of political administration. The positive attitude of the people can only draw the line of boundary of liberal democracy round the political administration. So the actual aim of fundamental duties is not only to develop a value loaded socio-political culture, but also to bring a change in political administration of the state. Following are the duties enacted in our constitution as Fundamental Duties:

- It is the duty of every citizen to abide by the laws and rules imposed by the constitution and if a citizen fails to do so, he or she will be imposed a penalty under the national honour act. It's the moral duty of the citizen to respect the national flag and the national anthem.
- Every citizen is entitled to follow the ideals which bought freedom to the country during the long freedom struggle and must not disregard any of them.
- According to the constitution (preamble), every citizen should follow the aspects of sovereignty, secularism, and fraternity.
- Every citizen must defend the country as and when the situation arises, and must always be in support of its country.
- Every citizen must be ethical, and should respect all religions by not declaring one's own religion as supreme, not indulge into derogatory happenings with women and deal with them respectfully.
- The citizens of India must comply with and praise the national heritage and culture of India.
- The citizen must save and protect the natural vegetation, wildlife and national heritage of the country and not make harm to any.
- The citizens must think every thought scientifically and not get swayed away by religious emotions, or by the talks of many.
- Every citizen must make sure that he or she does no harm to the public property of the country as it directly falls under the Prevention of Public Property Act, 1984.

- Every citizen must try to perform exceptionally well in his or her field of work, so as in to bring about betterment for the nation and take it to great heights.
- (Amendment 2002) This states that it is the right of every citizen of the country to provide mandatory education to children aged 6-14 years, and provide opportunities for girl children.

Fundamental Duties emphasize the need for citizens to promote national unity, respect diversity, and contribute to the welfare of the community. In pluralistic societies, these duties are crucial for maintaining peace and social cohesion across different ethnic, religious, and cultural groups. Political leaders and institutions must create policies that encourage tolerance and cooperation among different groups within society. Political structures must provide avenues for peaceful coexistence and foster a spirit of mutual respect. Educational reforms and national campaigns often play an important role in shaping citizens' perceptions of unity and national identity. Citizens must respect the diversity of the nation, engage in inter-cultural dialogue, and contribute to fostering understanding and solidarity. Their **Fundamental Duty** to promote unity and the common good can be seen in their actions to combat hatred, bigotry, and sectarianism. Citizens are also responsible for upholding the spirit of democratic values and strengthening community ties.

The socio-political landscape also determines how citizens contribute to the nation's economic, social, and cultural development. Fundamental Duties often include obligations related to national progress, such as paying taxes, conserving resources, and contributing to public welfare. Governments are responsible for creating policies that foster economic growth, infrastructure development, and social welfare. The political environment must be conducive to creating opportunities for citizens to engage in productive work, education, and innovation. Citizens have the duty to contribute to national development through their work, participation in community activities, and compliance with economic and environmental regulations. By actively engaging in the economy, voting on policy decisions, and adhering to civic duties, citizens help ensure the sustained progress of the nation.

9.7 Conclusion

In conclusion, the socio-political roles of citizens in liberal democratic countries are closely intertwined with their fundamental rights and duties. These rights—such as the right to vote, freedom of speech, and the right to assemble—empower citizens to

actively participate in the political process, ensuring that governance remains transparent, accountable, and representative of the people's will.

However, with these rights come corresponding duties. Citizens are expected to uphold the rule of law, respect the rights of others, and contribute to the common good. Their duties may involve voting in elections, serving on juries, paying taxes, participating in public discourse, and obeying laws. By fulfilling these duties, citizens help maintain the stability and integrity of the democratic system.

Together, these rights and duties form the foundation of a healthy, functioning democracy. Citizens, by exercising their rights and fulfilling their responsibilities, contribute to the collective wellbeing of society, promote justice and equality, and ensure that their voices are heard in shaping policies that affect their lives. The dynamic interplay between rights and duties creates an environment in which democracy thrives, individuals are protected, and the government remains accountable to the people.

9.8 Summary

The Fundamental Rights and Duties in a country like India shape the roles and responsibilities of its citizens. Here's a summary of how these two elements influence citizens:

- These are the basic human rights guaranteed to all citizens, ensuring their freedom and dignity. In India, these are enshrined in Part III of the Constitution. The Rights include Right to Equality, Right to Freedom, Right to Freedom, etc.
- Citizens enjoy certain Roles through Fundamental Rights of the Constitution. Citizens can express their views, vote in elections, and join political parties. Citizens are expected to act with respect toward the dignity and rights of others, promoting a society free from discrimination. Citizens can challenge unlawful actions, promoting justice and upholding human dignity.
- **Indian Constitution also has included certain Duties for the citizens in Part 4A, Article 51A. The Constitution identified Eleven Fundamental Duties for every citizen. The subject o contexts of those Duties are,** Citizens must respect the Constitution, the national flag, and the national anthem Citizens should respect India's cultural heritage and the institutions of the nation. It is a citizen's duty to protect and improve the environment, including forests, lakes, rivers, and wildlife. Citizens are encouraged to foster brotherhood and

harmony, transcending differences of religion, language, or region. **Upholding Sovereignty:** Citizens should contribute to the unity and integrity of India, supporting the nation's sovereignty.

- These are the moral obligations of citizens outlined in **Part IVA** of the Constitution. While they are not enforceable by law, they are meant to inspire responsible citizenship. The aim of the Constitution is to learn the citizen to enshrine the dignity of the Nation and Constitution. So Citizens must respect the Constitution, the national flag, and the national anthem. Citizens should respect India's cultural heritage and the institutions of the nation. It is a citizen's duty to protect and improve the environment, including forests, lakes, rivers, and wildlife. Citizens are encouraged to foster brotherhood and harmony, transcending differences of religion, language, or region. **Upholding Sovereignty:** Citizens should contribute to the unity and integrity of India, supporting the nation's sovereignty.
- Roles expected to the Citizens through Fundamental Duties are a) **active participation** to national development and upholding democratic values; b) **environmental responsibility** by adhering to duties like environmental protection; c) **promote National unity** in maintaining peace and fostering harmony in a diverse society; d) **legal and social compliance** with laws that safeguard public interest, social justice, and national integrity.
- The **Fundamental Rights** empower citizens, ensuring they can lead a life of dignity and freedom, while the **Fundamental Duties** guide them in being responsible and law-abiding members of society. Together, they shape the civic identity of citizens, creating a balanced and just society.

9.9 Key Terms

- A. Fundamental Rights:** Fundamental rights are the basic rights and freedoms that are guaranteed to all citizens by a country's constitution. They are considered fundamental because they are essential for an individual's dignity, well-being, and all-round development.
- B. Fundamental Duties:** The Fundamental Duties are defined as the moral obligations of all citizens to help promote a spirit of patriotism and to uphold the unity of India. These duties set out in Part IV–A of the Constitution, concern individuals and the nation.

- C. **Liberal democracy:** Liberal democracy, western-style democracy, or substantive democracy is a form of government that combines the organization of a democracy with ideas of liberal political philosophy. Here liberalism is a political and moral philosophy based on the rights of the individual, liberty, consent of the governed, political equality, right to private property and equality before the law.
- D. **Citizen:** A citizen is a person who is a member of a country and has the rights and protection of that country. Citizens are expected to obey their country's laws and defend it against its enemies.
- E. **Amendment:** An amendment is a formal change to a law, contract, constitution, or other legal document. It can also refer to the process of making such changes. Amendments can add, remove, or update parts of these agreements.
- F. **Sovereignty:** Sovereignty means supreme power or authority, especially over a state or community. It can also mean freedom from external control or autonomy. In political theory, sovereignty is the legitimate authority to rule over a polity.
- G. **Secularism:** Secularism is the belief that religion should not be involved in a country's ordinary social and political activities. It's a way of life that focuses on life on Earth, rather than worrying about heaven or hell.
- H. **Fraternity:** A fraternity can be a group of people who are associated or organized for a common purpose, interest, or pleasure. For example, a fraternity could be a group of men and women who are united by common interests and beliefs, such as a medical fraternity.

9.10 Model Questions

- What is Right? What is Duties? How these two differ from each other
- Write a note on the roles of citizen's Fundamental Rights and Duties.
- Why Duties have been mentioned in Our Constitution?
- Explain eleven fundamental duties of our Constitution
- "In any democratic society, the relationship between the state and its citizens is a crucial foundation for ensuring both individual freedoms and collective well-being."- Explain in detail
- Explain in detail the Socio-Political roles of Citizen in Liberal Democratic State.

9.11 Further Readings

- Sujit Narayan Chattopadhyay: “*Songbidhanik Mulyobodh ebong Nagarik Kartabya*” (Constitutional Values and Duties of the Citizen) (in Bengali) ; Suhrid Publication, Kolkata, 2024.
- Sujit Narayan Chattopadhyay: “*Jono-Prosasoner Bishoy Vhitik Alochona*”(An Objective Discussion on Public Administration) (in Bengali); Suhrid Publication Kolkata, 2022,
- Durga Das Basu: *Introduction to Constitution of India*; South Asia Book, 1984.
- S.K.Chaube: *The Making and Working of the Indian Constitution*; National Book Trust, India 2009.
- Granville Austin: *The Indian Constitution: cornerstone of a Nation*; Oxford University Press, 1999.
- Granville Austin: *Working a Democratic Constitution: A History of the Indian Experience* (2nd. Edition), Oxford University Press, 2003.
- J.C.Johari: *The Constitution of India: A Politico-Legal Study*, Starling Publisher (P) Ltd. 2007.
- M.V.Pylee: *India’s Constitution*; S.Chand & Co. Ltd, 2020
- Brij Kishore Sharma: ‘*Introduction to the Constitution of India*’ (7th. Edition), PHI Learning Private Limited, Delhi-92, 2015

Unit 10 □ Indian Parliamentary Democracy and the Process of Administration

Structure

- 10.1 Learning Objectives (Bullet Points)**
- 10.2 Introduction**
- 10.3 Challenges in the Indian Parliamentary System and Administration**
 - 10.3.1 Basic Character and Features of Indian Parliamentary Democracy**
 - 10.3.2 Role of Democracy in Administration. How it Determines Administrative Process?**
- 10.4 Necessity of Understanding the Role of Politics and Administration in Parliamentary Democracy**
- 10.5 Differences between Political Administration and Administrative Politics**
 - 10.5.1 Interconnection between Political Administration and Administrative Politics:**
- 10.6 Democratic Administration and Administrative Democracy**
 - 10.6.1 Political Administration and Administrative Politics**
 - 10.6.2 Political Administration**
 - 10.6.3 Administrative Politics**
- 10.7 Conclusion**
- 10.8 Summary**
- 10.9 Key Terms**
- 10.10 Model Questions**
- 10.11 Further Readings**

10.01: Learning Objectives

The study of Indian parliamentary democracy and the administrative process aims to help one a deep understanding of the democratic structure, principles, and the functioning of the political system in India. The learning objectives in this context can be stated as follows:

- It helps us to understanding the Concept of Parliamentary Democracy and its typical features like the system of government, i.e., whether parliamentary or Presidential system. In both cases how the executive, legislature and judiciary interact and function. We may also know the relationship between Lower House and Upper House.
- Objective of this topic is to explain the structure, role and functioning of the Parliamentary system, especially in Indian context. These elements are related with the functioning of election process, law making process etc.
- To understand the process of administration is another aspect of this study. Here the role of bureaucracy, role of civil serves, and relationship between ‘temporary’ and ‘permanent’ executive are also important to follow the process of policy formation and implementation.
- One of the major objectives of the study is to critically analyze the challenged faced by Indian democracy and its administration.
- Another objective is make one be able to understand the fundamental principles of Indian parliamentary democracy and its indivisible process of legislation, governance and administration, their challenges and contemporary issues affecting India’s parliamentary system and administration.

10.2 Introduction

India, the world’s largest democracy, operates under a parliamentary system of government, as laid down by the Constitution of India. The Indian parliamentary democracy is characterized by the separation of powers between the executive, legislature, and judiciary, while maintaining a system of checks and balances. This democratic system ensures that the people of India, through their elected representatives, who have a determining role in the governance of the country. The process of administration in India involves the implementation of policies and laws, which are created by the legislature and executed by the executive, often with the assistance of a vast and hierarchical bureaucracy.

The Indian parliamentary system is modelled after the British parliamentary system, with key modifications to suit the Indian context. At its core, it emphasizes collective responsibility, majority rule, and democratic decision-making. The Prime Minister is the leader of the majority party in the Lok Sabha and heads the government. The President of India, although the ceremonial head of state, holds significant constitutional powers,

especially in times of crisis or political uncertainty. The Executive, led by the Prime Minister and the Council of Ministers, is responsible for implementing the laws passed by Parliament. The Cabinet plays a crucial role in the decision-making process, formulating policies and legislation. The Judiciary ensures that the actions of the Executive and Legislature are within the framework of the Constitution and upholds the rule of law.

The administrative process in India refers to how government policies, laws, and decisions are implemented across the country. The bureaucracy (composed of civil servants such as the Indian Administrative Service (IAS), Indian Police Service (IPS), and Indian Foreign Service (IFS)) is central to the functioning of the Indian administration. It works under the direction of the elected government and ensures that the decisions taken by Parliament and the Cabinet are executed efficiently.

The central government, headed by the Prime Minister and Cabinet, formulates national policies, while state governments, headed by Chief Ministers, handle regional administration. The administrative machinery involves numerous ministries and departments that are responsible for specific functions, such as finance, health, education, defence, etc. These bureaucratic institutions execute government decisions, manage public resources, and ensure the welfare of citizens. Public administration in India faces several challenges, including issues related to corruption, bureaucratic red tape, and the need for reforms to improve efficiency and transparency.

10.3 Challenges in the Indian Parliamentary System and Administration

While India's parliamentary democracy has proven to be a stable and resilient system, it faces several challenges. The foremost important challenge is the coalition government. In many occasions the government fails to get majority support simply due to indifference or intolerance among the parties in the coalition. On some occasions even the corruption within executives (Especially among Ministers) and corresponding non-transparent functional mechanism of administration become the cause of instability in governance. Voter apathy (due to lack of proper education), electoral fraud, and vote-bank politics sometimes distort the functioning of democracy. Despite these challenges, India's parliamentary system has continuously evolved, aiming to provide better governance and a more inclusive, transparent political environment.

In essence, India's parliamentary democracy and the process of administration are intricately linked. The functioning of the Indian government relies on the interplay

between the legislature, executive, and judiciary. While the system is democratic and representative, ensuring that all citizens have a voice, it also faces the ongoing task of improving administrative efficiency, addressing corruption, and adapting to the changing political and social landscape of India.

10.3.1 Basic Character and Features of Indian Parliamentary Democracy

Indian Parliamentary Democracy is based on the model of the British parliamentary system, adapted to the Indian context. It is characterized by several distinctive features that ensure democratic governance, a separation of powers, and accountability. Below are the key characteristics and features:

- India is a sovereign state, meaning it has supreme authority to make decisions without external interference. The Constitution of India is the supreme law, and all democratic processes function within the framework of this Constitution. The Indian Parliament is not only bicameral; it also bears the collective responsibility. Lower house or 'Lok-Sabha' of the Parliament is consisted with representatives elected directly by the people through general elections. Members of the Lok-Sabha are directly elected by the people. The aim of general election is to ensure the representation at the grassroots level. The members of Upper house or 'Rajya Sabha' are formed with representatives elected indirectly by state legislatures and by members of the Legislative Assemblies of Union Territories. The Government in the Lok Sabha is formed with representatives of majority Political Party members directly elected by the people. If no party has got an absolute majority, coalitions are often formed to maintain stability in government. Given India's diverse social, cultural, and regional makeup, coalition governments are common, especially at the national level (*although Indian Constitution has not used the term Political Party*). The government is headed by the Prime Minister, but the Prime Minister and the Council of Ministers are collectively responsible to the Lok Sabha. If the Lok Sabha passes a vote of no confidence, the entire government must resign.
- Government is formed with three branches: Executive, Legislature, and Judiciary. India's democratic system maintains a clear separation between the three branches of government: a) Executive is headed by the President (the ceremonial head of state) and the Council of Ministers led by the Prime Minister (the real head of government). b) Legislature The primary function of the Parliament is legislation. Through legislation it enacts laws, represents the people, and controls the finances. c) Judiciary is an independent body that ensures laws are norms laid down in the constitution. Its major constitutional work is to uphold the Constitution.

- India's parliamentary democracy is based on secularism, meaning the state does not favor any particular religion. It also represents the country's vast social, cultural, linguistic, and religious diversity. It ensures that all sections of society, including minorities, are represented and have a say in governance. Provisions for reservations in educational institutions, government jobs, and the legislature ensure social and economic inclusion of historically marginalized groups, such as Scheduled Castes, Scheduled Tribes, and Other Backward Classes (OBCs). Constitution of India represents the country's vast social, cultural, linguistic, and religious diversity. It ensures that all sections of society, including minorities, are represented and have a say in governance. Provisions for reservations in educational institutions, government jobs, and the legislature ensure social and economic inclusion of historically marginalized groups, such as Scheduled Castes, Scheduled Tribes, and Other Backward Classes (OBCs). To ensure the commitment made in the question of neutrality the Constitution guarantees freedom of religion and aims to ensure equal treatment of all religions. This characteristic has also been extended to the universal adult franchise system in India. Every citizen of India, irrespective of religion, caste, or gender, who is 18 years or older, has the right to vote. This is an essential feature of India's democratic process, ensuring broad political participation.
- India is a federal state, meaning it has a division of powers between the central government and state governments. However, in times of crisis or emergency, the central government has overriding powers, giving the system a unitary bias. The Constitution of India divides powers between the Union List, State List, and Concurrent List, covering various subjects under different jurisdictions. The power given by the Constitution is exercised by Parliament at the Union level and Vidhan Sabha at the State level. The Prime Minister at the Union level and Chief Minister at the state level are the head of government and holds significant executive powers. The Prime Minister and the Council of Ministers and Chief Minister and his council of minister decide policies and implement laws, making them central to India's parliamentary system and also State to the state level. The Cabinet is made up of senior ministers, including the Prime Minister (and Chief Minister at the State level), who collectively take major decisions regarding governance..
- The President of India (as well as Governor in the States) is the ceremonial head of state. While the President has some powers in theory (such as the power to summon Parliament or dissolve the Lok Sabha), these are exercised

on the advice of the Prime Minister and the Cabinet, reflecting the parliamentary nature of the system. Corresponding to the President, the Governor is the official head of the state. The constitution vests all executive powers in his name and all executive action have to be taken in his name.

- The Constitution of India provides for a detailed list of fundamental rights, which protect individual freedoms like the right to speech, equality before the law, and freedom of assembly. These rights are enforceable in courts, ensuring justice and equality

India's parliamentary democracy is a vibrant system designed to ensure democratic governance while accommodating the country's diversity. The balance of power between the executive, legislature, and judiciary, along with regular elections, ensures that government remains accountable to the people. The system is characterized by inclusivity, stability through coalition politics, and the protection of fundamental rights. However, it also faces challenges, such as ensuring effective governance in a

10.3.2 Role of Democracy in Administration. How it Determines Administrative Process?

Democracy plays a crucial role in shaping and determining the administrative process in a country. It influences the functioning of administrative bodies and the way they interact with citizens, as well as the overall governance structure. There are number of ways and means through which we can explore ways of how democracy determines administrative processes.

In a democratic system, the administrative process is subject to accountability. Government officials, civil servants, and institutions are answerable to elected representatives (such as legislators) and the public. This accountability ensures that decisions made by administrative bodies are in the best interest of the public and comply with laws and regulations. Especially in two ways democracy puts its control over the administration. a) In case of public oversight democratic institutions (e.g., Parliament, courts, and media) provide checks and balances on administrative actions, reducing corruption and increasing efficiency. b) To maintain transparency in decision-making Public access to information, open meetings, and clear communication channels allow citizens to stay informed about administrative decisions. Apart from that democratic system and norms allow citizens to actively participate in the administrative process, either directly or indirectly. This can be through voting, public consultations, feedback mechanisms, or participation in local governance. The conscious citizens can participate in public hearings, engage in debates on proposed legislation, or interact

with local administration to shape policies. Apart from that democratic processes encourage inclusivity, ensuring that the voices of different communities are heard and reflected in the administration's actions.

In a democracy, the administrative process is bound by the rule of law. Administrators must work within a legal framework that upholds constitutional rights and freedoms. Decisions made by administrative bodies are subject to judicial review, which ensures that laws are applied consistently and fairly. In fact citizens' rights are safeguarded by laws that the administration must respect. For example, administrative decisions cannot violate fundamental rights such as equality or freedom of expression. Courts play a crucial role in reviewing administrative decisions. If an administrative action is perceived to be unlawful or unconstitutional, it can be challenged in court.

Democratic systems often encourage decentralization, where local governments have autonomy to make decisions regarding public welfare. This decentralization ensures that administration is closer to the people and more responsive to local needs. Local administrations can better understand and respond to the unique needs of their communities, improving the effectiveness of governance. Fostering innovation and responsiveness the local governments may experiment with policies and programs, adapting national or regional models to local contexts.

Balance of Power is also used to establish democracy in administrative process. The core feature of balancing the power of administration, it is separated and distributed among executive, legislature and judicial branch, and all are being given power to implement their role in controlling the administrative process. Thus this division ensures that no single entity becomes too powerful to dominate over the administration. It also ensured that the administration remain bound to operate under the checks and balances. This may be viewed as a point of limit over administration to control its any sorts of attempt to overreach the executive unit disregarding the authority of other two wings of the government. Legislative bodies set the laws, and the judiciary ensures that the administration respects them. If the executive branch oversteps its authority, it can be challenged through legal channels. The constitution although empowers the executive branch to the duties of policy formulation and execution. But the exclusive and uninterrupted use of that power may override the power of legislature, which actually makes the laws. Thus the total operation has been so designed that the executive branch, which manages the administration, is required to implement policies passed by the legislature while adhering to legal standards, ensuring effective governance.

Democratic principles emphasize the importance of merit-based appointments and the professionalism of public servants. Administrators in a democracy are expected to serve the public impartially and efficiently, without bias or political influence. Public servants are chosen based on qualifications and performance, not political affiliation, which increases the efficiency and fairness of administrative processes. To maintain the professional standards public administration is guided by ethical codes and standards to ensure that service delivery is fair and unbiased.

Democratic governments are generally more committed to human rights and social justice. The administration is tasked with ensuring that policies align with human rights principles and that services are accessible to all, particularly marginalized and vulnerable groups. Democracy requires the administration to promote equality and fairness, ensuring that government services reach all segments of society. It is also expected that the administration must protect the rights of individuals and communities, particularly in the enforcement of laws and delivery of public services.

In summary, democracy shapes the administrative process by promoting accountability, transparency, citizen participation, and the protection of rights. It encourages fairness, ensures legal compliance, and fosters a system of checks and balances that guide how decisions are made and implemented by the administration. These democratic principles ensure that the administration serves the public in an inclusive, fair, and efficient manner, ultimately strengthening the overall governance system.

10.4 Necessity of Understanding the Role of Politics and Administration in Parliamentary Democracy

Politics on the one hand and democracy on the other are deeply intermingled with parliamentary system of government. Politics and administration are not critically related with the effective functioning of the parliamentary system it is also help one to realize the ideals of democracy to the people. The basic character of a Parliamentary system of government is that it is formed with the elected members who remain accountable to the homogeneity and majority support in the Parliament, and to the electorate by whom they are elected in the parliament. So they always are required to set a balance between the policies made by the winning party in power in the parliament and materialization of those policies with the help of bureaucratic administration. So it is essential to understand the roles of both politics and administration. While the political leadership in a parliamentary system (typically the

Prime Minister and Cabinet Ministers) has the power to make policy decisions, the bureaucracy or administration is responsible for implementing those policies.

In the process of understanding the relation between political policy formation by the parliament and the role of bureaucratic administration, the essential factor that is required to know is that both political leadership and bureaucratic administration are outwardly separated from each other. It is generally seen that the policy making and political agendas are apparently carried out without undue interference from political forces. But in actuality greater political forces play a role important for policy making. But bureaucrats generally function impartially, focusing on the practicalities of policy implementation, while politicians remain focused on broader political strategies and decision making. If in any case both politicians and administrators fail to understand their boundaries or overstepped in their roles, the authoritative roles of both ends overreach their authority undermining the democratic process.

Generally while passing any law or policy, parliament decided on the outlines of the goals of the policy. The administration composed with the concern minister (related with the issue of implementing the policy or law adopted in the Parliament) and the departmental bureaucrats and other officials, take care of the policy directives and implement them with its organized efforts under the leadership of the concerned Minister and department.

The traditional norms in a Parliamentary Democracy, the government, i.e. the executive branch are accountable for its functions to the parliament, i.e. the legislature and by extension to the citizens. Thus both the political leadership and administration are expected to do their function cohesively and transparently to maintain public trust and to secure legitimacy of the system. By tradition political leaders are answerable to parliament and the electorate about their policy decision, their execution and their outcome. So they depends on the transparency of the administration in their implementation, processes and upholding public services values such as accountability, fairness and impartiality. A failure to properly balance political and administrative roles can lead to corruption, inefficiency, or mismanagement, eroding public confidence in both the government and the bureaucracy. As for example the administration is expected to become ready to create necessary regulation and managerial arrangement to materialize the laws passed by the parliament. The successful implementation of the administration in compliance with the decision of the parliament is reported to the parliament as an instant of the progress of the policy made by the parliament.

The effective and efficient governance in parliamentary system also depends both on political system and administrative system. So both these units should work in tandem

to legitimise the system to the society. Politicians set the broad policy framework, identify priorities and allocate resources. While administrators focus on ensuring that the bureaucracy operates effectively, applying expertise and resources to archive the political goals set by elected representatives. It is believed that if both these inseparable units: politics and administration understand their respective roles, the probability of misallocation of resources and delay in policy implementation will lead to a smoother and more efficient administration of public services. It is said that effective communication and understanding between politicians and administrators can prevent wasteful spending and ensure that the intended outcomes are met.

In a parliamentary democracy, administration provides continuity and stability even when political leadership changes. While politicians may change through elections, the administrative machinery remains relatively stable. This continuity is essential for long-term projects, as administrators often have more institutional knowledge and expertise. In parliamentary democracy, Political executive works as temporary leaders who are elected in every five years while the administration is a permanent executive, works in the execution process as vocational permanent members of the government. The operation of parliamentary system largely depends on the efficiency and acumanship of administration which helps to ensure that changes in political leadership do not disrupt ongoing programs or long term governmental goals. A strong administrative framework ensures that transitions in political power do not result in a complete overhaul of public services, which can be inefficient and counterproductive. Any long term goal oriented policy of any government can only be successful if bureaucracy can efficiently continue in implementing the policy steadily over time.

A major challenge in a parliamentary democracy is maintaining the neutrality of the civil service while simultaneously acknowledging that it operates within a political context. Bureaucrats must carry out policies impartially and without political bias, ensuring that public administration is based on merit and expertise. At the same time, politicians must acknowledge that the bureaucracy is not a tool for political patronage or partisan gain, but rather a professional body dedicated to public service. The relational dynamism between politics and administration is an important aspect of the parliamentary democracy. The rationality and impartiality of these two ends can only safeguard the risks of political interference in bureaucratic decision-making and ensure that the administration serves the public interest, not political interests. Generally ministers move an issue in the parliament on the preliminary findings and advice of his departmental bureaucrats. So it is normally expected that the administration and bureaucrats will provide neutral advice, that should be free of political influence.

.At the core of parliamentary democracy is the notion that government operates with the consent of the governed and with respect for the rule of law, human rights, and democratic norms. Politics and administration must work together to uphold these values. Politicians are elected to represent the people's interests, but they must also be bound by constitutional constraints and democratic principles. Administrators serve as the backbone of government institutions, ensuring that decisions are implemented in line with democratic norms and those citizens' rights are respected throughout the process. Any civil law passed by parliament must be enforced by administrative bodies in a way that respects individual freedoms and promotes equality. Public administrators must interpret and implement laws in a manner that aligns with the democratic values underlying those laws.

Thus a clear understanding of the relationship between politics and administration in a parliamentary democracy is critical for the successful functioning of democratic governance, ensuring that public policies are not only effectively implemented but are also aligned with democratic principles such as accountability, transparency, and the rule of law. It strengthens the democratic process by ensuring that both elected officials and bureaucrats serve the public interest and uphold democratic values

10.5 Differences Between Political Administration and Administrative Politics

The differences between Political Administration and Administrative Politics may be seen in the following table format:

| | Political Administration | Administrative Politics |
|---------------------|---|--|
| Focus | Political Administration focuses on the efficient and effective implementation of policies and public service delivery, aiming for neutral and impartial governance | Administrative Politics focuses on the political dynamics within the bureaucracy, where decisions are influenced by power struggles, strategic interests, and political negotiations |
| Role of Bureaucracy | In political administration, the bureaucracy is expected to function in a neutral, efficient | In administrative politics, the bureaucracy is an arena where political forces and interests |

| | | |
|-----------------------------------|--|---|
| | manner, carrying out the directives of elected officials without political interference | interact, and bureaucrats themselves can influence political decisions through their expertise and actions |
| Government Structure | Political Administration involves a formal, hierarchical structure where decisions are made by politicians and implemented by bureaucrats | Administrative Politics involves more informal and often hidden decision-making, influenced by the relationships and power dynamics among political and administrative actors. |
| Relationship with Politics | Political administration is focused on policy implementation and service delivery | Administrative politics focuses on how political factors shape decisions within the bureaucracy |

10.5.1 Interconnection between Political Administration and Administrative Politics

Although these two concepts differ in focus, they are closely intertwined in practice. In a democratic system, the political administration ensures that elected officials' decisions are put into practice, while administrative politics often shapes the very nature of those decisions. In practice, bureaucrats may play a significant role in shaping policy directions by providing expertise, managing public resources, and influencing political leaders through administrative politics. Political administration provides the framework for governance, but administrative politics often determines the specific outcomes of policy implementation. For instance, a government's education policy might be shaped by political administration, but the final implementation of that policy can be influenced by political bargaining between bureaucrats, political appointees, and interest groups (administrative politics). This interaction can affect the speed, efficiency, and effectiveness of policy implementation.

Understanding both political administration and administrative politics is crucial for analyzing governance. Political administration is about efficiency and implementation, while administrative politics is about power, negotiation, and influence. Together, they ensure that a government's policies are not only crafted but also executed effectively, while navigating the complex political and administrative landscapes

In summary, political administration is concerned with the execution and implementation of policies set by elected officials, while administrative politics involves the interplay of political influences within the bureaucracy that can shape how policies are enacted. Understanding both concepts is essential for analyzing governance processes and the challenges faced by modern states in balancing political power, bureaucratic efficiency, and public service delivery.

10.6 Democratic Administration and Administrative Democracy

Both Democratic Administration and Administrative Democracy are terms that relate to the governance process, focusing on the relationship between administrative bodies, democratic principles, and the role of citizens in public administration. While both terms center on the idea of democratic involvement and governance, they differ in scope and application.

Democratic administration refers to the administration of public policies in a way that aligns with democratic principles, including transparency, accountability, and participation. It focuses on ensuring that the actions of government bureaucracies and administrative bodies are consistent with democratic values, upholding the rights and interests of citizens. Ensure that government functions with legitimacy and in accordance with democratic values and promote ethical standards in the administration of public affairs. On the basis of these characteristic general people ensured that public policies and services provided to them are inclusive and equitable. It has four characteristics.

a) **Accountability**: A democratic administration ensures that public servants and government officials are accountable to the public and to elected representatives. It is essential that administrative decisions are made in the public interest, with transparency in decision-making processes

b) **Public Participation**: : In democratic administration, citizens are encouraged to participate in the decision-making processes that affect them. This could take the form of public consultations, feedback mechanisms, or involving citizens in policy formation.

c) **Transparency**: Administrative processes should be open and transparent, with clear communication about how decisions are made and how public resources are used.

d) **Equality and Fairness**: A democratic administration ensures that all citizens, regardless of background, have equal access to public services and that decisions are made fairly and justly.

We generally call that governmental administration, democratic which maintain the process of soliciting feedback from the citizens on any proposed changes to any

public policy, ensuring that all stakeholders, including marginalized communities, have a voice in the decision making process. .

Administrative democracy, on the other hand, refers to the incorporation of democratic principles directly into the administrative structure of government. It focuses on the internal functioning of administrative agencies, ensuring that the processes and decisions within the bureaucracy reflect democratic ideals such as representation, participation, and deliberation.

Administrative democracy advocates for decision-making power to be decentralized so that lower-level officials and the public have a voice in administrative actions. Bureaucrats, even at lower levels, may have a degree of autonomy and influence over decisions. More so over decisions within administrative bodies should be made through deliberative processes where multiple voices and perspectives are considered. This involves not only the participation of elected officials but also input from other stakeholders, including civil society, interest groups, and experts.

Administrative democracy emphasizes the creation of formal mechanisms for ongoing public engagement and consultation within the administrative system. This may include advisory councils, public hearings, or participatory budgeting processes. In fact the central component of administrative democracy is ensuring that decisions made by administrative bodies adhere to the rule of law and respect citizens' rights. There should be checks and balances within administrative processes to prevent abuse of power.

The main goal of administrative democracy is to promote democratic decision making administrative agencies, which will ensure that bureaucrats are not just implementing policies adopted by the political leaders in the parliament, but bureaucrats are also engaged in dialogue with the public and social democratic institutions. Because it is believed that the dialogue with the people and other democratic sectors are essential for the desired operation of democratic system. This will increase participatory mentality and inclusive approach to governance within the public sectors.

While Democratic Administration is a broader framework for ensuring that government actions align with democratic principles, Administrative Democracy is a specific form of internal democratic practice within public administration. The two concepts can work together: a democratic administration benefits from administrative structures that allow for democratic deliberation and participation within the bureaucracy. Conversely, administrative democracy requires democratic administration to function effectively within a broader, democratically accountable system.

Although there are some differences between Democratic Administration and Administrative Democracy, which can be presented with help of the following Table format

| | Democratic Administration | Administrative Democracy |
|--------------------------------|---|--|
| Scope | Democratic Administration is broader in scope and refers to how administrative agencies ensure that their actions align with democratic values such as transparency, accountability, and participation. It's about the relationship between administration and democratic governance at large. | Administrative Democracy focuses specifically on how administrative bodies (i.e., bureaucratic structures) incorporate democratic principles internally, ensuring that decisions within the bureaucracy are made with greater public involvement, deliberation, and decentralization. |
| Focus | Democratic Administration emphasizes how public administration serves the broader democratic system. It is about ensuring that the government as a whole works in the public interest and that citizens have a say in public policy. | Administrative Democracy focuses more narrowly on the internal workings of the bureaucracy itself, ensuring that the processes within administrative agencies and institutions are democratic and participatory |
| Public Participation | In Democratic Administration, participation is seen as a broader public function, where the government must be accountable and transparent to the public at large, encouraging citizen input on policy decisions. | Administrative Democracy directly integrates public participation into the administrative process itself, encouraging democratic decision-making at every level of the bureaucracy, often by giving citizens and lower-level officials a voice in daily administrative decisions |
| Decision Making Process | In Democratic Administration, decisions made by bureaucratic agencies and politicians must reflect democratic ideals (e.g., policies should be in the public interest and accessible to all citizens). | In Administrative Democracy, decisions within the bureaucracy itself are made in a manner that is deliberative, participatory, and accountable to the public, creating a more democratic internal structure within administrative agencies. |

In summary, Democratic Administration ensures that public administration is accountable, transparent, and responsive to citizens, reflecting the values of democracy in its actions. Administrative Democracy, however, focuses on embedding democratic principles within the bureaucratic structures themselves, encouraging participation, deliberation, and decentralization within the internal workings of government agencies. Both approaches aim to make governance more inclusive and responsive to the public, but they do so from different angles, one from the broader governance framework and the other from within the administrative structures

10.6.1 Political Administration and Administrative Politics

The terms *political administration* and *administrative politics* are closely related but distinct concepts in the context of governance and public administration. Both play pivotal roles in how government functions, but they focus on different aspects of the interaction between elected officials, bureaucrats, and institutions. They also differ in their function, focus and objectives

Political administration refers to the management and implementation of government policies, laws, and decisions by various administrative bodies. It focuses on the executive function of the government, especially the role of public administration, in carrying out the policies that have been decided by the elected representatives. In that sense its function is that like the public servants, engaged in different sectors to monitor and execute the policy decisions of the Government. Thus in short, the function of the political administration is to ensure that the political decisions made by elected officials are translated into concrete actions and the effects of those decisions are reaching to the targeted people.

10.6.2 Political Administration

Political administration is primarily concerned with the efficient and effective delivery of public services to citizens. It also extends its professional expertise to the 'temporary political executive' to formulate decision and proposal before submission to the Lok-Sabha for debate and discussion. So indirectly the administrative structure and agencies remain responsible for turning policies formulated by politicians into real world. Political administration typically operates through bureaucratic institutions where civil servants work following the established rules and regulation to ensure consistency and impartiality. It is concerned with delivering public services to citizens and ensure the reaching of government programme to the intended beneficiaries properly. In this sense it works in conjunction with the political leadership but remain separate in terms of operational independence.

Thus theoretically, political administration is meant to be neutral and apolitical, focusing on the efficient and fair implementation of policies, regardless of the political party in power.

10.6.3 Administrative Politics

Administrative politics refers to the political aspects of administrative processes—how political influences, negotiations, and power dynamics within the administrative structure affect policy decisions, implementation, and outcomes. This concept highlights that bureaucracy is not a neutral machine but a dynamic space where various actors (politicians, bureaucrats, interest groups) engage in political behaviour to influence decisions.

Administrative politics also refers to the interaction between political leaders and bureaucrats, focusing on how policies and decisions are shaped and influenced by internal and external political pressures. It also includes the power struggles and negotiations between different branches of the government, public officials, and bureaucrats regarding the implementation of policies. It also deals with the question of how and why decisions are made within the administrative apparatus, rather than simply focusing on the technical aspects of policy implementation. This aspect of the administration indicates that bureaucrats is not absolutely neutral machine but dynamic space where various actors, like politicians, bureaucrats, interest group etc., engage in political behaviour to influence decisions.

It has to be remembered that bureaucrats or administrators are not just the passive implementers of the policy adopted by the legislature who only help to shape, alter or resist policies based on their interest, values or relationship with political leaders. They are also an important factor which can by its decision shape political ideology or activities of the ruling party in power. They are the potent medium through which the interest of different parties and pressure of the electorate are being channelized to the decision making process.

The basic features of administrative politics are their process of negotiation and bargain with the elected executives or interest groups before taking any strategic decision. Even they, in some occasion, to secure the support of the stakeholders try to collect fund from them for a specific purpose. Administrative politics are often seen to involve in the distribution of power within government structures. Different administrative units or officials may compete for resources, influence, and decision-making power. A government official using their influence to secure funding for a particular program, are seen to negotiate with elected officials to ensure the inclusion of their priorities in the national budget.

10.7 Conclusion

Indian parliamentary democracy stands as a pillar of governance that reflects the democratic values enshrined in the Indian Constitution. It is built on the principles of representation, majority rule, accountability, and separation of powers. Through its unique structure—comprising the President, Prime Minister, Cabinet, and Parliament—the Indian system strives to maintain a balance between the executive, legislature, and judiciary, ensuring that no single branch wields unchecked power.

The process of administration in India, though complex, is designed to implement the policies formulated by the government and deliver public services effectively. With a vast bureaucratic framework, the administration plays a crucial role in policy execution at both the central and state levels. The role of civil services, particularly through bodies like the Indian Administrative Service (IAS), is central to the functioning of this system, ensuring that decisions reach the ground level, thus affecting the lives of millions..

In conclusion, Indian parliamentary democracy and the process of administration are critical to the functioning of the world's largest democracy. While the system is far from perfect, its foundational principles of democracy, federalism, and accountability continue to guide the country's political evolution. For India to progress, addressing systemic challenges—such as corruption, administrative inefficiency, and political fragmentation—remains key point. By focusing on good governance, judicial accountability, and administrative reforms, India can further strengthen its democracy, ensure more efficient public administration, and deliver better outcomes for its citizens.

10.8 Summary

India follows a parliamentary democracy as laid out in its Constitution, which is a blend of democratic ideals and a system that promotes governance through representative institutions. At the heart of India's parliamentary democracy is the Parliament, consisting of two houses—the Lok Sabha (House of the People) and the Rajya Sabha (Council of States). The Prime Minister leads the government, with the President serving as the ceremonial head of state. This system ensures the separation of powers between the executive, legislature, and judiciary, with an emphasis on checks and balances.

- The executive in India is responsible for policy implementation, with the Council of Ministers headed by the Prime Minister. Bureaucracy, primarily composed of

services like the Indian Administrative Service (IAS), plays a crucial role in the administration by executing the decisions made by the government. The judiciary, with an independent Supreme Court at its helm, ensures that laws and policies are in line with the Constitution and uphold the rule of law.

- The process of administration involves the central and state governments working through a large bureaucratic apparatus to deliver public services and implement national policies. Local governments also play a role in decentralizing power and promoting participatory governance at the grassroots level.
- Despite the strengths of this system, India faces several challenges such as political instability, corruption, and bureaucratic inefficiency, which often hinder governance. Coalition politics and regional demands can sometimes lead to unstable governments, while administrative delays and lack of transparency persist as obstacles to effective service delivery.
- While India's parliamentary democracy and administrative system are fundamentally sound and representative, addressing issues like corruption, bureaucratic reforms, and electoral integrity is essential for improving governance. Through reform initiatives, India can strengthen its democratic processes, ensure more efficient administration, and deliver better governance outcomes for its citizens.

10.9 Key Terms

- A. Administrative Process:** Definition: The administrative process refers to the procedures and steps followed by administrative agencies when making decisions or taking actions.
- B. Administrative Structure:** An administrative structure refers to a complex system of managerial roles responsible for decision-making regarding the maintenance of an industrial plant, including formulating objectives, strategies, organization, and resource allocation.
- C. Legislative Process:** The term "legislative process" refers to the procedure through which a proposed law goes in order to become law.
- D. Parliamentary Democracy:** A parliamentary democracy is a form of government where citizens elect representatives to form the legislative body. The executive branch of the government derives its authority from the legislature and can be removed from power through no-confidence motions in parliament.
- E. Decentralization of Power:** Decentralization of power is the process of moving authority and decision-making from a central authority to lower levels of

government or local institutions. The goal is to make governance more accessible to the people, and to improve the efficiency, accountability, and transparency of public services and policy-making.

- F. Policy:** Policy is a law, regulation, procedure, administrative action, incentive, or voluntary practice of government and other institution Policy decisions are frequently reflected in resource allocations

10.10 Model Questions

- Write a note on the differences between democratic administration and administrative democracy.
- Do you feel it necessary to understand the role of politics and administration in Parliamentary Democracy?
- What are the differences between political administration and administrative politics?
- Write a note on the basic character and features of Indian Parliamentary Democracy.
- What are the roles of democracy in administration? How it determines administrative process?
- What you mean by Administrative Politics?

10.11 Further Readings

- Sujit Narayan Chattopadhyay: *Jana Prosasoner Bishoy Vittik Alochona* (in Bengali) (Object Based Discussion on Public Administration); Shurid Publication, Kolkata, 2022.
- A. Vanaik: *The Painful Transition: Bourgeois Democracy*; Verso, London, 1990.
- B.P.R. Vithal; “Evolving Trends in the Bureaucracy”, in Partha Chatterjee (ed) *State and Politics in India*; Oxford University Press, India, 2022.
- James Manor; “Parties and Party System” in Partha Chatterjee (ed) *State and Politics*; Oxford University Press India, 2022
- Bernard E Brown; *New Direction in Comparative Politics*; Asia Publication, Bombay, 1912
- K. Seshadri: *Studies in Marxism and Political Science*; People’s Publication, New Delhi 1977.
- V.O. Key.Jr.: *Political Parties and Pressure Group*; New York, T.Y.Crowell Co. 1964

Module:- III
Implementing Constitution In
Administration

Unit 11 □ Administrative Law and Executive Power

Structure

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11.1 Learning Objectives

The study involves the understanding of the structures, functions, and limitations of the administrative state, as well as the mechanisms by which executive authority is exercised in a constitutional framework. Followings are the key points for understanding the dynamic between administrative law and executive powers:

- The sources of executive power are constitutional provisions. Constitution vested the executive power primarily on the President, but the actual power is handled by the Prime Minister. The power of executive is limited by the legislature and judicial observation.
- Role of the executive in governance is implementation of laws, enforcement of regulations, and the execution of public policy. But its power is not boundless rather it is limited or controlled by some constitutional process like separation of powers and checks and balances

- It is necessary to know the procedures through which the executive makes decisions and the role of administrative procedures in ensuring that these decisions are consistent with legal principles. How executive agencies create rules and how these rules are developed and enforced.
- For the betterment of democratic procedure the ensuring of procedural fairness is essential. Public participation in administrative rulemaking and decision-making should open the opportunity for transparency and accountability mechanisms in administrative action.
- One of the objectives of this topic is to examine the discretionary powers of the executive and the mechanisms for controlling or limiting this discretion through legal frameworks. Administration as an integral and permanent part of the executive, exercises its judgement on the time of implementing the law.
- Other objective of this topic is to understand how administrative law protects the rights of individuals and ensures that executive power is exercised in a way that respects constitutional rights, human rights, and fairness.
- To analyze the relationship between the executive and the legislature in the context of administrative law, one is required to focus on the mechanisms that ensure the executive is accountable to the legislative body. Here the interplay between executive orders, executive agreements and legislative mandate is an important process
- It is also important to evaluate critically the effectiveness of administrative law in promoting good governance, accountability, and the rule of law in the exercise of executive power.
- This topic will provide a comprehensive framework for studying administrative law and executive power. The relationship between the two is central to ensuring that executive actions remain within legal boundaries, that the rights of individuals are protected, and that democratic principles are upheld. Understanding this relationship is essential for anyone involved in public administration, governance, legal practice, or the study of constitutional law.

11.2 Introduction

Administrative Law is a branch of public law that governs the activities of administrative agencies of government. It involves the rules, regulations, and legal principles that define the powers, procedures, and actions of government agencies, as well as the

rights and remedies available to individuals affected by these actions. Essentially, administrative law serves as the interface between the government and the people it governs, ensuring that administrative actions are legal, transparent, and accountable. Executive Power refers to the authority granted to the executive branch of government to enforce laws, implement policies, and carry out the daily operations of the state. In many political systems, especially in democratic republics, executive power is vested in the head of state (e.g., president, prime minister) and government departments or agencies, often working under the oversight of a legislative body.

11.3 Key Concepts in Administrative Law

Administrative law is a branch of public law that governs the activities of administrative agencies of government. It deals with the rules, regulations, procedures, and actions taken by government agencies in their administrative functions. Administrative law serves as a check on the power of these agencies, ensuring that they act within their legal authority and follow established procedures. For this it enjoys the authority within the boundary of administrative activity, to create regulations or rules that affect the implementation of laws. But these laws should never cross the limit determined by the legislature through its legislation which are again subject to legal scrutiny.

In a modern administrative system, the legislature often delegates authority to the executive branch or administrative agencies to enact detailed rules and regulations. These agencies typically have specialized knowledge in particular areas, such as health, safety, or the environment, and thus are better suited to regulate and enforce the laws passed by the legislature. Administrative agencies have the authority to create rules that interpret or implement statutes. This rulemaking process is subject to certain procedural safeguards to ensure fairness, such as public notice and comment periods.

Administrative agencies often play a quasi-judicial role by resolving disputes, interpreting laws, and enforcing regulations through hearings or other adjudicatory procedures. In this capacity, administrative agencies act as both lawmakers and judges. Courts play a crucial role in administrative law by reviewing the legality of actions taken by administrative agencies. Judicial review ensures that agencies act within their authority, follow due process, and respect individual rights. Here the word 'due process' means that an individual has the right to get a fair treatment in the process of intimating and resolving his legal claim. Individual has also the right to get equal protection under law by the administration while it reviews its claim and right. Here individual enjoys the right to get notice from the authority before adjudication, where

he can claim equal opportunity to state his version to the adjudicator, so that impartial decision is ensured.

The relationship between executive power and administrative law is central to understanding how government functions. While the legislative branch makes laws, the executive branch is responsible for their enforcement. Executive power extends to both the enforcement of existing laws and the creation of regulations to fill in the details of those laws. Administrative agencies, which are part of the executive branch, exercise a large portion of executive power in this regard. This power includes that the executive branch, through administrative agencies, has the authority to create regulations and enforce laws. Many administrative agencies have discretion in how they enforce the laws within their mandate. For instance, a health agency may have the discretion to prioritize certain types of health regulations over others based on available resources or public need. This discretion, however, must still comply with the law and be exercised within the bounds of reason.

The administrative agencies also enjoy the power to enforce regulation and make decision of any dispute, which may involve on any issue related with individual or organization, through adjudication. But generally administrative law limits itself within the decision taken by the government on its policies etc.

The executive branch, particularly the president or prime minister, may issue executive orders or directives that have the force of law. These orders often direct how the executive branch should implement existing legislation, such as creating new regulations, establishing new programs, or clarifying the scope of executive powers. While the executive has significant power, administrative law ensures that agencies remain accountable through oversight by the legislature, judicial review by the courts, and other mechanisms. Administrative law highlights the separation of powers between the branches of government—legislative, executive, and judicial. While administrative agencies are part of the executive branch, they often perform functions that overlap with the legislative and judicial branches, such as rulemaking and adjudication. This intersection requires a careful balance to prevent the abuse of power and protect democratic principles.

Administrative law serves as a vital tool for the regulation of the executive branch's activities, ensuring that it operates within the boundaries set by the constitution and legislative acts. It provides a framework for regulating how agencies exercise executive power, making sure that their actions are lawful, transparent, and accountable. In a democratic society, administrative law helps to ensure that the exercise of executive power is consistent with the principles of justice and the rule of law.

The compliance of administrative laws with the government's decision can be judged or reviewed by the Courts. Court's interpretation in this regard generally treated as final. Administrative law balances the need for effective government action with safeguards against arbitrary or overreaching decisions by administrative bodies. It is important in regulating sectors like environmental protection, immigration, labour relations, and public health.

11.3.1 The Process of Determining Administrative Law

Administrative agencies are empowered by legislation to create detailed rules or regulations that implement the broad policies established by lawmakers. The rulemaking process typically includes some specific procedures, which are important to make regulations or rules. In such cases the agency should have the authority (delegated by the legislature) of making rules within a specific domain. But before enforcing the rules the concerned authority should bring it through Notice to the person, which includes detail about the proposed rule and the rationale behind it. On circulation of the notice the concerned groups or interested parties can submit their comments and observations. The agency is expected to review those public comments and may modify the proposed rule to improve its clarity and publish the final rule which includes the responses made on the draft. Once finalized, the rule published in the official register and becomes legally binding.

At the time of enforcement of the accepted rules, the agencies also issue necessary guidelines that how it will be applied in practice. Monitoring the implementation process and its aftermath effects along with the cases of potential violation are most important part of this process. In case of potential violation of the circulated rules, the agency can impose sanction such as fines, orders to cease and desist or revocation of the benefits.

Administrative agencies can also resolve disputes involving the rules they enforce. If a party disputes an agency's enforcement action or rule interpretation, the matter may go before an *Administrative Law Judge* (ALJ). The ALJ conducts hearings to examine the facts and apply the law to resolve the dispute. After hearing the case, the ALJ issues a decision, which may include a ruling, an order to comply, or other remedies. Parties dissatisfied with the ALJ's decision can often appeal to a higher level within the agency, such as an administrative board or commission. In some cases, the dispute can also be appealed to a court.

Administrative decisions can be challenged in court. Courts play a role in reviewing the actions of administrative agencies to ensure they comply with legal standards. The

party challenging the agency's action must show they have hampering a direct interest or stake in the matter. Courts generally review whether the agency has acted within its authority, followed proper procedures, and made reasonable decisions based on the law. Courts typically apply a "deferential" standard of review, meaning they give weight to the agency's expertise, unless the action is deemed arbitrary, capricious, or in violation of statutory or constitutional law. If a court finds that an agency has acted unlawfully, it may issue remedies, such as reversing the agency's decision, ordering it to follow proper procedures, or requiring a re-examination of the case.

As administrative agencies interpret laws in their rulemaking and adjudication, they set precedents and guidelines for how the law will be applied in future cases. This "agency interpretation" plays an essential role in shaping administrative law.

The process of determining administrative law is complex and involves a combination of rulemaking, enforcement, adjudication, and judicial review. It allows administrative agencies to carry out detailed, technical regulations while ensuring that they operate within the bounds of the law and remain accountable to the public and the courts. The goal of this process is to ensure that government actions are consistent with legislative intent, fair to individuals, and transparent to society.

11.4 The Executive Power in Parliamentary Democracy

In a parliamentary democracy, the executive power is vested in a government that is accountable to the legislature (parliament). The key characteristic of a parliamentary system is that the executive is drawn from and dependent upon the support of the elected legislature. In most parliamentary systems, the Prime Minister (PM) is the central figure in the executive branch. The PM is typically the leader of the political party that has the most seats in the lower house of parliament. After elections, the head of state (President) invites the leader of the majority party (or coalition) to form a government. The PM usually works in conjunction with a Cabinet, consisting of other ministers who are responsible for specific areas e.g., finance, foreign affairs, and defence. These ministers are appointed by the PM from among the elected members of parliament.

In a parliamentary system, the government as a whole (the PM and the Cabinet) is collectively responsible to parliament. If the government loses a vote of confidence in the lower house, it must resign or call new elections. The Cabinet typically operates on the principle of collective decision-making. Even if individual ministers disagree

with a policy, they are expected to publicly support it once a collective decision is made. The executive (the PM and Cabinet) is directly accountable to the legislature. The PM and other ministers are usually members of parliament themselves, and they must maintain the support of the majority in the lower house to remain in office. Parliament plays a crucial role in overseeing the actions of the executive. Parliamentary committees scrutinize government policies and actions, ensuring accountability.

The Prime Minister is the head of government and holds real executive power. In countries with a parliamentary system, the PM is responsible for running the government and making policy decisions, while the head of state's role is typically limited to ceremonial functions (e.g., representing the country in diplomatic matters, granting royal assent to legislation).

In a parliamentary democracy, the executive power is vested in the Prime Minister and the Cabinet, who are drawn from and accountable to the legislature. The close link between the executive and legislature allows for effective government formation and lawmaking, but also presents challenges such as instability in coalition governments or the concentration of power in the hands of the majority party. The system's flexibility and efficiency, however, make it a widely adopted model of governance in democratic countries.

11.4.1 Sources of Executive Power

In a parliamentary democracy, executive power derives from various sources, both legal and institutional, which collectively empower the government (the executive branch) to carry out its functions and responsibilities. The constitution (or constitutional laws) is the most fundamental source of executive power in any parliamentary democracy. It defines the structure and powers of the executive, outlining the roles of the head of state, head of government (Prime Minister), and the Cabinet. In India, the written constitution explicitly enumerates the powers of the executive, including the roles of the President (ceremonial head of state) and the Prime Minister (head of government).

In parliamentary systems, parliamentary sovereignty is a key concept. It means that the parliament has supreme legal authority and can create or end any law, and no other body, including the executive, can override its decisions. However, the executive derives its legitimacy and authority from the majority support in the legislature. The PM and Cabinet are accountable to parliament, and their powers are subject to the will of the legislature. If the government loses a vote of confidence in parliament, it must resign or call for elections.

In most parliamentary democracies, the head of state is a key source of executive power. While the head of state typically performs symbolic and ceremonial duties, they still hold formal constitutional powers. In most cases, the head of state formally invites the leader of the majority party in the legislature to form a government. This process is called government formation. The head of state often has the power to dissolve parliament and call for new elections, though this power is generally exercised on the advice of the Prime Minister. In India, the President (the head of state) has certain constitutional powers to act on the advice of the Prime Minister and the Council of Ministers. In practice, however, these powers are exercised according to established conventions, meaning the President acts on the advice of the PM, maintaining the separation of powers.

The Prime Minister is the central figure in the executive branch of a parliamentary democracy. The PM is typically the leader of the political party (or coalition) that holds the most seats in the lower house of parliament. This majority support provides the PM with the authority to form a government and implement policies. The PM has the power to shape government policy and provide direction to the Cabinet. As head of government, the PM oversees the day-to-day functioning of the executive branch, ensuring that laws are implemented and policies are executed.

Legislation passed by parliament is another key source of executive power. Parliament may pass laws that grant executive authority to the government to implement policies and manage various sectors. Parliament may delegate certain powers to the executive through enabling legislation, such as promulgation of ordinances. Statutory laws can empower the government to issue regulations, make decisions on administrative matters, and take executive actions within the framework of the law.

Much of the executive power in a parliamentary system is also derived from political conventions and traditions that are not codified in law but have developed over time. These conventions play a crucial role in the functioning of the government and the distribution of executive power.

For example, the principle of collective responsibility holds that the entire Cabinet is collectively responsible for government decisions, even if individual ministers have different views. The advisory role of the Prime Minister to the head of state is largely based on historical precedent, not legal mandate.

In a parliamentary system, the executive also draws power from public support and political legitimacy. The executive branch's ability to govern effectively depends in part on the confidence of the electorate and the political backing of the majority party.

(or coalition) in parliament. Political parties and their leaders depend on maintaining the confidence of their base and the broader electorate to stay in power. If public support erodes, the government may face calls for resignation, loss of parliamentary majority, or even early elections.

The civil service or bureaucracy is a significant source of executive power. The bureaucracy implements the policies set by the elected government and provides continuity and expertise in governance. The executive branch has significant control over the operation and direction of public administration.

Together, these sources form the basis of executive power, ensuring that the executive operates within the framework of democratic governance and accountability.

11.5 Interrelationship Between Administrative Law and Executive Power

Administrative law and executive power are closely interconnected in a parliamentary democracy, as administrative law governs the actions and decisions of the executive branch (particularly the government and its agencies) while ensuring that those actions are legally sound, transparent, and accountable. To understand the interrelationship between these two concepts, both are to be discussed separately.

Nature of Executive Power:- In a parliamentary democracy, executive power refers to the authority vested in the Prime Minister and the Cabinet (the government) to implement laws, manage public administration, and direct policy. The executive is responsible for enforcing and carrying out the laws passed by parliament, managing public resources, and overseeing government agencies and the bureaucracy. The executive's actions, however, cannot be arbitrary or unchecked. Administrative law regulates the exercise of executive power by providing a legal framework that ensures administrative actions are lawful, fair, and consistent with the principles of justice.

Administrative Law in the context of Executive Power:- Administrative law provides rules that regulate how the executive branch exercises its powers, especially through government agencies and civil servants. The government exercises significant discretion in policymaking, rulemaking, and implementing laws, but administrative law ensures that these actions remain within legal boundaries. Administrative law requires that the executive acts only within the scope of powers granted by law. This principle of legality means that the executive can only perform acts authorized by legislation or, in some cases, by established legal principles. Administrative law establishes that the

executive must follow due process, which includes procedures for decision-making, ensuring fairness, transparency, and accountability when taking actions that affect individuals' rights or interests

Administrative Discretion and Its Limits:-One key aspect of executive power is the exercise of discretion by government agencies or officials in administrative decisions. For instance, the government may have the discretion to grant licenses, enforce regulations, or allocate resources. Administrative law sets limits on the exercise of discretion, ensuring that decisions are made within legal boundaries and not arbitrarily or capriciously. Courts, through judicial review, can examine whether the executive's discretionary decisions are made lawfully and in good faith, and whether they comply with principles such as proportionality, reasonableness, and non-discrimination.

Public Administration and Accountability:-The executive branch is responsible for administering the laws of the land through government agencies and the civil service. Administrative law governs the functioning of public institutions and their interactions with individuals and groups. It provides legal standards for: social welfare programs to environmental regulations, administrative law ensures that government actions are justified by law and are carried out in accordance with proper procedures. Administrative law holds government agencies accountable for their decisions and actions. Citizens can challenge the executive's decisions through legal avenues such as administrative tribunals or courts. Administrative law often mandates that executive actions be recorded and made publicly available, ensuring transparency. It also ensures that individuals have access to the reasons behind government decisions (e.g., the right to reasons for a denial of a permit or the imposition of a fine).

Separation of Powers and Checks and Balances:- Administrative law also plays a vital role in maintaining the separation of powers between the executive, legislature, and judiciary. While the executive has the power to implement laws and govern, its actions must be subject to legal limits imposed by the legislature (through statutes) and checked by the judiciary (through judicial review). The executive is not above the law, and administrative law ensures that it remains accountable and transparent, preventing the abuse of power and ensuring that decisions made by government agencies are legally sound and justified.

To sum up Administrative law helps translate public policy into administrative actions. The executive branch often develops and implements policy decisions that affect citizens' daily lives (e.g., public health, education, taxation). Administrative law provides legal mechanisms to ensure that such policies are implemented fairly and in a manner

that respects citizens' legal rights. It also provides a framework for individuals to challenge executive actions that appear to violate public policy or legal principles.

11.6 Dominance of Executive Power over Administrative Law

The dominance of executive power over administrative law refers to situations where the executive branch of government exercises significant control or influence over the processes, procedures, and decisions that fall within the scope of administrative law. While administrative law is meant to regulate and limit the actions of the executive to ensure legality, fairness, and accountability, there are instances where the executive can be seen as asserting greater influence or control over administrative actions, sometimes challenging the balance of power in a democratic system.

There are key factors and explanations for how executive power might dominate or influence administrative law. One of the primary ways the executive can dominate administrative law is through delegated legislation or subordinate legislation. This allows the executive branch to create rules, regulations, and guidelines that have the force of law, often without direct parliamentary involvement. Administrative agencies are the primary means through which the executive implements public policy. These agencies often exercise significant discretion in applying the law and administering government programs. The government (PM and Cabinet) often has considerable power over these agencies. By appointing the heads of agencies the executive can hold its influence and priorities on these agencies. In liberal democratic system the change of government, in many occasion, can lead to the replacement of agency leader and also the priorities of the agencies. The executive controls the allocation of funds to various government agencies. Budget constraints can influence how agencies enforce regulations and implement policies. In parliamentary democratic system the executive may set broad policy goals and priorities that agencies must follow. If the executive demands certain outcomes, agencies may be pressured to meet these expectations, even if they conflict with legal principles or the interests of affected parties.

The executive branch typically exercises significant discretion in areas of administrative law, especially in matters of enforcement, regulation, and implementation of laws. This discretionary power of the executive may control the issuance of licenses, permits, or approvals (e.g., business licenses, immigration permits), which gives the executive considerable influence over individuals and businesses. Government agencies, under the executive branch, have broad powers to enforce laws and regulations.

These include powers to impose fines, issue orders, or take corrective actions, often without direct oversight by the legislature or judiciary.

The executive branch often has enhanced powers in times of national emergency, crisis, or war. In such cases, the executive may have the authority to take actions that override or bypass regular administrative processes and procedures, sometimes resulting in the suspension of certain legal norms. During Emergency the executive may have the power to issue decrees, enforce curfews, or suspend certain regulations to address an emergency (e.g., natural disasters, public health crises, or national security threats). In some cases, such powers may be used in ways that limit accountability or judicial oversight, leading to dominance over administrative law.

While judicial review is a key mechanism for ensuring executive compliance with the law, there can be situations where the executive branch attempts to limit or influence judicial review of its actions. In some cases, the executive may pass laws that limit judicial review over certain actions or decisions, such as national security measures or foreign policy decisions, thus limiting the ability of the judiciary to scrutinize administrative decisions..

Erosion of Administrative Independence While executive power is essential for implementing public policy and administering government functions, the dominance of executive power over administrative law can raise concerns about the separation of powers, accountability, and democratic governance. Ideally, administrative law provides a framework to ensure that executive actions are lawful, transparent, and fair. However, in practice, the executive often has substantial influence over administrative law through delegated powers, discretionary authority, and political control over agencies. The key challenge lies in maintaining an appropriate balance between the executive's need to govern effectively and the role of administrative law in preventing the abuse of power and safeguarding the rights and freedoms of individuals. Checks and balances, including judicial review, legislative oversight, and strong administrative safeguards, are essential to ensure that executive power is exercised in a lawful and accountable manner, respecting the principles of democracy and the rule of law.

11.7 How Administrative Law legitimise Executive Power

Administrative law plays a crucial role in legitimizing executive power in a democratic system by providing the legal framework and rules that govern how executive authority

is exercised. While the executive branch is empowered by the constitution and the legislature to enforce laws and implement policies, administrative law ensures that the exercise of executive power remains within legal bounds, accountable, fair, and transparent. There are some ways in which administrative law legitimizes executive power. Primarily the administrative law ensures that executive power is derived from and exercised in accordance with legislation passed by parliament or the legislature. It sets the legal parameters within which the executive may act, ensuring that its powers are clearly defined and limited.

Administrative law is integral to ensuring that executive actions are subject to the rule of law, meaning that government actions must be lawful, reasonable, and justified. By setting legal standards and procedures for how the executive should act, administrative law ensures that executive power is exercised in a way that upholds constitutional principles and legal norms. Executive actions, such as issuing regulations, granting licenses, or enforcing laws, must be legally justified and based on statutory authority. Administrative law provides the standards for assessing whether executive actions comply with the law. If an agency enacts a regulation or enforces a policy, administrative law requires that the executive body acts within the powers granted by parliament, preventing arbitrary or unlawful actions.

Procedural Fairness: Administrative law ensures that the executive operates fairly and transparently by mandating clear and open decision-making processes. The executive must follow due process when making decisions that affect individuals' rights or interests, ensuring that decisions are not arbitrary or discriminatory. Executive decisions often must be justified with reasons, and the reasoning must be documented. Administrative law requires that the executive provide reasons for its decisions, especially when they affect an individual's rights or interests. This helps ensure that the executive is accountable to the public. The discretions which is enjoyed by the executive, are not arbitrary but these are limited by the set of laws passed in the legislature. The administration is liable to ensure that the discretions used by the executive are reasonable and proportionate to objectives of aim which has been set by the parliament. If in any case an executive agency makes a decision that is disproportionate or unreasonable, then it can be challenged in the court. Court can review the legality of executive decisions, before ensuring the action of the executive. This, no doubt, helps to reduce the probability of abusing power. Court in such cases mainly emphasized the need for the executive to exercise its discretion in a manner that is reasonable and consistent with constitutional principles, particularly in areas like public administration and welfare.

Administrative law ensures that executive actions do not infringe upon individual rights and freedoms. It provides mechanisms for individuals to challenge executive decisions that violate their legal rights. Administrative law provides individuals with the right to challenge executive actions that adversely affect them, such as unlawful government decisions, wrongful denials of benefits, or improper administrative sanctions. In many countries, citizens can challenge executive decisions in administrative tribunals or courts. This gives individuals a legal avenue to seek redress when they believe their rights have been violated by government actions.

One of the main functions of administrative law is to regulate the exercise of delegated powers by the executive. Legislatures often grant the executive certain powers to create rules and regulations that are needed for the implementation of laws. Administrative law legitimizes these powers by ensuring that the delegation is made within appropriate constitutional and legal boundaries. Legislature cannot delegate powers in a way that undermines democratic principles or leads to unchecked executive authority. Delegated powers must be exercised within the scope defined by the legislature and cannot be used to make fundamental changes to laws. Administrative law legitimizes executive power by providing a legal and procedural framework within which the executive operates. It ensures that executive actions are not arbitrary but are grounded in law, subject to oversight, and accountable to the public. Through principles like legality, accountability, transparency, and due process, administrative law prevents abuse of executive power and reinforces the rule of law. This, in turn, strengthens the legitimacy of executive actions, as they are perceived as both legally valid and consistent with democratic principles.

11.8 Conclusion

Administrative law plays a critical role in the governance framework by regulating the actions of executive agencies and ensuring that their exercise of power is lawful, fair, and accountable. It provides the mechanisms for the executive branch, which is responsible for enforcing laws, to operate effectively while adhering to principles of justice, due process, and transparency.

Executive power, vested in the president, prime minister, or other heads of state, is crucial in implementing and enforcing legislation passed by the legislature. However, this power is not without checks and balances. Through administrative law, the executive's actions are constrained by rules, procedural safeguards, judicial review, and the principle of accountability to both the legislature and the public.

The balance between executive power and administrative law is essential for upholding the rule of law, preventing overreach, and protecting citizens' rights. While administrative agencies are empowered to create regulations, enforce laws, and adjudicate disputes, they must do so within the confines of their delegated authority and under the oversight of both the judiciary and the legislature.

In conclusion, administrative law ensures that executive power is exercised responsibly and with respect for the legal limits set by the constitution and statutes. It provides the necessary structure for administrative agencies to act efficiently while ensuring that they are held accountable for their decisions. Ultimately, administrative law and executive power work together to maintain the integrity and functioning of government, balancing the need for effective governance with the protection of individual rights and democratic principles.

11.09 Summary

- Administrative Law is a branch of public law that governs the actions of government agencies, ensuring that their decisions, regulations, and procedures are lawful, fair, and transparent.
- It provides a framework for the regulation and enforcement of laws, the creation of rules, and the resolution of disputes through agency adjudication. Administrative law also protects citizens' rights by ensuring that agencies act within their legal authority and follow due process.
- Executive Power refers to the authority granted to the executive branch of government (e.g., president, prime minister, government agencies) to enforce laws, implement policies, and manage the day-to-day operations of the state. This power includes enforcing existing laws, issuing executive orders, and regulating specific areas of public life, often through specialized administrative agencies.
- The relationship between administrative law and executive power is vital. Administrative law regulates how executive agencies exercise their power, ensuring they do so within the scope of their legal mandate and in a manner that respects constitutional principles.
- It also provides mechanisms for judicial review, enabling courts to oversee and check executive actions that may exceed their authority, are arbitrary, or violate the rights of individuals.

- Administrative law ensures that executive power is used effectively and lawfully, balancing the need for efficient governance with safeguards to prevent abuse of power. By establishing rules and procedural safeguards, administrative law helps maintain accountability, transparency, and respect for the rule of law in the exercise of executive authority.

11.10 Key-Terms

- A. Administrative Law:** Administrative law is the collection of laws that regulate the functioning of federal and state government agencies. Administrative laws dictate how governmental agencies are created as well as the rules under which they function.
- B. Administrative Law Judge:** An officer in a government agency with quasi-judicial functions including conducting hearings, making findings of fact, and making recommendations for resolution of disputes concerning the agency's actions. called also administrative judge.
- C. Executive Power:** Executive power is the authority to manage an organization or government, and to enforce and carry out laws. It can also refer to the administrative position that holds this power.
- D. Authority:** The authority means the power to give orders or make decisions. Authority is the power or right to direct or control someone or something.
- E. Public Law:** Public law is a branch of law that governs the relationship between the public and public bodies, such as the government and other organizations. It also regulates the interactions between individuals and the government.

11.11 Model Questions

- Write a note on the characteristics of Administrative Law
- What are the sources of Executive power?
- How Administrative Law legitimise Executive Power?
- How executive power dominates administrative law?
- Write in detail the relation between administrative law and executive power.
- Discuss the nature of executive power in parliamentary democracy.

11.12 Further Study

- Peter Self: *Administrative Theories And Politics: An Enquiry into the Structure of Modern Government*; S.Chand and Co. Ltd. New Delhi 1981.
- A.Dunsire (ed): *Making of an Administrator*; Manchester University Press 1956.
- W.A.Johr and H.W.Singer: *The Role of Economist as Official Adviser*; London 1955.
- W.J.M.Mackenzie and J.W.Grove: *Central Administration in Britain*; London, 1955.
- Sujit Narayan Chattopadhyay: *Janaprosasoner Buniad (in Bengali)* ; Shurid Publication 2021.
- Martin Meyerson and Edward C Banfield: *Politics, Planning and the Public Interest*; New York 1955.
- Sujit Narayan Chattopadhyay: “Academic Administration and Library Administration” in Dibendu Paul (Ed) *Resource Management in Academic Library: System and Tools*; University of Calcutta, UGC Academic Staff College, 2011.
- Maniram Sharma: *Public Policy in India*; Mahaveer publication 2023.

Unit 12 □ Problems of Modern Administration : Reviewing Decentralization

Structure

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- 12.11 Further Study**

12.1 Learning Objectives

The basic objective of this topic is to understand the challenges recently faced by the modern administration, which stems from rapid technological advancement and growing trends of global inter-connections. These factors constantly increasing the problems like:

- Complexity of bureaucratic functions.
- Tendencies of developing a new hierarchical structure within the administration.
- Application of standardized rules and pattern of civil life.
- It is also impacting on the scope of administration to get touch with the changing life pattern of the society.
- The changing situation always demanding to the administration to co-op new technology and digital transmission of administrative order or regulation.
- Rapid Globalization makes it imminent to the administration to become more interconnected with social economic and political system.

12.2 Introduction

The “Problems of Modern Administration” refers to the complex challenges faced by public and private sector organizations in the contemporary world. As administrative structures have evolved, especially with globalization, technological advancements, and increased public expectations, the nature of administrative problems has also become more multifaceted. The administration today must balance efficiency, accountability, transparency, and innovation while managing diverse stakeholders, political pressures, and resource constraints.

This is no doubt a typical situation cropped up during post modernization before the administration. To face the challenges of modernity the administration is required to adopt a different dimension. Modern administration is also required skilled leadership, innovative approaches, and an ability to balance competing priorities. Effective administration is crucial to achieving social, economic, and political goals. To administration it is also a challenge to address these challenges especially for maintaining public trust and ensuring the successful delivery of services in a rapidly changing world. To resolve this problem it is necessary for the administrators to evolve continuously updating their strategies to cope with the dynamic nature of governance, technological innovation, and societal needs.

Using the advantage of decentralized process in political and economic ruling, the modern administration can bring both benefits and challenges. While it is often praised for promoting local autonomy, flexibility, and responsiveness to regional needs, it can also present significant problems for effective governance and policy implementation.

Though outwardly the process of decentralization has some advantages, but sometimes it also creates some problem before the administration. Decentralization, while designed to improve governance by allowing more local input and decision-making, can create significant administrative challenges. To mitigate these problems, it is crucial for decentralization to be accompanied by effective coordination mechanisms, clear divisions of responsibility, adequate capacity-building at the local level, and strong accountability systems. Otherwise, decentralization risks leading to inefficiency, inequality, and fragmentation within the administrative system.

12.3 Key Problems in Modern Administration

Bureaucratic structures, though essential for organization and coordination, often result in excessive formalism, rigid procedures, and slow decision-making. The focus on rules and regulations can hinder innovation, responsiveness, and adaptability, leading to inefficiency in addressing modern challenges. Political pressures frequently influence administrative decisions, undermining the impartiality and effectiveness of governance. The challenge of balancing political directives with administrative professionalism often leads to concerns about accountability, transparency, and integrity in public administration.

Technological Change and Adaptation at a very quick pace sometimes becomes a irresolvable problem before the administration. This especially happens when the administration fails to follow the changing phase of technology and its excellent varieties in transacting emerging the issues. The rapid pace of technological advancements has presented both opportunities and challenges for modern administration. Administrators must continuously adapt to new technologies that can improve service delivery, enhance data management, and increase efficiency. However, the implementation of new systems often involves high costs, cyber security concerns, and the need for staff retraining. Naturally this technological excellence has increased the expectation of the people in resolving their issues. Not only have that, citizen in general also demanded faster government services, higher quality in fulfilling their expectations. Meeting these expectations, especially in the face of limited budgets, is a significant challenge. The tension between providing universal services and ensuring equity can also pose difficulties in public administration.

Globalization has created a more interconnected world, where administrative decisions are increasingly influenced by international policies, treaties, and economic factors. This has led to the challenge of managing local governance within the context of global economic pressures, cultural exchanges, and migration patterns. This is of course one side of the story, but its other side, the decision making has no doubt become complex and multi-dimensional especially due to globalization and net-work based interconnectedness with any part of the world. To navigate this properly modern administration requires complex interdisciplinary approaches and activities. Administrators must manage not only the technical aspects of their work but also the political, social, and ethical considerations of decision-making.

This complexity makes it difficult to achieve consensus and implement effective policies. Primarily to face the pace of time and challenges of the changing situation, administration requires skilled, motivated and competent staff. These are essential to make the administration effective and time-befitting. This requires a replacement of old technique of recruitment, retention, training, motivation of employees. These have a direct impact on the efficiencies and success of administrative functioning or their process of operation.

The concept of modern administration, especially since the emergence of globalization, lost its hitherto capacity to face the problems of labor unions, strike or work condition like problems stem from the lower rung of the administrative structure. In modern times, the majority of employees are not classified as workers. Most of them belong to the category of “skilled Technician” or “skill soft-ware technicians”. This change has also affected the administrative system. There is a difference between the control of worker employees and their professional connections of bygone past, as well as the professional connections of the new generation.

Added with this problem of changing phase, Corruption and ethical issues have not been eliminated from the administration yet. Whether through bribery, nepotism, or mismanagement of public funds, corruption erodes public trust and undermines the legitimacy of administrative institutions. Ethical decision-making and integrity are ongoing concerns in many parts of the world.

On the top of this, there is financial crisis and insufficient capital. All of this is reflected in the country’s budget. The administration has to work with these challenges. While keeping an eye on the direction of modern changes, it must adhere to the social responsibility and constitutional obligations of advancing the country. Many modern administrative bodies face financial challenges, with limited resources to meet the growing demands of their constituencies. Balancing budgets, ensuring fiscal discipline, and finding innovative solutions to finance public services are ongoing issues. Financial mismanagement or insufficient funding can lead to the breakdown of services or the failure to achieve policy objectives.

Thus in the era of modernization administration to get positive and successful result , primarily requires interdepartmental coordination Effective administration requires the coordination of multiple departments or agencies, each with its own set of priorities, resources, and expertise. Achieving seamless communication and collaboration between these departments remains a significant challenge, often leading to inefficiencies, delays, or duplications of effort.

12.04 Problems of Complexity and Bureaucracy

Modern administration faces a variety of challenges, many of which stem from rapid technological advancements, global interconnectedness, changing societal values, and evolving government expectations.

Prime problem of Modern administrations is its large, complex bureaucracies. It is normally expected it would show response to the changing pattern of newly emerging situation. But unfortunately its slow response to the change creates lots of problem. The slow pace of bureaucracy and its law-dependent red tape are not in sync with the modern changes in administration. On the contrary, they disrupt the natural rhythm of governance. As a result, people in society lose their reliance on the administration. The layers of regulations, rules, and procedures meant to maintain order can lead to inefficiencies and lack of flexibility. The ultimate effect of bureaucratic red tapism can hinder innovation, cause delays in decision-making, and create frustration among citizens and employees alike.

General believe of civil society regarding bureaucratic complexity is that it not only deprives society of its expectations but also breaks the natural trust people have in the bureaucracy. People begin to believe that social needs can never be met with the help of bureaucracy. As a result, the distance between the bureaucracy and the general public gradually increases. Complexity of Bureaucracy refers to the intricate structure and procedures that define bureaucratic organizations, which are often large, hierarchical, and rigid. Bureaucracy, as a form of administration, is characterized by a set of formal rules, regulations, and hierarchical authority. These features can create complexities that make the functioning of the organization both efficient in certain contexts and challenging in others. This rigidity, in many occasions, while it brings discipline within the administrative system, also creates a negative perception of bureaucratic advantages due to its frustrating time-consuming nature. One of the negative aspects of modernity is that it divides society into classes and primarily increases the distance between people. The social expectations of those from lower classes are often lost their expectations under the pressure from the upper classes. The administration essentially becomes the spokesperson of the upper classes' expectations. For the people in the lower strata, the bureaucrat remains merely a representative of the ruling system.

Bureaucracies typically have multiple levels of hierarchy, with each level having clearly defined roles, responsibilities, and authority. This creates a clear chain of

command, where decisions and actions are filtered through various layers. While the hierarchy ensures order and specialization, it can also lead to delays in decision-making as requests or orders move up and down through the levels. The more hierarchical the system the longer it can take to address issues or implement changes. This hierarchical stratification, on one hand, establishes a division of labour; while on the other hand, it increases the complexity of bureaucracy for the common people. Often, ordinary people do not even understand whom to approach for their needs or who will address their administrative requirements. As a result, the distance between the administration, the bureaucrats, and the general public often widens. Bureaucracy becomes an administrative machine disconnected from society. Yet, the modern system supports this hierarchical structure and promotes it as a characteristic of modernity. This is because, as a result, bureaucracy cannot directly intervene in the activities of the upper class. It must do so through the established rules and regulations. Therefore, one of the main claims of modernity is that the hierarchical system is one of the key signs of the modernity of administration. Along with this hierarchical structure bureaucracies emphasize specialization, where individuals perform specific tasks according to their roles and expertise. The division of labour ensures that employees focus on tasks they are skilled at. Another facet of modernity is specialization. Specialization increases efficiency in certain areas but can also lead to fragmentation of work. Employees might become so focused on their narrow tasks that they lose sight of the bigger picture, or communication across departments may suffer.

Standardized Rules and Procedures are another feature of modern bureaucracy. Bureaucracies operate based on formal rules, regulations, and procedures that are meant to ensure consistency and fairness. These guidelines dictate how work is done, how decisions are made, and how services are delivered. While standardized rules prevent arbitrary decision-making and provide structure, they can also lead to rigidity and a lack of flexibility. Adapting to unique situations or emergencies may be difficult when rules are too strict or outdated.

Red Tape and Administrative Delays have become a common character of modern bureaucratic system the term “red tape” refers to excessive regulation or rigid conformity to formal rules that result in delay or inaction. Bureaucratic systems often involve complex paperwork, approval processes, and formalities. The need to follow numerous procedures and obtain multiple approvals can slow down processes and hinder the timely implementation of policies, services, or changes. Citizens or employees may become frustrated with inefficiency. Even though red tape is an unavoidable flaw of modern bureaucracy, no attempts have been made to correct it so far. However,

it is not true that everyone in society suffers from the problem of red tape. While this issue is difficult for people from the lower strata, it is not as challenging for those from the upper strata. Here too, there is a direct role of social class division. In fact, in order to maintain the social class structure and further intensify the differences, modern bureaucracy has been restructured under the guise of a new system, while keeping the old structure intact.

The large size of modern bureaucracy has created a new problem as well as challenge of coordination among different strata of hierarchy. Due to the large size and segmented functions of bureaucracies, coordination between departments or units can be challenging. Each department or unit may have its own priorities and workflows, leading to soloed operations. Lack of coordination can result in overlapping efforts, misunderstandings, or missed opportunities for collaboration. It may also lead to confusion in terms of who is responsible for what, and lead to inefficiency.

One of basic target of modern Bureaucratic systems is to prioritize stability, predictability, and adherence to established procedures. As a result, they may be resistant to change and innovation. So the bureaucracy can struggle to adapt quickly to any new challenges of technologies, or societal shifts. This resistance to change can make bureaucratic organizations slow to innovate or respond to modern needs. Bureaucracies often have multiple layers of oversight and accountability to ensure that actions are aligned with policies and regulations. This helps to prevent corruption or misuse of power. While accountability is essential, too many oversight mechanisms can complicate decision-making. Multiple checks and balances may slow down decision-making processes and lead to confusion about who is ultimately responsible for specific actions. As for example in large bureaucracies, communication can be obstructed by the multiple layers of hierarchy and specialization. Information may be filtered, distorted, or lost as it moves between different levels and departments. Poor communication can lead to misunderstandings, inefficiencies, and errors in decision-making. Crucial information may not reach the right people at the right time, which can hinder effective operations.

One of criticism placed against the employees in bureaucratic systems typically have clearly defined roles and responsibilities. There is little room for individuals to take initiative or make decisions outside of their designated duties. This lack of empowerment can lead to a sense of disillusionment among employees. It may also discourage creativity and problem-solving, as workers are often expected to follow strict guidelines rather than adapt to new or changing circumstances.

. While bureaucracy's complexity ensures order, accountability, and systematic operation; it can also present significant challenges, particularly when it comes to speed, innovation, and adaptability. Bureaucratic systems are sometimes criticized for being slow, rigid, and inefficient, but they can also provide a structure that allows for organization, consistency, and legal oversight. In modern administration, finding a balance between bureaucratic structure and flexibility is key link to effective governance and organizational efficiency.

12.5 Modern Administration and Technological Improvement

With the rapid pace of technological change, administrations struggle to keep up with new tools, data management techniques, and cyber security challenges have got a new dimension. Governments may face difficulties in implementing digital services, ensuring data privacy, and modernizing legacy systems. This also contributes to digital divides where certain populations may lack access to essential digital resources.

A new dimension has been added with expansion of globalization. Globalization has led to more interconnected economic, social, and environmental systems, making local governments vulnerable to external factors (e.g., international economic crises, climate change). Local administrations must deal with international regulations, trade agreements, and cross-border issues, which require a high level of coordination and adaptability and technological knowledge. But unfortunately Indian administration has not yet received that height of efficiency by which it can uncover the complex phases of political and economic development

In the new era, there create a new and different types of problems. Instead of financial corruption, technological corruption is increasing. Cybercrime has now become a daily issue. Cybercrime is no longer confined to a particular region or country. It's even being carried out in a coordinated manner. As a result, it cannot be curbed using the administrative strategies of a single nation. Globalization has changed the character of cyber crime. It has reached to such an extent that it becomes a daily talk of society. Cybercrime is a worldwide issue, not limited to specific geographic areas. It's often coordinated and carried out by groups or networks. Individual countries' administrative measures are insufficient to effectively combat this global thread

The expansion of artificial intelligence has become another intertwined with cyber security threats. AI's control is increasing in all areas of interest, from entertainment and sports to food and education. The most negative aspect of this is the increasing

reliance on technology over human labour capacity. The goal of new technology is ostensibly to simplify social life, but in doing so, it is making human intellectual labour capacity overly dependent on artificial technology. Internationally, cloud computing is creating a new form of dependency. Essentially, humanity is regressing.

The newly invented artificial technology highlights the growing concern about the relationship between artificial intelligence and cyber security. As AI becomes more integrated into our lives, it also increases the potential for new security threats.

Rapid increase of AI's influence is affecting various sectors like entertainment, sports, education, and even our daily lives. The increasing reliance on technology is no doubt liable to be criticised, for the reason that it undermines human labour and intellectual capabilities. This is because while new technologies aim to simplify our lives, they inadvertently create a situation where humans become overly dependent on machines.

The machine or operation of cloud connection is actually controlled by the big political and business houses. Not only that, the role of cloud computing in fostering global interdependence, suggesting that it might be leading to a decline in human agency.

Thus the overall tone is pessimistic, and suggesting that the advancements in technology, particularly AI and cloud computing, are leading to a regression of humanity, reducing our reliance on human capabilities and potentially diminishing our overall quality of life. In essence, the quick expansion of AI, concerns about the rapid advancement of the potentiality of negative consequences on human society, such as increased dependency, reduced intellectual capabilities, and the erosion of human agency.

Thus the impact of AI on humanity is a complex and multifaceted issue, with diverse perspectives emerging from various fields. Here are a few different perspectives on AI's influence:

1) Technology-Centric Perspective

- Has the focus on the Prioritization of the potential benefits of AI, assuming it will eventually surpass humans in all domains.
- It expresses concerns about AI's rapid development leading to unforeseen consequences, job losses, social inequality, and even existential threats.
- AI's potential to become a super intelligence poses a significant risk to humankind if its goals are not aligned with human value

2) Human-Centric Perspective:

- Human centric perspective emphasizes the importance of human values, ethics, and societal well-being in the development and deployment of AI.

- Concerns: Focuses on the potential for AI to exacerbate existing biases, inequalities, and social divisions.
- Key Argument: AI should be developed and used in a way that benefits humanity, promotes social justice, and safeguards human rights.

3) Economic Perspective:

- The prime economic implications of AI, including job displacement, productivity gains, and economic growth.
- Sometimes it becomes the matter of worries about the potential for AI to lead to mass unemployment and exacerbate income inequality.
- Here the role of politics is very important. Policies are needed to mitigate the negative economic impacts of AI, such as retraining programs for displaced workers and investments in new industries.

4) Philosophical Perspective:

- The philosophical implications of AI, such as the nature of consciousness, the meaning of human existence, and the potential for AI to challenge our understanding of intelligence.
- Concerns: Raises questions about the ethical implications of creating artificial beings, the potential for AI to develop consciousness, and the future of human identity in an increasingly AI-powered world.
- Key Argument: A deeper philosophical understanding of AI is necessary to navigate the ethical and societal challenges it presents.

5) Political Perspective:

- An implication of AI, including the potential for AI to be used for surveillance, manipulation, and warfare is no doubt an important addition to the International affairs.
- AI on many occasion t used to undermine democracy, erode privacy, and exacerbate global conflicts.
- A global framework is needed to regulate the development and use of AI, ensuring its use for peaceful and beneficial purposes.

These are just a few of the many different perspectives on the impact of AI on humanity. It is important to consider these diverse viewpoints to have a comprehensive understanding of the challenges and opportunities presented by AI. Artificial intelligence has added several positive aspects to the fields of technology, industry, and

administration, but society also has to bear the negative costs associated with it. Artificial intelligence operates in three ways. First, it creates the possibility of radical changes through new initiatives. Second, it creates potential for the development of goods and services in the import-export trade. Third, it creates the need for industrial and administrative infrastructure. While both developed and developing countries are attempting to take advantage of the first two benefits, efforts toward infrastructural changes are lacking in these countries due to a lack of adequate capital. However, without infrastructural changes, it is impossible to distribute the benefits of artificial intelligence equally across all levels of society.

12.6 Decentralization and The problem of Modern administration

One of the main issues arising from decentralization is coordination Challenges. In decentralized systems, different regions or local governments may develop policies that conflict with one another, or that don't align with national goals. This can lead to inefficiencies, confusion, and lack of coherence in public services. The decentralization of public administration can lead to disparities in service delivery, as local authorities may have different capacities or priorities. For example, one region might provide high-quality healthcare services while another struggles with basic infrastructure. This unequal development creates disparities between Regions. While decentralization is meant to allow local governments to address local needs, it can also exacerbate inequalities between regions. Wealthier areas with more resources may thrive, while poorer regions may lack the capacity to develop adequately. This can result in uneven economic development and social inequality. One of the reason of this inequality in resources allocations issues is asymmetrical distribution of natural resources. In some cases, decentralized units may not have access to sufficient resources, leading to underfunded local initiatives, and consequently, poor delivery of public services.

Decentralization on many occasion becomes the cause of administrative overlap and redundancy. Multiple levels of government (local, regional, national) might end up duplicating administrative tasks, leading to inefficiencies, wasted resources, and confusion. Each layer of government might develop its own administrative apparatus for similar functions, such as health, education; and infrastructure development. Overlapping of jurisdictions essentially creates an ambiguity about who is responsible for what can. The result of this ambiguity is the creation bottlenecks in decision-

making and accountability. For example, disputes over jurisdiction can delay or prevent effective action on urgent issues like disaster response or public health crises.

This becomes a cause of weak and fragmented accountability. In decentralized systems, accountability can become blurred. If local governments are responsible for service delivery but national governments are responsible for setting overall policy goals, it can be difficult to hold anyone accountable when things go wrong. This typicality gradually creates corruption. Decentralization might increase opportunities for corruption at local levels, especially if local institutions are weak or if there is inadequate oversight. While decentralization aims to bring decision-making closer to the people, it may also make it easier for local elites to misuse power without oversight. One of the reasons of this increasing complexity in governing the society is multiple centre of power, which is one of the basic characteristic of decentralization of power. Decentralization leads to a distribution of power across different levels of government. This can create a complex governance structure, where it becomes difficult to track decisions, manage priorities, and ensure effective collaboration across layers of administration. Multiple administrative bodies is one of the cause of bureaucratic inefficiencies. Multiple administrative bodies may lead to competing priorities and inconsistent approaches to governance. Local governments may prioritize issues differently than central governments, leading to inefficiency, overlapping initiatives, or lack of focus on key issues.

Decentralization also creates difficulty in National Policy implementation. Especially excessive decentralization is one of the cause of inconsistency in implementing National Policy. National governments may struggle to enforce national standards, policies, or reforms in a decentralized system, as local governments might interpret or apply policies differently. For example, in health or education, a decentralized system may face challenges in ensuring that all citizens, regardless of location, have equal access to essential services. This may use as an example of weak National Coordination: When regions act too independently, it can become difficult to implement broad national reforms or manage national-level crises effectively, such as economic recessions, pandemics, or natural disasters.

This may also be the cause of political fragmentation, or political polarization. Decentralization can lead to increased political fragmentation, as local leaders may prioritize regional identities or issues over national unity. This can result in stronger regional political movements that undermine national solidarity and may lead to conflict between local and central government. Tensions may arise between central and local governments over control of resources or decision-making powers. Local governments

might resist central mandates, leading to conflicts over governance structures, resource distribution, or national policy.

Constitution has given limited capacity and power to the local governments, which may be the cause of lack of expertise and resources of the local government. Not only that the local governments may lack the technical expertise, trained staff, or financial resources to effectively govern and manage public services. This may hinder their ability to deliver essential services like healthcare, education, and infrastructure. All these factors cumulatively become the cause of administrative weakness: In some cases, local governments may be poorly organized or lack the necessary institutional capacity to handle complex administrative tasks, leading to inefficiencies and poor governance.

Though outwardly the process of decentralization has some advantages, but sometimes it also creates some problem before the administration. Decentralization, while designed to improve governance by allowing more local input and decision-making, can create significant administrative challenges. To mitigate these problems, it is crucial for decentralization to be accompanied by effective coordination mechanisms, clear divisions of responsibility, adequate capacity-building at the local level, and strong accountability systems. Otherwise, decentralization risks leading to inefficiency, inequality, and fragmentation within the administrative system.

12.7 Conclusion

The problems of modern administration are multifaceted and often interconnected. One of its basic problems is its complexities and bureaucracy of pre modernize era. This has led to extensive bureaucratic structures that, while providing organization and accountability, can also result in inefficiency, red tape, and a lack of flexibility. Another aspect of its problem of modern administration is its most pressing issues in ensuring accountability and transparency. Public officials, managers, and administrators often face challenges in balancing the need for operational efficiency with the demand for openness and responsibility in decision-making.

Modern administration faces a wide array of challenges, from maintaining efficiency in large, complex organizations to ensuring accountability in an increasingly transparent world. Solutions often require innovation, adaptability, and a careful balancing of competing interests. The future of administration will likely be shaped by ongoing technological advancements, evolving societal expectations, and the need for more

collaborative and global approaches to governance and management. Its main challenge is rapid technological advancements, globalization, and societal changes create complex and dynamic environments that require agile and adaptive administrative practices.

Limited financial resources, coupled with increasing demands for public services, necessitate efficient resource allocation and prioritization. For proper accountability and transparency citizens demand greater accountability and transparency from their governments, requiring clear and open communication and accessible information. Technological disruption has recently become a major problem to the administration. The rise of digital technologies disrupts traditional administrative processes and requires new skills and approaches to harness their potential.

From the issue like ethical dilemmas modern administration is again in dilemma. Modern administrators face complex ethical dilemmas related to data privacy, algorithmic bias, and the use of emerging technologies. To address these challenges, modern administration must embrace innovation. Adopt innovative technologies and approaches to improve efficiency, effectiveness, and service delivery are basically the way for administration to come out from this labyrinth of social problem. Collaborate with citizens, stakeholders, and other sectors to co-create solutions and address complex challenges are another ways in the labyrinth which shows the actual path of salvation,

12.8 Summary

Increasing complexities is one of the basic problems of modern administration. Its gradual complexities are increasing because of the growing size and scope of government, organization and industries. All these require an extensive bureaucratic structure and infrastructure. Lack of these things are resulted in inefficiencies, red tape and lack of desired flexibilities. Here the attempts have been done to identify some of the causes of these problems.

- **Complexity and Bureaucracy** of modern administration has become increasingly complex due to the growing size and scope of governments, organizations, and industries. This has led to extensive bureaucratic structures that, while providing organization and accountability, can also result in inefficiency, red tape, and a lack of flexibility.
- **Accountability and Transparency** are other pressing issues in modern administration. Public officials, managers, and administrators often face

challenges in balancing the need for operational efficiency with the demand for openness and responsibility in decision-making.

- The rapid advancement of technology presents both opportunities and challenges for modern administration. While technology can enhance efficiency, improve communication, and provide new ways to deliver services, it also introduces challenges such as cyber security risks, the need for continuous training, and the digital divide.
- Administrators often find themselves caught between political pressures and the need to maintain neutrality and professionalism. Political influence can compromise the effectiveness of decisions, undermine public trust, and contribute to mismanagement.
- As citizens become more engaged and informed, modern administrations are increasingly expected to involve the public in decision-making processes. This demand for greater participation can lead to more inclusive policies but can also slow down decision-making and complicate governance.
- The interconnectedness of the world means that modern administrations must navigate international relations, global economic challenges, and transnational issues such as climate change, migration, and trade policies. These global issues require cooperation and coordination, but also create new complexities in administration.
- Effective management of resources, whether human, financial, or environmental, is crucial. Challenges related to budgeting, allocation, and sustainability requires administrators to be adaptable and innovative, especially in the face of limited or competing resources.
- The modern workforce is diverse and evolving, with changing expectations around work-life balance, job satisfaction, and flexibility. Administrators need to address issues such as workforce diversity, labour relations, employee motivation, and retention.

12.9 Key-Terms

- A. **Bureaucracy:** Bureaucracy is a system of organization that involves a lot of rules, procedures, and levels of authority. It can also refer to the officials, employees, and people who run government departments and offices

- B. Management:** Management is the act of organizing and controlling people, resources, and tasks to achieve a specific goal. It can also refer to the group of people responsible for managing a business, organization, department, or team of employees
- C. Sustainable:** Capable of being sustained (of economic development, energy sources etc) of being maintained at a steady level without exhausting natural resources or causing severe ecological damage.
- D. Economic Perspective:** From an economic perspective, the value of a good or service to an individual is equal to what that person would be willing to pay for it or give up in terms of time or resources to receive it.
- E. Human-Centric Perspective:** Human-centered design is an approach to problem-solving commonly used in process, product, service and system design, management, and engineering frameworks that develops solutions to problems by involving the human perspective in all steps of the problem-
- F. Red Tape:** Generally the word “Red-Tape” is used as a phrase when one is talking about something that takes much longer than it should and involves more procedures, forms, or rules than make sense.
- G. Multiple administrative bodies:** An administrative body is a governmental agency or organization that is responsible for managing and implementing laws, regulations, and government policies.
- H. Artificial technology:** Artificial intelligence (AI) is technology that enables computers and machines to simulate human learning, comprehension, problem solving, decision making, creativity and autonomy.

12.10 Model Questions

- Do you think that rapid globalization has made some critical problems to the modern administration?
- Do you think that modern administration is the cause of bureaucratic complexities?
- Write a note in detail on the effect of technological improvement on modern administration.
- What are the key problems in modern administration?
- Discuss in detail, how decentralization effects the functioning of modern administration?
- Discuss the impacts of artificial intelligence on humanity.

12.11 Further Study

- Maniram Sharma: *Public Policy in India*; Mahaveer Publications, Jan 2023.
- R.L.Hardgrave: *Indian Government and Politics in a Developing Nation*; New York, Harcourt Brace, Jovanovich, 1980
- Mohit Bhattacharya: *New Horizon of Public Administration*; Jawahar Publishers & Distributors, 2016.
- Claus Offe: *Disorganized Capitalism: Contemporary Transformation of Works and Politics*; Polity Press Cambridge, 1985.
- Wesley E Bjur and Gerald E Caiden; “Administrative Reform and Institutional Bureaucracies” in Sudesh K Sharma (Ed): *Dynamics of Development*; Concept Publishing Co., Delhi Vol.I 1977.
- Leslie Palmer: *The Concept of Bureaucratic Corruption: Case Studies in Asia*; Allied Publishers, New Delhi, 1985.

Unit 13 □ Parliamentary Democracy and Presidential Democracy: Differences in the Role of Executive

Structure

- 13.1 Learning Objectives:**
- 13.2 Introduction**
- 13.3 Characteristics of Parliamentary Form of Government.**
- 13.4 Characteristics of Presidential form of Government**
- 13.5 Meaning of the Term Political Executive**
- 13.6 Composition of the Executive under Parliamentary System**
 - 13.6.1 Role of the Permanent Executive in Parliamentary Democracy**
 - 13.6.2 Comparison between Executive under Presidential System and Parliamentary System**
- 13.7 Role of executive in Presidential form of Government**
 - 13.7.1 Comparison between Permanent Executive under Presidential System and Parliamentary System.**
- 13.8 Conclusion**
- 13.9 Summary**
- 13.10 Key-terms**
- 13.11 Model Questions**
- 13.12 Further Reading**

13.1 Learning Objectives

The objective of learning about Parliamentary Democracy and Presidential Democracy, with a focus on the differences in the role of the executive, is to understand how political systems structure the distribution of power between the branches of government, especially the relationship between the executive and the legislature. Key points of focus would include:

- Understanding how the executive's power is contingent on parliamentary support and also the impact of President's role as a head of state and government, and

his interaction with the legislature are important. This can lead to follow the executive's role in a Parliamentary Democracy, as well as in Presidential democracy..

- Exploring accountability and responsiveness of executive both in Parliamentary and Presidential system is important to understand the relationship of executive with elected representatives and legislatures
- It will help to examine the separation or fusion of powers of executive in parliamentary system and presidential system.
- The objective of learning these differences is to foster a comprehensive understanding of how various systems of government organize and balance power between the branches of government, especially in terms of the executive's role, its accountability, and how it impacts governance, policy-making, and leadership.
- This knowledge is essential for evaluating how different democratic systems function and their effectiveness in meeting the needs of their citizens.

13.2 Introduction

Executive control over administration means the control of temporary executive headed by Prime Minister in Parliamentary system or by the President in the Presidential form of government. Other than this control is also exercised by the Chief Executive (permanent executive) especially with aid of the functions of bureaucracy. Political permanent executive again control by the Prime Minister or President in the Presidential form of Government. Prime Minister in parliamentary system exercises his control by the Cabinet and his council of Ministers. While in Presidential form of government, such control is exercised by the President.

Parliamentary system maintains collective responsibility to the Parliament for its policies and functions. At the same time individual minister along with his own department are responsible for the act of any omission of the decision taken by the Cabinet headed by the Prime Minister. Constitutionally in each and every matter, political executive (Ministers and Cabinet Members) exercise control over permanent executive or administration. The nature of executive is not like the control of legislature over the executive within the parliament. The control of the political and executive over administration or permanent executive is fuller in content, constant and continuous, simulative, coercive and directive.

The functions of politics and administration especially in Parliamentary system, completely different from the stand point of their ends and means. Politics being essentially concerned with the process of parliamentary support base uses the power conferred upon it with constitution and state. They have also given the responsibility of adopting and implementing decision of the Parliament. Thus it should be understood as a frontal end of implementing the value laden policy decision. On the hand, administration is the means for the fulfillment of policy objectives. Administration basically is the motor force of executing the decision adopted in the Parliament. They framed the decision of the parliament within the regulation structure of the administration. So politics and administration both carry different activities. Institutionally and professionally both should be considered differently.

The Presidential form of government is one of the strongest democratic systems having a greatest executive office in the world. It is correctly said that the American exercise the largest amount of authority ever wielded by any elected authority in democracy. Harold Laski once commented on the characteristics of the President in a presidential form of democracy is more or less than a king, or he is also more or less than a Prime Minister in Parliamentary system. His executive office consists of topmost staff agencies which aid and advice the President in carrying out his duties and responsibilities as the administrative head of the executive branch of government. The executive office of the President has three types of line agencies: 1) Department; 2) Public Corporation and 3) Independent Regulatory Commission. The major functions of the independent regulatory commission are to undertake public regulation and control of private economic activities and private property with the aim of protecting and promoting social interest.

In both cases (Parliamentary and Presidential) we are discussing under perspective of Liberal democracy. So we must discuss on the nature or uniqueness of liberal democracy. The definition of liberal democracy is revolved around three basic characteristics.

- Democracy guaranteed individual liberty, social freedom, freedom of expression, religion etc. as basic needs of civilized social life.
- There are regular universal adult franchises in which two or more than two political parties vie for the election. The result of the vote determines the power structure for a particular period of time, of which fresh mandate is taken for new orientation of power structure.
- It is believed that the liberal or presidential power system as in America can only be evolved in an Industrialized-Capital economic system, which mainly stands on market principles

13.3 Characteristics of Parliamentary Form of Government

Parliaments are common over the whole of the civilized world. The parliamentary system of government, which is also known as the Cabinet Government, is based on close relationship between the executive and legislature. The executive is accountable to the legislature and stays in office as long as it enjoys the confidence of legislature. Under parliamentary system of government there are two types of executives- nominal and real. The real executive is accountable to the legislature and when later passes a vote of confidence against it has to render its resignation or seek the dissolution of the legislature

Parliamentary Government has been defined as “Government by talk” or more precisely, “control of Government by talk”. It is a place where people talk about the affairs of the nation.

The Origin of Parliament: The origin of Parliament may be traced to an idea that it is a House of Representatives. There are four things involved in the system of parliamentary democracy.

- First is the Parliament of elected representative candidates.
- The second is a system of Parties, each reflecting some general trend of thought pervading all the society-which will submit to the electorate a number of candidates for its choice and the program of policy for which the candidates stand. A system of parties is a necessary part of any system of representation.
- Granted an organized electorate and a system of national parties, the third characteristic is a cabinet that guides the parliament, and yet at the same time is itself guided by the parliament. The adjustment of the whole machinery of the representative system of government is very fine and delicate.
- The last and the foremost characteristic is the idea of representation.

Each of the above four concepts has to fit into the other three, each has to play its part and to be content with its part. But practically it is not the easy thing for any of the four to be so content. Every human institution tends naturally to institutionalism. It exaggerates itself. The great merit of the parliamentary system is that it provides a constant training ground for the statesmen, with an arena of peaceful competition in which they can test and measure their powers before a watching and judging world.

Chief Characteristics of Parliamentary System In the parliamentary system the chief executive of the state (Prime Minister) is not elected directly by the people, but he

is normally the leader of the majority party in the Parliament. He chooses his own Cabinet which again, normally should be out of the Parliament only. The entire Cabinet is accountable to the Parliament and as soon as it loses confidence of the Parliament, it has to resign from the office. As against this, in the Presidential system, the chief executive i.e. the President is elected directly by the people for a fixed term and he chooses his own ministers (called 'secretaries' in the U.S.). Neither the President nor the Secretaries are accountable to the Parliament i.e. Congress.

In a Parliamentary system powers are centered in the Parliament, The Legislature takes the responsibility of government. The executive is divided in two parts- Head of the state the President, and the head of the Government i.e. Prime Minister. The former, is the titular head and the latter is the real executive head. Relationship between the two has been regulated in India by the law of Constitution. The head of the State appoints the head of the Government. In case of Majority, the President has no option but in minority Parliamentarianism the President may enjoy prerogative in this matter.

The head of the Government has full say in appointment of his Ministry. Ministers are formally appointed by the President but Prime Minister alone is responsible for the composition of the Ministry. The Ministerial responsibility is collective. It indicates both the cause and the effect of the cabinet solidarity. The Government can remain in office as long as it enjoys the confidence of popular house.

Though the ultimate power to control and supervise the executive rests with the Parliament, in practice, it is the Prime Minister who has become all powerful. This system does not represent truly the principle of separation of powers. There is no separation of personnel between the executive and the legislature

13.4 Characteristics of Presidential form of Government

The presidential system is a form of government in which the president is the chief executive and is elected directly by the people. In this system all three branches – executive, legislative, and judiciary – are constitutionally independent of each other, and no branch can dismiss or dissolve any other. The president is responsible for enforcing laws, the legislature for making them, and the courts for judging. Each is given specific powers to check and balance the others. It operates on the principle of separation of powers and the legislative and executive are independent of each other. The executive head of the state enjoys real executive

powers. He is neither the member of legislature nor accountable to it for its actions and policies. The continuance of the executive head in the office does not depend on the sweet-will of the legislature. He holds office for a fixed term and can be removed from his office before the expiry of his normal term only through the cumbersome process of impeachment.

This system was invented by America's founders to provide an alternative to the parliamentary form of government. It became known as 'presidential' because a directly elected president was its most salient difference. This doesn't mean that the president holds supremacy like the prime minister or parliament. In fact, power in the presidential system is divided among many, so no individual or institution can ever become supreme. This rejection of legislative supremacy is not the only fundamental difference. Since the presidential system was designed for a full republic, not a constitutional monarchy, it doesn't have a head of state.

Most important features of Presidential form of Government are:

- The head of the state enjoys real powers. These powers are vested in him by constitution or ordinary laws and can exercise these powers on his own.
- The presidential form of government is based on separation of powers. The three organs of government stand independent of each other. The president and his ministers cannot be the members of the legislature nor are they accountable to it.
- The cabinet under presidential system consists of nominees of the president. They remain in office as long as accountable to the president rather than legislature.
- The president can appoint secretaries or ministers to assist him, but they are merely advisors and act according to his instructions. The president can also remove them from their post any time he likes.
- Under presidential system the head of the state enjoys a fixed tenure and cannot be removed from office before the expiry of the fixed tenure. He can be removed from the office through a very special and complicated procedure of impeachment.
- Under presidential system the legislature cannot dissolve it. Like the executive head the legislature also enjoys fixed tenure and cannot be dissolved before the expiry of his term.

13.5 Meaning of the Term Political Executive

Policy making is not one person's or one political group's job, the actual formulation of policies is shared by political leaders of different political parties, pressure and interest groups, policy making units and the people as a whole. In view of the magnitude and complexity of various policy questions today, head of the executive or party alone cannot make public policies and must, therefore, establish some central units to assist in policy making. Similarly, the citizenry, who usually exercise their power to legitimize policy through persons elected by them, directly or indirectly, normally require some central units to initiate, examine and formulate policy proposals. Sometimes such units may even take policy decisions explicitly or implicitly in the name of those with the power to give policies legal authority. Such central units for policy making are mostly located in the executive branch of the government.

13.6 Composition of the Executive Under Parliamentary System

In a parliamentary system, the executive is a key component of governance, but its role is intricately tied to the legislature, here President or Head of the State is typically a ceremonial head. The Prime Minister enjoys the real executive authority, supported by a council of minister and cabinet. Council of Ministers/Cabinet is composed of ministers responsible for specific portfolios; they assist in policy formulation and implementation.

The executive drafts policies and laws, often with significant input from the legislature. It frames the budget and economic policies and determines national priorities. The executive ensures that laws passed by the legislature are implemented effectively. Ministries and government departments operate under the executive's guidance. In a parliamentary system, the executive must maintain the confidence of the majority in the legislature. A loss of confidence can lead to resignation or dissolution of the legislature, triggering elections.

The executive manages national emergencies, including economic crises, natural disasters, and conflicts. It can invoke special powers during emergencies (subject to constitutional provisions). The head of government represents the country in international forums, negotiates treaties, and oversees foreign policy. The legislature holds the executive accountable through mechanisms like debates, question periods,

and votes of no confidence. The judiciary ensures that the executive's actions comply with the constitution. This framework ensures a balance of power, fosters collaboration, and enables swift decision-making, which are hallmarks of the parliamentary system.

13.6.1 Role of the Permanent Executive in Parliamentary Democracy

In a parliamentary democracy, the permanent executive—composed of civil servants and bureaucrats—plays a critical role in ensuring the smooth and continuous functioning of governance. Unlike the political executive (e.g., ministers), the permanent executive is apolitical, professional, and remains in office regardless of changes in government. The permanent executive is primarily responsible for implementing policies and laws formulated by the political executive and the legislature. It manages government programs, delivers public services, and ensures adherence to legal and administrative frameworks.

Civil servants provide expert advice and technical support to the political executive on complex issues. They assist in drafting policy proposals, assessing feasibility, and predicting outcomes based on evidence and data. While elected representatives and political executives change with elections, the permanent executive ensures stability and continuity in administration. It carries forward ongoing projects and programs irrespective of political transitions. Civil servants oversee the day-to-day administration of government departments, ensuring that decisions are executed efficiently. They coordinate between different levels of government (national, regional, and local) to ensure coherent action.

The permanent executive interacts directly with citizens through service delivery mechanisms, such as health, education, and law enforcement. They address grievances, enforce regulations, and ensure compliance with laws. The permanent executive is expected to operate without political bias, serving governments of any political affiliation. Their neutrality ensures that governance remains focused on public interest rather than partisan objectives.

During emergencies (natural disasters, economic crises, or public health crises), civil servants play a crucial role in coordination and response efforts. They implement contingency plans, mobilize resources, and ensure swift action. The permanent executive monitors the implementation of policies and evaluates their effectiveness. They provide feedback to the political executive, suggesting necessary adjustments or improvements. Civil servants are responsible for enforcing laws, rules, and regulations through various agencies and departments. They ensure compliance with legal frameworks across all sectors of society.

Civil servants prepare detailed reports, draft responses to legislative queries, and provide data and analysis to support the legislature's functioning. They also assist ministers in parliamentary debates and in responding to members of the legislature. The prime Characteristics of the Permanent Executive in Parliamentary Democracy are, **a)** professionalism, developed through expertise and training in specific areas of governance, **b)** apolitical nature, that is bureaucrats are not aligned with any political parties, and focus on governance irrespective of political ideologies, **c)** they are accountable to the political executive and indirectly to the legislature. The permanent executive ensures that the machinery of government operates smoothly, bridging the gap between political leadership and administrative action. Their impartiality and expertise are vital for effective governance in a parliamentary democracy.

13.6.2 Comparison between Executive under Presidential System and Parliamentary System

The executive in both Presidential and Parliamentary systems plays a crucial role in governance, but the structure and functions of the executive in these systems differ significantly. These differences can be explained in terms of , a) systematic differences; b) relational differences; c) differences in the tenure of office; d) differences of power and authority; e) differences of accountability and stability; f) differences in decision making power and authority; g) differences in leadership.

- **Systematic Differences**: In presidential system, President is typically single executive head, who serves both as head of the state and head of the government. He appoints a cabinet or executive, who are usually not member of the legislature.

In Parliamentary system head of the state and head of the government are separated. In a republican state President, who is stated as head of the state, enjoy only some ceremonial role. Prime Minister who is de facto head of the state derives his legitimacy from the Parliament.

- **Relational Differences**:- From the stand point of relation the President is independent From the legislature. Both this units enjoy constitutional powers and authority separately. The President cannot dissolve the legislature, similarly the legislature cannot remove the President through vote of no confidence, but can impeach through some atypical constitutional ways under extreme circumstances.

The Prime Minister and his cabinet in the parliament are drawn from the majority party in the parliament. The executive is thus intertwined with the

parliament. So they can be removed through vote of no confidence in the parliament.

- **Duration of Tenure:-** Both President in America, who works as chief of the executive, and Parliament Members in India serve usually five years since taking office or being sworn in. The Prime Minister's power is more dependent on parliamentary support. His power is collective. While the Prime Minister holds significant executive authority, the key decisions are typically made by the cabinet
- **Accountability:-** The President is elected directly by the people and is more accountable to the electorate than to the legislature. The Prime Minister is accountable to the legislature, and ultimately to the voters who elect the members of parliament. Parliamentary systems can experience less stability, as governments can be brought down by votes of no confidence, which can lead to frequent elections or changes in leadership.

The Presidential system is characterized by a strong, independent executive with a clear separation of powers, while the Parliamentary system features a more integrated executive-legislature relationship, with the Prime Minister dependent on the confidence of the legislator.

13.7 Role of executive in Presidential form of Government

In a Presidential form of government, the executive plays a distinct and central role, characterized by the separation of powers between the executive, legislature, and judiciary. The president serves as both the head of state and the head of government, concentrating executive authority in a single individual. The president appoints cabinet members or secretaries who head various departments. These officials are typically not members of the legislature.

Key roles and functions executive in presidential form of government mainly focused on policy formulation. The executive is responsible for setting the national policy agenda and proposing legislation to address economic, social, and political priorities. The president often delivers a state of the union or equivalent address to outline goals and priorities.

One of the basic functions of the executive under Presidential system of government is implementation of laws. The executive implements and enforces laws passed by the legislature. Government agencies and departments operate under the president's

direction to ensure effective governance. The president is the ultimate decision-maker on domestic and foreign policies. As the head of government, the president leads administrative decisions, including appointments and dismissals of senior officials.

The president usually serves as the commander-in-chief of the armed forces, overseeing military strategy and decisions on national defense. This includes responding to emergencies, declaring states of war (often requiring legislative approval), and ensuring national security. The president represents the nation in international relations, negotiates treaties (usually subject to legislative ratification), and participates in global forums. The executive sets the tone for foreign policy and diplomacy.

Crisis management is an important function of the executive in Presidential form of government. The executive is responsible for leading responses to crises such as natural disasters, economic downturns, or security threats. Emergency powers may be granted to the president to act decisively during such situations.

The executive operates independently from the legislature and judiciary. The president is elected for a fixed term and cannot be easily removed, except through impeachment. The president is directly accountable to the electorate, ensuring a clear mandate from the people. In a presidential system, the executive serves as the central figure of authority, ensuring governance while being balanced by the other branches of government. This system emphasizes accountability, independence, and leadership within a framework of institutional checks and balances.

In a presidential system of government, the permanent executive refers to the administrative machinery composed of civil servants and bureaucrats. These individuals are non-elected, apolitical professionals who work under the direction of the president and other political appointees to ensure the continuity of governance. Their role is distinct yet complementary to the political executive (headed by the president). The primary role of the permanent executive is to implement policies, laws, and programs formulated by the political executive. Civil servants manage government agencies and departments, ensuring that decisions are carried out efficiently and effectively.

The permanent executive provides stability and continuity in governance across different administrations, even when political leadership changes after elections. They maintain institutional memory, enabling the government to function smoothly. Civil servants provide expert, non-partisan advice to the president and political appointees on technical, economic, social, and administrative issues. They assist in drafting policy documents, regulations, and reports, using their expertise to shape decisions.

The permanent executive oversees the daily operations of government agencies and departments. They manage public service delivery, regulate industries, and ensure compliance with laws and regulations. Civil servants are responsible for monitoring the implementation of policies and evaluating their outcomes. They provide feedback to the political executive, suggesting improvements or adjustments when needed. The permanent executive operates without political bias, serving governments of any political affiliation. They are expected to uphold professional ethics and prioritize public interest over partisan considerations. The permanent executive interacts directly with citizens through public service delivery, such as education, healthcare, and infrastructure. They address grievances, enforce regulations, and ensure that public services are accessible and effective.

Civil servants prepare detailed analyses, reports, and data to support the legislative agenda of the political executive. They assist in responding to legislative queries and presenting technical details during congressional hearings or sessions. During national emergencies, natural disasters, or other crises, the permanent executive plays a vital role in coordinating responses and implementing emergency measures. They mobilize resources, manage logistics, and provide on-ground leadership in critical situations.

The Permanent Executive in a Presidential System possesses the quality of professionalism. Professional executives are trained specialists who bring expertise in governance and public administration.

They are apolitical in nature. Their role is to serve the government of the day without aligning with political ideologies. They are primarily accountable to their respective departments. They are accountable to political appointees (e.g., secretaries or department heads) who are in turn accountable to the president.

There are some points of differences from Parliamentary Systems. In a presidential system, the permanent executive has a more distinct line of accountability to the political executive, as the president and legislature are separate. Unlike parliamentary systems, civil servants in a presidential government do not have as direct an interface with the legislature. The permanent executive in a presidential system acts as the backbone of administration, ensuring effective governance, continuity, and the implementation of policies, while maintaining a clear distinction from the political and legislative branches.

13.7.1 Comparison Between Permanent Executive Under Presidential System and Parliamentary System.

The concept of the permanent executive refers to the set of officials in government who remain in office regardless of changes in political leadership. These officials

typically manage the day-to-day functioning of the government and provide continuity in administration. In both the Presidential and Parliamentary systems, there are permanent executive elements, but the structures and roles of these officials differ.

Permanent Executive in **Presidential system** refers primarily to career civil servants and other professional bureaucrats who work in various government departments and agencies. These officials are not politically appointed but are employed based on their expertise and experience. These career officials, like civil servants, diplomats, intelligence officials remain in office regardless of changes in the Presidency or political party control.

In a **Parliamentary system**, the permanent executive is made up of career civil servants or bureaucrats who are part of the permanent civil service. These officials are generally insulated from political change and serve under the direction of the government of the day (which can change based on elections). The Prime Minister and Cabinet ministers are politically appointed from the legislature, but they are not permanent in the sense that their tenure is tied to the political cycle and their party's control over parliament. The civil servants, who handle day-to-day administration, remain in office across changes in government leadership. Examples include senior officials in ministries, departments, or state agencies.

The permanent executive in a **Presidential system** is tasked with ensuring continuity of governance despite changes in the elected political leadership. These officials execute the policies set by the President and the legislature, often remaining in office even as political leadership changes every few years. The permanent executive manages the implementation of laws, administration of public services, and other governmental duties. Their work is largely non-partisan, and they focus on implementing the laws passed by Congress or the President's executive orders.

Parliamentary System the primary role of the permanent executive is assisting the Ministers to implement policies. They often enjoy some advisory role, because they possess an extensive knowledge of government operation and policy implementation.

In **Presidential system** the permanent executive operates with a degree of political neutrality. These career officials are not subject to political cycle and remain in their posts across presidential terms. Permanent executives in a presidential system are typically not heavily involved in political decision-making but are focused on carrying out the policies and directives established by the President and legislature. They may, however, provide advice to elected officials based on their expertise.

The permanent executive in a **Parliamentary system** also tends to remain neutral, but its role is slightly more influenced by the political leadership since the government can be brought down quickly by a change in the political majority. For example, the Prime Minister and Cabinet depend on majority support in parliament, and civil servants must adjust to different policy directions when a new government comes into power. Permanent bureaucrats can, however, be more politically attuned in a parliamentary system because the shift of power is more frequent. The civil service must be adaptable to the policies of whichever party is in power but is still expected to remain neutral and efficient in its execution of tasks.

In a **Presidential system**, the permanent executive provides strong continuity in administration, as the permanent bureaucrats remain unaffected by the periodic changes of the President and Congress. While the President can change the political direction of policy, career civil servants carry on regardless of the election outcomes. Given the separation of powers, the bureaucracy in a Presidential system is designed to be more insulated from political shifts, offering more stability in public administration.

Although the permanent executive in **Parliamentary system** provides stability, the system is less insulated from political change compared to a Presidential system. Changes in government can result in shifts in policy priorities, and the civil service must be flexible enough to handle changes in the ruling party.

In both the **Presidential** and **Parliamentary** systems, the permanent executive is responsible for ensuring continuity and efficiency in the administration, though their roles and levels of political influence differ. The **Presidential system** tends to have a more insulated, stable permanent executive, as the career civil servants are largely unaffected by changes in political leadership. In contrast, the **Parliamentary system** offers a slightly more politically attuned permanent executive, since changes in the ruling party can lead to shifts in policy priorities, though civil servants still provide continuity in public administration. Bottom of Form

13.8 Conclusion

In comparing parliamentary and presidential democracies, one of the most significant differences lies in the role of the executive branch.

In Parliamentary system of government executive is an essential part of the legislature. Thus there is a normal fusion of powers between executive and

legislative branches. The executive in a parliamentary system often involves a cabinet of ministers, where decisions are made collectively, ensuring more collaboration and shared responsibility.

In a Presidential system, the executive is distinct and separate from the legislature. The president is elected independently, and the separation of powers means that the executive branch does not directly control or rely on the legislature to remain in power. The president has a fixed term of office, which can provide political stability. The president is usually the sole executive authority, which may streamline decision-making, but it can also concentrate too much power in one person. Since the executive and legislative branches are separate, conflicts between them (for example, if the president and legislature are controlled by different parties) can lead to political gridlock, making governance difficult.

In conclusion, while both systems aim to create effective governance, parliamentary systems tend to have a more integrated and flexible executive-legislative relationship, with shared decision-making and accountability. On the other hand, presidential systems offer a clearer separation of powers and political stability, but can also create tensions between branches of government and lead to gridlock. Ultimately, the choice between these systems depends on the political culture, historical context, and the values placed on flexibility, stability, and accountability in governance.

13.9 Summary

The summary of the key differences between *Parliamentary Democracy* and *Presidential Democracy* in terms of the role of the executive:

- The executive (Prime Minister and Cabinet) is drawn from the legislature (parliament), ensuring a fusion of powers
- The government can be dismissed by a vote of no confidence in the parliament, promoting accountability. Decisions are made collectively by the Prime Minister and the Cabinet.
- The Prime Minister is both head of government and, indirectly, head of the legislature.
- In Presidential system the executive (President) is separate from the legislature, with clear distinctions between the branches of government. The President has a fixed term, providing political stability but reducing flexibility in removing a leader.

- The President holds central executive authority, which may streamline decision-making but can also concentrate power.
- The President is both head of state and head of government, with independent authority.

13.10: Key-terms

- A. **Parliamentary system:** A parliamentary democracy is a form of government where citizens elect representatives to form the legislative body. The executive branch of the government derives its authority from the legislature and can be removed from power through no-confidence motions in parliament.
- B. **Presidential system:** In a presidential system, the head of government is directly or indirectly elected by a group of citizens and is not responsible to the legislature, and the legislature cannot dismiss the president except in extraordinary cases.
- C. **Permanent Executive:** The term “permanent executive” refers to civil servants who are appointed for a long period of time and work in a government:
- D. **Bureaucracy:** In simple terms you can say that Bureaucracy refers to a body of government officials who are not elected but form an administrative policy making group. In old times, bureaucracy was referred to a government administration which was formed by non-elected officials and run by departments that are employed by them.
- E. **Decision making:** Decision making is the process of making choice by identifying a decision, gathering information, and assessing alternative resolution.
- F. **Accountability:** Accountability is an assurance that an individual or organization is evaluated on its performance or behavior related to something for which it is responsible. The term is related to responsibility but is regarded more from the perspective of oversight.

13.11 Model Questions

- What are the basic characteristics of Parliamentary Democracy?
- Write a note on the role of executive in Presidential form of government.
- What we mean by “political Executive”? What are the differences between permanent Executive and temporary executive in Presidential system?

- How the executive is composed in Parliamentary system of government?
- Compare the permanent executive of Presidential system and Parliamentary system.
- What are the characteristics of Presidential form of democracy?

13.12 Further Reading

- Nicholas Henry: *Public Administration and Public Affairs*; Prentice Hall 1975.
- B.Guy Peters: *The Politics of Bureaucracy: A Comparative Perspective*; New York, 1978.
- Michel Crozier: *The Bureaucratic Phenomenon*; University of Chicago, 1964.
- Barnard Rosen: *Holding Government Bureaucracies Accountability*; Praegar 1998

Unit 14 □ Judiciary and Executive : Functional Balance

Structure

- 14.1 Learning Objectives:**
- 14.2 Introduction**
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14.1 Learning Objectives

The functional balance between the Judiciary and the Executive is a critical component of democratic governance, ensuring that each branch of government operates within its defined roles and does not encroach upon the powers or duties of the other. Understanding this balance is crucial for anyone studying public administration, constitutional law, or political science. The objectives of learning regarding the balance between the Judiciary and Executive are designed to provide a comprehensive understanding of how these two branches of government interact, check each other's power, and contribute to the maintenance of democratic principles, the rule of law, and justice. Thus this chapter will learn us

- How the balance is made between the functioning of judiciary and executive. It helps us to comprehend the distinct interrelated roles and functions of the judiciary and the executive in a democratic system.
- Discussion has been made on the principles of separation of power between judiciary and executive. Judiciary interprets laws, resolves disputes and safeguards the constitutional rights and freedom, while the executive is

responsible for the implementation and enforcement of laws, formulating public policies, managing government services and ensuring national security and diplomacy.

- This topic has also discussed that how the judicial review works as a check on executive actions.
- Regarding judicial review, we have shown that it is precisely a process by which courts assess the legality of action taken by the executive and the legislature.
- An attempt has been made to understand the importance of judicial independence in ensuring impartiality in legal decision and how executive accountability prevents the misuse of executive power.
- Judicial independence means that the judiciary must be free from external pressure including those from the executive branch, to make unbiased and fair decisions.
- The executive accountability denotes that the executive must be held accountable for its action whether through legislature oversight, public scrutiny, or judicial review, ensuring that it operates within the rule of law.
- One of the basic objectives is to explore how conflicts between the judiciary and the executive are resolved in democratic systems. Conflicts can arise when the executive takes actions that the judiciary believes are unconstitutional or illegal. Learning how these conflicts are addressed, whether through legal challenges or through the legislative process, helps students understand the checks and balances at play.
- It is also necessary to understand how the executive is responsible for ensuring the enforcement of judicial decisions and maintaining the rule of law. Even though the judiciary may issue rulings, it is the executive branch's responsibility to implement these decisions. This includes enforcing court orders, ensuring compliance with rulings, and protecting judicial authority.
- The essential objective of this topic is to gain an understanding of how constitutions and legal frameworks provide mechanisms for balancing the powers and functions of the executive and judiciary. Constitutions typically include provisions that define the powers of each branch of government, establish independence of the judiciary, and set out the process for resolving disputes. Learning these constitutional provisions is essential to understanding how balance is achieved.

- The objectives of learning regarding the functional balance between the Judiciary and the Executive are centered on understanding how these branches of government maintain the rule of law, ensure justice, and balance each other's power through checks and balances.
- By examining their distinct roles, mechanisms of accountability, and the relationship between the two, students gain a deeper appreciation of how democratic systems function and how both branches play vital roles in upholding the principles of justice and fairness.

14.2 Introduction

The relationship between the **Judiciary** and the **Executive** in a democratic system is foundational to the **balance of power** within a state. Both branches are key components of governance, yet they have distinct roles and functions. The **Judiciary** interprets and applies the law, ensuring justice and protecting rights, while the **Executive** implements and enforces laws, manages public policy, and governs the state. The **functional balance** between the two is crucial to prevent any one branch from overstepping its authority, ensuring that justice is upheld and executive power is exercised within the bounds of the law.

The **Judiciary** is the branch of government responsible for interpreting laws, resolving disputes, and protecting individual rights. The judiciary applies and interprets laws passed by the legislature, ensuring that legal rules are applied justly and consistently. The judiciary safeguards fairness by making impartial decisions in legal disputes, including civil, criminal, and administrative matters. It acts as a protector of constitutional rights and freedoms by ruling on cases where government actions might infringe upon individual liberties. Courts have the power to review executive actions and legislative acts, ensuring they comply with the constitution and laws of the land. This ensures that no action by the executive is above the law. In a **democratic system**, the judiciary is often independent, meaning it is not under the control of the executive or the legislature. Judicial independence is vital for ensuring that judges can make decisions based solely on the law, without external pressures or political influence.

The **Executive** is the branch of government responsible for implementing and enforcing laws and policies. The executive ensures that laws passed by the legislature are executed and applied effectively. This involves administration and the functioning of government institutions and public services.

The executive plays a central role in policy-making, often proposing and shaping legislative agendas, setting national priorities, and guiding public policy in areas such as health, education, defence, and the economy. The executive is responsible for protecting the nation's sovereignty and security, overseeing the armed forces, intelligence agencies, and law enforcement. The executive manages foreign diplomacy, representing the country internationally, negotiating treaties, and fostering international cooperation.

In times of emergency, the executive takes charge of managing responses to crises like natural disasters, public health emergencies, or national security threats. In a democratic system, the executive is accountable to the legislature and the public. Regular elections, legislative oversight, and transparency mechanisms are essential for ensuring that the executive serves the public interest.

Functional balance between the Judiciary and the Executive is essential for maintaining a healthy democracy and the rule of law. Both branches have distinct roles, but they must also interact in ways that uphold constitutional principles and prevent abuses of power.

One of the key mechanisms for maintaining balance is judicial review, the process by which courts examine the constitutionality and legality of actions taken by the executive. The judiciary can limit or strike down executive actions that violate the law or the constitution, thus protecting individual rights and the integrity of the legal system. The executive also checks the judiciary's power by appointing judges (often with legislative approval), managing the judiciary's resources, and ensuring the implementation of court decisions.

The principle of **separation of powers** ensures that the executive cannot interfere in judicial decision-making, while the judiciary cannot override the executive's authority in enforcing laws or making policies. Both branches, however, must respect the roles of the other in their operations. The **executive** is responsible for implementing the **judiciary's decisions**. For example, when a court orders a criminal conviction or a constitutional ruling, it is the executive's job to ensure those decisions are enforced. This is particularly important in areas such as law enforcement and corrections. The executive's role in **enforcing judicial rulings** is crucial to upholding the principle of justice, ensuring that no one, including the government, is above the law. The **judiciary** ensures that the executive does not exceed its authority or violate rights. For example, if the executive uses emergency powers, the judiciary may review those powers to ensure they do not violate constitutional protections. The judiciary can also protect

individuals from executive abuse, such as unlawful detention or violations of human rights, by issuing rulings that curb executive actions.

While not directly part of the judicial-executive relationship, the **legislature** plays a critical role in maintaining the balance between the two branches. It can provide oversight of both the judiciary and the executive. The legislature's role in **confirming judicial appointments, approving executive budgets**, and holding hearings on executive actions helps ensure that both branches function in line with democratic principles and respect for justice.

In a **democratic system**, the **Judiciary** and the **Executive** must function independently, yet interdependently, to ensure the rule of law, uphold justice, and protect individual rights. The **functional balance** between the two branches is maintained through mechanisms like **judicial review, separation of powers, executive accountability**, and **judicial independence**. These elements help prevent any one branch from overstepping its authority, ensuring that the government operates within the boundaries set by the constitution and laws, and that justice is administered fairly and impartially.

14.03: Function of Judiciary:-

The judiciary is a critical branch of government responsible for interpreting and applying the law. Its functions are essential to ensuring justice, upholding the rule of law, and maintaining the separation of powers within a legal system. To a large extent Justice is a flexible term. The judiciary interprets and applies the laws passed by the legislature. Courts clarify the meaning of laws, resolve ambiguities, and ensure that laws are consistently and fairly applied. Courts resolve legal disputes between individuals, organizations, or the government. This includes civil disputes and criminal cases

The judiciary is structured to fit any idea of good. Plato, the greatest Philosopher, defined justice as a virtue. In his opinion, justice is not to give every man his due, but it is based upon "just proportion" among various parts of society. So the judiciary safeguards individual rights and liberties, including constitutional rights, such as freedom of speech, the right to a fair trial, and protection from unlawful detention or discrimination. Courts ensure that laws and government actions respect these rights.

The word justice was originated from Latin word which implies the idea of joining or fitting the idea on bond or tie. It implies the supreme value of society which actually is synthesising the relation of man with men of the society, with liberty, equality and fraternity. But these concepts are also relative to the continuous process of change of social system. Thus we see the change of the concept of justice with the change of social system. Rawl's view in this regard was somewhat judged from a different

angle. In his opinion the basic aim of justice is to pledge the perfect society, Justice as a “word” is truth, infallible and unchangeable expression of universal law, but in reality it changes with the changing circumstances of the society.

In our general concept “justice” is the rule of reason. From this idea justice can be defined as an ethical notion, developed from our modern rational being. In modern state system law is viewed as the expression and embodiment of justice. With the development of democracy and democratic processes and institution, justice came to materialize the equal participation of all sections of the society in political and public matters. The liberals of today identify justice with legal and political equality, including in it the rule of law, equality before law, equal protection of law, one person one vote.

Courts have the power to review the constitutionality of laws and government actions. If a law or policy is found to violate the constitution, the judiciary can strike it down, ensuring that legislative and executive actions remain within the boundaries of the constitution. The judiciary checks the power of the executive and legislative branches. Through judicial review and other mechanisms, courts can challenge the legality of government actions, preventing abuse of power.

In common law systems, courts play a vital role in developing legal principles and precedents. Judicial decisions in higher courts often set binding precedents that guide future legal decisions, ensuring consistency and predictability in the law. Courts have the authority to enforce judgments, ensuring that the rights of individuals are respected and that legal obligations are fulfilled. This may involve awarding damages, issuing injunctions, or imposing penalties. Courts hold individuals and institutions accountable under the law, including the government, private individuals, and corporations. This ensures that no one is above the law and promotes fairness and justice in society.

In essence, the judiciary serves as a key institution for maintaining order, protecting rights, and ensuring that laws are applied fairly and equitably. It acts as a check on the power of the other branches of government and provides a forum for resolving disputes

14.4 Functions of Executive

The executive branch of government is responsible for the implementation and enforcement of laws, policies, and decisions made by the legislature. The executive is typically headed by the head of state (e.g., a president or monarch) and/or the head of government (e.g., a prime minister). The functions of the executive can vary

slightly depending on the type of political system (presidential, parliamentary), but generally, the executive branch performs the following core functions of the government. In a **democratic system**, the executive branch is responsible for the implementation of laws and policies, but its powers are exercised with checks and balances to ensure accountability, transparency, and respect for the rule of law. The functions of the executive in a democratic system are designed to serve the public good while ensuring that executive actions remain within the boundaries of constitutional principles and democratic norms.

The executive's primary function is to implement and enforce the laws enacted by the legislature. This involves ensuring that legal rules and regulations are applied properly across the country. The executive is responsible for the day-to-day administration of government policies, ensuring that governmental programs and services are carried out effectively. The executive is tasked with the administration of government and its various departments, agencies, and offices. These include ministries (such as health, education, defence, etc.), public authorities, and other bureaucratic structures responsible for managing the state's affairs. The executive ensures the efficient functioning of public services and oversees the implementation of national programs, including economic development, healthcare, education, public safety, and infrastructure.

While the legislature creates laws, the executive often plays a key role in policy formulation by proposing new policies and setting the national agenda. The head of government (e.g., prime minister or president) works with advisers, bureaucrats, and experts to develop both domestic and foreign policies. The executive often introduces legislation (in presidential systems) or proposals for laws (in parliamentary systems) to the legislature.

The executive has the responsibility for managing the country's foreign relations. This includes establishing diplomatic ties, negotiating treaties, and representing the country in international forums. The head of state or government is usually the chief diplomat, overseeing the work of the foreign ministry and ambassadors. The executive may sign treaties and agreements with other countries, though in some systems, treaties must be ratified by the legislature. The executive is responsible for maintaining national security and defence. This includes overseeing the armed forces, directing military operations, and ensuring the country's protection from external threats. The executive also manages intelligence agencies, counterterrorism efforts, and other national security apparatus to protect the country's interests both domestically and abroad.

The executive appoints government officials, including heads of ministries, ambassadors, judges (in some systems), and senior bureaucrats. The head of state or government

may also have the power to remove officials from their positions if necessary, especially in the case of misconduct or inefficiency. The executive ensures that laws are enforced by overseeing the police, security forces, and other law enforcement agencies. These agencies are tasked with maintaining public order, protecting citizens, and upholding the law in day-to-day life. In many systems, the executive has the power to grant pardons or clemency to individuals convicted of crimes. This function is often exercised by the head of state (e.g., president or monarch) as a way to show mercy or correct potential judicial errors. This power is typically seen as a check on the judiciary, allowing the executive to intervene in individual cases.

While the judiciary is responsible for interpreting laws, the executive can have a role in judicial matters. For example, the executive may appoint judges or initiate judicial reforms. In some systems, the executive may have the authority to influence or oversee the judicial system in specific ways, such as through executive orders, administrative rulings, or proposing legal reforms.

The executive is responsible for preparing the national budget, which outlines the allocation of resources for government programs and services. The executive works with the legislature to gain approval for the budget and ensures its implementation. This also includes managing fiscal policies, overseeing taxation, public spending, and debt management.

In times of national emergency, such as natural disasters, public health crises, or national security threats, the executive is responsible for managing and coordinating the response. The executive can declare states of emergency, issue executive orders, and mobilize resources to manage crises.

The executive has the authority to issue executive orders or decrees. These are directives issued by the head of government or state that have the force of law. Executive orders are typically used to manage the operations of the government or address urgent matters that don't require legislative action.

The executive is responsible for maintaining public order and social stability through both preventive and corrective measures, including law enforcement, policing, and regulation. The executive may also initiate programs to reduce social unrest, handle strikes, and address civil disturbances.

The executive branch's functions are wide-ranging and critical to the operation of government. It is responsible not only for implementing laws and overseeing administration but also for managing foreign policy, ensuring national defence, maintaining public order, and dealing with crises. The effective performance of these

functions is essential for the stability and progress of the state, and in democratic systems, the executive is typically held accountable to the legislature and, indirectly, to the people

In a democratic system, the executive's functions are diverse and crucial for the effective functioning of government, from implementing laws and policies to managing national security, foreign relations, and economic stability. However, its powers are carefully constrained by the principle of separation of powers, ensuring that it is accountable to both the legislature and the judiciary. Transparency, accountability, and checks and balances are essential components of democratic governance, ensuring that the executive acts in the best interest of the public while respecting democratic norms and constitutional rights.

14.5 Functional relation between Justice and Executive

The relationship between justice and the executive is complex and multifaceted. In political and legal theory, justice typically refers to the principle of fairness, equity, and the application of law in a society, while the executive refers to the branch of government responsible for implementing and enforcing laws, policies, and administering public affairs. To understand the functional relation between the two, we need to explore their respective roles and how they interact within the framework of a constitutional government:

The Role of Justice in a Legal System: Justice is primarily concerned with ensuring fairness, equality before the law, and the protection of rights. It is usually the domain of the judiciary, which interprets the law and ensures it is applied impartially. Judicial independence is essential for justice, as judges must be free from external influence, including from the executive branch, to make fair decisions. Justice aims to ensure that laws are enforced consistently, that rights are protected, and that any violations of law are appropriately addressed.

The Role of the Executive in Justice: The executive branch is responsible for enforcing and executing the laws passed by the legislature. This includes managing public policy, law enforcement, and administration. The executive's role in justice is to ensure that the judicial system's decisions are carried out effectively. This includes ensuring the implementation of court orders, managing prisons, overseeing law enforcement agencies, and addressing issues of public safety. The executive also plays a role in the creation of law, often through proposals for legislation, and may influence justice through policies related to crime, punishment, and civil rights. The executive

has the power of pardon or clemency, which can impact individual cases of justice, though this power is often seen as a check on the judiciary.

Checks and Balances: The relationship between justice and the executive is guided by the principle of separation of powers, which is designed to prevent any one branch of government from becoming too powerful. This ensures that the executive cannot directly influence judicial outcomes or usurp the role of the judiciary in interpreting the law. Judicial review is one of the mechanisms through which the judiciary can check the actions of the executive, ensuring that executive actions do not violate the constitution or infringe upon individual rights. Conversely, the executive ensures that the judiciary is functional by allocating resources for courts and ensuring the effective enforcement of legal rulings.

Interdependence of Justice and Executive Actions: The executive ensures that laws are enforced and public policies are executed in a way that aligns with the principles of justice, such as protecting civil rights, maintaining order, and preventing abuses of power. Justice, in turn, acts as a standard for the executive to follow, guiding executive actions toward fairness and equality. When the executive violates principles of justice (e.g., through discriminatory laws or unjust practices), courts can intervene, and can reinforce the link between justice and the executive.

Tensions can arise when the executive oversteps its boundaries, either by undermining judicial independence or engaging in practices that violate the principles of justice (e.g., political interference in judicial appointments, or unjust enforcement of laws). The executive's discretionary power in law enforcement (e.g., prosecutorial discretion, police practices) can sometimes conflict with principles of justice if not exercised fairly. In some authoritarian or undemocratic regimes, the executive may directly control or influence the judiciary, thereby compromising the independence of the justice system and leading to a lack of accountability and fairness.

Collaborative Mechanisms: In some cases, the executive and judiciary collaborate to achieve justice. For example, an executive may initiate criminal investigations based on judicial rulings, or the executive may work with the judiciary to reform laws to better serve justice (e.g., reforming prison systems or implementing restorative justice initiatives). In a democracy, the executive should work alongside the legislature and judiciary to create a just society, where the rule of law is respected, rights are protected, and the law is enforced equitably.

The functional relationship between justice and the executive is one of balance and interdependence. While the executive is responsible for enforcing laws and public

policies, justice—represented through the judiciary—provides the framework within which the executive must operate. The executive must ensure that its actions align with the principles of justice, and in turn, the judiciary serves as a check on executive power to maintain fairness and equity in governance. The relationship is vital for the maintenance of the rule of law and the protection of individual rights in a society.

14.6 Balancing factors in relation between Justice and Executive

The relationship between **justice** and the **executive** in a democratic system is balanced through several key factors that ensure neither branch oversteps its authority. These factors are designed to maintain fairness, prevent abuses of power, and uphold the rule of law. Some of these areas are:

- **Separation of Powers:** The separation of powers ensures that the executive, legislature, and judiciary are distinct and independent, each serving as a check on the others. This prevents the executive from exerting undue influence over the judiciary or using its powers to circumvent justice. For example, while the executive enforces laws, it cannot dictate judicial decisions, and judges cannot interfere with executive policy-making.
- **Judicial Review:** The judiciary acts as a counterbalance to the executive's power by exercising judicial review. Courts have the authority to assess whether executive actions comply with the constitution and laws, ensuring that any overreach or violation of rights is corrected. If the executive's actions are deemed unjust or unconstitutional, the judiciary can strike them down, protecting individual rights and the rule of law.
- **Constitutional Limits:** The constitution places limits on the powers of the executive to ensure that actions taken by the executive branch align with the principles of justice and fairness. These constitutional constraints protect citizens from arbitrary governance and abuses of power. For example, the executive cannot unilaterally infringe on fundamental rights or bypass legal processes.
- **Legislative Oversight:** In democratic systems, the legislature provides oversight over the executive. This includes reviewing the executive's budget, approving appointments, and investigating executive actions through hearings or committees. This oversight ensures that the executive remains accountable and transparent in its execution of laws. Legislative checks prevent the executive

from acting without due scrutiny and ensures that policies are consistent with justice.

- **Public Accountability:** The executive is held accountable to the public through regular elections and transparency mechanisms, such as freedom of information and media scrutiny. Public opinion and civil society play a vital role in ensuring that the executive's actions are just and in the public interest. Public pressure can act as a powerful force for ensuring that the executive acts justly and within its legal boundaries.
- **Political Accountability:** The executive is politically accountable to the legislature and voters, ensuring that it remains responsive to public needs and principles of justice. In some systems, an executive may be removed from office by impeachment or vote of no confidence if it violates the law or fails to uphold justice. Political accountability ensures that the executive's power is not unchecked and that it must align with the broader principles of fairness and equity in governance.
- **Checks on Executive Orders:** The executive's ability to issue executive orders is constrained by both legal and constitutional limits. In many democratic systems, such orders cannot contravene existing laws or infringe upon rights guaranteed by the constitution. If an executive order is deemed unjust or unconstitutional, it can be challenged in court, further reinforcing the balance between justice and executive power.
- **Public Participation and Advocacy:** Civil society organizations, the media, and public interest groups help ensure the executive respects justice by advocating for policy changes, raising awareness of injustices, and holding the executive accountable for its actions. These groups can influence public opinion and apply pressure on the executive to act fairly and within legal bounds, fostering a balance between governance and justice.

Balancing the executive's power and the principles of justice involves a combination of constitutional safeguards, judicial oversight, legislative scrutiny, and public accountability. These mechanisms ensure that the executive cannot undermine justice through arbitrary decisions or misuse of power, while also allowing it to effectively govern and enforce the rule of law. The ultimate goal is to create a system in which justice is not only upheld but also seen as being directly linked to the actions of the executive.

14.07 Conclusion

The functional balance between the Judiciary and the Executive is essential to maintaining a democratic system grounded in the rule of law and the protection of individual rights. Both branches play pivotal roles in governance, but their powers must be carefully delineated and mutually constrained to prevent any single branch from becoming too dominant or overstepping its constitutional limits.

The Judiciary ensures that justice is upheld by interpreting and applying laws impartially, safeguarding constitutional rights, and providing checks on the executive's power through judicial review. Courts act as a safeguard against executive overreach, ensuring that governmental actions are aligned with legal principles and the rule of law.

The Executive, on the other hand, is responsible for the implementation and enforcement of laws, ensuring effective governance and managing national affairs, including foreign policy, defence, and public administration. However, its powers are not absolute; the executive is held accountable to both the legislature and the judiciary to prevent abuses of power and ensure that its actions respect democratic norms and individual freedoms.

The functional balance between these two branches is maintained through several mechanisms, like 'Separation of Power, which prevents one branch from accumulating excessive power', 'checks and balances to ensure the reviewing power of the judiciary, 'judicial independence' is enjoyed by the judiciary uninterruptedly from the influence of legislature and executive. In the case of executive's accountability, the executive remains answerable for its action to the public and to the judiciary

In a well-functioning democracy, the Judiciary and the Executive do not work in isolation but must cooperate and respect each other's roles. The executive must enforce judicial decisions, and the judiciary must ensure that executive actions remain within the boundaries of the constitution and the law. By doing so, both branches contribute to the fairness, justice, and stability of the political system.

In conclusion, the functional balance between the Judiciary and the Executive is not just a theoretical ideal but a practical necessity in the governance of democratic societies. It ensures that executive power is exercised responsibly, that laws are applied justly, and that the rights of citizens are protected. The ongoing interaction between these two branches reinforces the integrity of the legal and political system, ensuring that both justice and effective governance are achieved within a framework of accountability and respect for the law.

14.8 Summary

The functional balance between justice and the executive is a crucial aspect of democratic governance, ensuring that both branches operate within their constitutional limits and protect citizens' rights while maintaining effective governance. The executive is responsible for the implementation and enforcement of laws, policies, and governance, while justice—represented by the judiciary—ensures that laws are applied fairly and that executive actions comply with the constitution and legal norms. To materialize the proposition of balance between judiciary and executive, following measures are very much distinct to any observer:

- The executive and judiciary have distinct, constitutionally defined roles. This separation prevents any one branch from becoming too powerful and ensures a system of checks and balances.
- Courts have the power to review executive actions to ensure they align with the constitution and laws. This serves as a key check on executive overreach, safeguarding justice and protecting individual rights.
- The executive must be accountable to the legislature and the public. Mechanisms such as legislative oversight, judicial review, and electoral accountability ensure that the executive acts within the law and upholds justice.
- The judiciary must operate independently from the executive to make impartial and fair rulings. This independence ensures that the judiciary can uphold justice, even when executive actions are challenged.
- The executive has the responsibility to enforce judicial rulings. This ensures that courts' decisions, especially those related to rights and justice, are effectively implemented.
- In cases of conflict between the executive and the judiciary, such as challenges to executive actions, mechanisms like judicial review and legislative oversight ensure the resolution of disputes while maintaining the balance of power.

14.9 Key-Terms

- A. **Judiciary:** The judiciary is the branch of government that interprets and applies the law, and is responsible for a country's legal system
- B. **Executive:** The executive refers to a person or group of person having

administrative or supervisory authority in an organization or in government authority. The executive is responsible for executing and enforcing the law.

- C. **Accountability:** Accountability is an assurance that an individual or organization is evaluated on its performance or behaviour related to something for which it is responsible. The term is related to responsibility but is regarded more from the perspective of oversight.
- D. **Functional Balance:** Functional balance has multiple meanings, including a financial document and a skill that involves maintaining balance

14.10 Model Questions

- Discuss in detail the relation between judiciary and executive.
- What are the balancing factors between justice and executive?
- Write a note on the basic characteristics of justice.
- What you mean by functional relation? How justice and executive are functionally related?
- What you mean by public accountability and political accountability?
- Write in detail the functions of executive in democratic system..

14.11 Further Reading

- D.D.Basu: *Constitutional Law of India*; VI Edition
- John Rawls: *A Theory of Justice*; Oxford University Press 1971.
- Roscoe Pound: *The Spirit of the Common Law*; New Hampshire, Marshall Jones Company, 1931.
- Monoranjan Mohanti: *Contemporary Indian Political Theory*; New Delhi Samskriti, 2000
- Robert M MacIver: *The Web of Government*; New York Free Press, 1965.
- Adrian Leftwich: *What is Politics: The Activity and its Study*; Oxford Basil Blackwell, 1984.
- Collin Farrelly: *Introduction to Contemporary Political Theory*; London, Sage 2004.

Unit 15 □ Three Objectives of Democratic Administration, Separation of Power, and Limited Delegation

Structure

- 15.1 Learning Objectives**
- 15.2 Introduction**
- 15.3 Democratic Administration and Separation of Power.**
 - 15.3.1 How the Separation of Powers Strengthens Democratic Administration?**
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15.1 Learning Objectives

The **learning objectives** of the **Three Objectives of Democratic Administration** are designed to help students, practitioners, or citizens understand the core principles of democratic governance and how these principles function in practice. These objectives promote a deeper understanding of the values and structures that underpin democratic systems and offer practical guidance for how they can be achieved and maintained.

- It helps to understand the accountability of the democratic administration. The constitution has made it prominent that elected officials and public servants are in all cases answerable for their action to the citizen.
- This also creates a mechanism of accountability of the government to the society. Audit, Public Reporting, Public Accounts committee all these are used as an instrument to check the decision of the authority.

- With the help of this topic the learners will understand how transparency in decision-making and information-sharing helps maintain public trust in democratic systems.
- It is essential to comprehend the interdependence of three basic objectives of democratic administration: participation, accountability and efficiency, one can understand the balance within the constitution and administration.
- It is also essential to analyze contemporary issues in democratic governance, such as corruption, voter disenfranchisement, bureaucratic inefficiency, and lack of transparency, and propose solutions based on the principles of democratic administration.
- These learning objectives will enable students or citizens to deepen their understanding of how democratic administration operates and how key principles can be integrated into government practices to foster an equitable, transparent, and efficient system of governance.

15.2 Introduction

Democratic administration is a critical component of the broader democratic system, ensuring that public governance is not only effective but also accountable, inclusive, and responsive to the needs of all citizens. It also refers to a system of public administration that is characterized by the principles of democracy, such as participation, transparency, accountability and responsiveness. It ensures that public administration serves the interest of the people and upheld democratic value. The prime objective of the democratic administration are to promote the rule of law, protect human rights, ensure accountability and transparencies and foster economic and social development.

In a democracy, the administration of government must reflect core democratic principles, including respect for individual rights, rule of law, and active citizen participation. The three key objectives of democratic administration serve as the foundational pillars that guide the functioning of government institutions and public service delivery. These objectives are, 1) Promoting Accountability and Transparency; 2) Ensuring Equal Rights and Participation and 3) Enhancing Efficiency and Service Delivery

Together, these objectives aim to create a government that is responsive, inclusive, and responsible, ensuring that power is exercised fairly, that citizens can participate

in decision-making processes, and that government services are provided effectively and equitably.

At the heart of democratic administration is the principle of accountability. This means that elected officials, government employees, and institutions must be answerable to the public for their actions and decisions. Citizens should be able to scrutinize the behaviour of public servants and hold them responsible when their actions do not align with public interests or legal frameworks. Transparency is equally important in a democracy. Governments must operate openly, making decisions and processes visible to the public. Transparency ensures that citizens can understand how decisions are made, who is making them, and why they are being made.

A core tenet of democratic administration is ensuring that every citizen has the right to participate in the political process and that these rights are equally accessible to all, without discrimination. Equal participation means that citizens can freely express their views, vote, and influence policy decisions. In an ideal democratic system, the government seeks to create an environment where marginalized and vulnerable groups—such as racial minorities, women, or the economically disadvantaged—are given a platform for their voices to be heard.

Efficiency in administration refers to the ability of government bodies to manage resources effectively and implement policies in a timely manner. Governments in democratic systems must ensure that their actions are not bogged down by bureaucracy, red tape, or inefficiency.

The three objectives of democratic administration—accountability and transparency, equal rights and participation, and efficiency and service delivery—are interdependent and must work in tandem to ensure the proper functioning of democracy. Accountability and transparency ensure that public resources are used properly and that the government is responsive to the needs of the people. Equal participation ensures that all citizens have a stake in the decision-making process, leading to policies that represent a broader spectrum of society. Efficiency in service delivery ensures that the promises made through democratic processes are fulfilled in a timely and equitable manner.

The three objectives of democratic administration serve as guiding principles for creating a governance system that is not only effective in delivering services but also transparent, participatory, and responsive to the needs of its people. Promoting accountability and transparency, ensuring equal participation and rights, and enhancing the efficiency of public service delivery are all critical to maintaining a strong and resilient democratic system.

15.3 Democratic Administration and Separation of Power

The **separation of powers** is a foundational principle of democratic governance that ensures no single branch of government becomes too powerful or dominates the decision-making process. It divides the powers and responsibilities of government into three distinct branches: the **executive**, the **legislative**, and the **judicial**. This structure is designed to prevent any one branch from wielding unchecked power, thereby protecting individual freedoms and promoting a balance of power.

In a democratic administration, the separation of powers functions through law making body or legislature. The legislative branch is responsible for making the laws that govern the society. In a democracy, this typically involves an elected body, such as a parliament or congress that represents the interests of the people.

The members of legislature hold debate in the legislature, through the debate or sometime through discussion elected members in the parliament wants to present the voice of his of constitutive Legislators propose, debate on any proposal placed in the legislature. The legislature accepts those proposals after giving a thought on the debates and discussion of the member and pass laws. They also control government spending and hold hearings to oversee executive actions. The legislative branch serves as a check on the executive by limiting its power to unilaterally enact policy changes.

The function of the executive branch is to implement and enforce those laws which have been passed in the legislature. The executive branch, headed by the president or prime minister, is responsible for implementing and enforcing the laws passed by the legislative branch. This includes managing the bureaucracy, directing government agencies, and conducting foreign policy.

Thus the constitution empowers the executive to carry out the day-to-day operations of the government. The president or prime minister appoints officials, enforces laws, and leads military and foreign policy actions. In a presidential system like the U.S., the president holds executive powers, including vetoing legislation and issuing executive orders, while in parliamentary systems, the prime minister exercises executive functions, though often with more direct involvement from the legislature.

The role of Judicial Branch is somewhat different from legislature and executive. Its main function is to interpret law before it is finally implemented. The judiciary interprets and applies the laws passed by the legislature. Courts ensure that laws are consistent with the constitution or the fundamental legal framework of the country.

The role of the judiciary can best be explained as it acts as a check on both the legislative and executive branches by ruling on the constitutionality of laws and executive actions. The courts can declare laws or actions unconstitutional, protecting individual rights and preventing the abuse of power. **As for example**, in the U.S., the Supreme Court has the authority to review laws and executive actions through the process of judicial review, ensuring they align with the Constitution. Similarly, other countries with a constitutional court, like Germany, have systems for judicial review.

15.3.1 How the Separation of Powers Strengthens Democratic Administration?

The separation of powers ensures that no branch of government becomes too powerful. By distributing authority, it reduces the risk of authoritarian rule, where one person or group holds unchecked control over the state. Each branch acts as a check on the other one, ensuring power is not centralized in one part of the government.

Independent judicial review allows courts to protect the rights of citizens by striking down laws or government actions that violate individual freedoms. The separation of powers is essential in safeguarding civil liberties because the judiciary can step in to prevent overreach by the executive or legislative branches. Each branch of government holds the other accountable. For example, the legislature can scrutinize the executive's actions through hearings and investigations, while the judiciary can rule on the constitutionality of laws passed by the legislature. This system of checks and balances ensures that leaders and public officials are answerable to the public.

The separation of powers enables a system where power is not concentrated but instead shared across multiple institutions, providing opportunities for debate, deliberation, and public input. In a democracy, this system encourages transparency, public participation, and responsiveness to the people's needs. The separation of powers ensures that governance is predictable and stable, with clear roles and responsibilities for each branch. This consistency helps uphold the rule of law, ensuring that laws apply equally to all citizens, including those in power.

15.3.2 Challenges to the Separation of Powers in Democratic Administration

While the separation of powers is a crucial democratic principle, it is not always perfectly realized in practice. In some systems, the roles of the executive and legislative branches may overlap, particularly in parliamentary systems where the head of government (prime minister) is often drawn from the legislature. The system of checks and balances can sometimes lead to gridlock, especially when different branches of government are controlled by opposing political parties. This can hinder effective decision-making and policy implementation.

In some democracies, the judiciary may lack the independence needed to effectively check the power of the executive or legislative branches. When judicial independence is compromised, the rule of law and individual rights may be at risk. In certain instances, the executive branch may attempt to bypass the legislature or judiciary, potentially undermining the system of separation of powers. For example, executive orders or decrees may be issued in ways that bypass legislative processes, leading to a concentration of power in the executive.

However, the principle of the separation of powers is fundamental to the functioning of a democratic administration. It ensures that the government remains accountable, protects individual rights, and prevents any single branch from consolidating too much power. By maintaining a system of checks and balances, democracy can thrive, fostering fairness, equality, and the rule of law. However, for the separation of powers to function effectively, each branch must remain independent, and the citizens must be vigilant in holding their leaders accountable.

15.4 Democratic Administration and Limited Delegation

In democratic administration, **limited delegation** refers to the practice of delegating certain powers and responsibilities to public officials, agencies, or institutions, but with clear restrictions and oversight to ensure that these delegated powers are used appropriately and in the public interest. This concept is essential for maintaining the balance between efficiency in governance and the preservation of democratic principles such as accountability, transparency, and the protection of individual rights.

In democratic systems, delegating authority can be necessary for the effective functioning of government, especially when complex or specialized tasks need to be carried out. However, it is crucial that such delegation is **limited** to prevent abuse of power and ensure that decision-making remains accountable to the people.

Key Aspects of Democratic Administration is limited delegation. Limited delegation primarily defines the powers and responsibilities. The actual implementation of the definition can only materialised the perfect delegation. When powers are delegated, it is important to clearly define the scope of authority given to the delegated body or official. Delegation should be specific and not open-ended, to prevent any abuse or overreach. The legislative body, for example, may grant executive agencies the power to implement specific laws but must set clear boundaries for what those agencies can and cannot do. As for example a legislature may pass a law that authorizes a

regulatory agency (like a food safety authority) to set detailed rules regarding food inspection standards. However, the agency must operate within the parameters set by the law, ensuring they don't create policies outside their mandate.

Even when power is delegated, there must be mechanisms in place to ensure that delegated authority is used properly. This oversight is typically provided by the legislative branch, independent bodies, the judiciary, and, ultimately, the public. Regular audits, hearings, reports, and review processes are essential for maintaining accountability. In many democratic systems, the legislature retains the right to review and amend regulations created by agencies. Committees may investigate how laws are being implemented, and public access to information helps ensure transparency.

There is a relation between separation of powers and limited delegation of power and authority. It is said that limited delegation is closely tied to the concept of **separation of powers**, which ensures that the powers of government are distributed across different branches. Even when tasks are delegated to the executive or administrative agencies, these bodies must operate within their constitutional framework and not infringe on the responsibilities of the legislative or judicial branches. To clarify the point an example may be set for better understanding. While the executive may have delegated powers to implement laws, only the legislative branch has the authority to create new laws or change existing ones. The judiciary, in turn, ensures that delegated actions align with constitutional principles.

Transparency in decision-making is an essential element for successful implementation of delegation. It is said that delegation of power should be exercised with transparency among the users of the power and authority. This means that when a body or agency exercises the authority delegated to it, the process and reasoning behind decisions should be clear and accessible to the public. This ensures that citizens can hold those in power accountable for their actions. If a government agency is given the authority to regulate a certain industry (e.g., environmental protection), the decision-making process, the criteria used for decisions, and the resulting outcomes should be publicly accessible through reports, public hearings, and accessible online databases.

Delegation of power should often be **time-limited** and based on specific circumstances. For example, emergency powers granted to the executive branch during a crisis (such as a national disaster) should be limited both in time and scope. Once the crisis ends or the need for the delegation expires, the delegated powers should be revoked or reduced. During an emergency (such as a pandemic), governments may delegate

powers to health agencies to make rapid decisions. However, these powers should be explicitly tied to the duration of the emergency and subject to legislative review once the emergency has passed.

Limited delegation ensures that power is not concentrated in the hands of a few individuals or agencies, reducing the risk of corruption and abuse. Delegating authority with proper checks and balances ensures that delegated bodies are operating within ethical and legal boundaries. A city council might delegate certain zoning and planning responsibilities to a planning commission, but this commission must operate transparently and be subject to oversight to ensure that decisions are made in the best interest of the public, without favouritism or corruption.

Limited delegation of power is important for Democratic Administration primarily it ensures the accountability of the decision makers and decision implementers. **Limited delegation** ensures that those to whom power is delegated remain accountable to the people and their elected representatives. If the delegation of power is unlimited or unregulated, there is a risk that public officials or agencies could make decisions without adequate checks, leading to potential misuse of power. Democracies often require delegation for effective governance. Governments have many tasks that are too complex or technical to be managed directly by elected officials. Delegating specialized tasks, such as regulatory oversight, law enforcement, or administrative functions, allows for greater efficiency and expertise.

When delegated powers are limited and controlled, it reinforces the principle of the **rule of law**, which is a cornerstone of democratic governance. This ensures that power is exercised according to established laws and that those in positions of authority cannot arbitrarily exercise power beyond what has been lawfully granted. A local police department may be delegated the power to enforce traffic laws, but this power is subject to limitations based on the legal framework established by the state legislature, ensuring that their actions align with the overall legal system.

Without the limitation of delegated authority, there is a risk that the executive or other bodies may accumulate too much power, undermining democratic governance and potentially leading to authoritarian rule. The practice of **limited delegation** ensures that power remains decentralized and checks are in place to prevent any one branch or official from gaining disproportionate control. A president may have the power to appoint officials to manage public health during a crisis, but those powers are limited to the situation at hand and must be subject to periodic review by the legislature and the judiciary to ensure compliance with constitutional principles.

In democratic administration, **limited delegation** ensures that governance is both efficient and accountable. By delegating specific powers to agencies or officials within clear, well-defined limits, democracies can function effectively while maintaining respect for the rule of law, preventing the abuse of power, and protecting individual freedoms. However, to be successful, limited delegation requires strong systems of oversight, transparency, and clear legislative frameworks to ensure that delegated authorities remain accountable to the people.

15.5 Conclusion

The three objectives of democratic administration—promoting accountability and transparency, ensuring equal rights and participation, and enhancing efficiency and service delivery—are fundamental to the functioning of any democracy. Together, they form the bedrock upon which a fair, responsive, and effective democratic system is built. These objectives are not isolated from one another; they are interconnected and mutually reinforcing, ensuring that democracy remains vibrant, inclusive, and trustworthy.

- Accountability and Transparency ensure that the actions of government officials and institutions are subject to scrutiny and that decisions are made in the public interest. This promotes trust between citizens and the state, reduces the potential for corruption, and strengthens the legitimacy of democratic processes.
- Equal Rights and Participation guarantee that all citizens, regardless of their background, have the opportunity to engage in the political process. A democracy cannot function properly without active participation from its people, and the protection of civil rights is crucial to fostering a system where everyone has a voice. The more inclusive the process, the stronger and more legitimate the democracy.
- Efficiency and Service Delivery ensures that the government's promises are translated into tangible benefits for its citizens. It is not enough for a democracy to be transparent and inclusive; it must also be capable of delivering essential services effectively and in a way that meets the needs of all its people. Public services such as healthcare, education, and infrastructure are integral to citizens' well-being and contribute directly to their quality of life.

When these three objectives are pursued simultaneously and with commitment, democratic administrations can meet the challenges of governance while maintaining

the public's trust. Achieving a balance between accountability, participation, and efficiency ensures that a democracy remains resilient, adaptive, and capable of addressing the needs of a diverse and evolving society.

However, the effective implementation of these objectives requires continuous effort, oversight, and commitment from both the government and the citizens. A failure to uphold any of these principles can lead to democratic decay, loss of public confidence, and, in the worst cases, authoritarianism. Therefore, it is crucial that these objectives are not only understood but also actively integrated into the daily workings of democratic governance.

To sum up, the three objectives of democratic administration form a holistic framework for creating a governance system that is not only efficient but also just, fair, and responsive to the will and needs of the people. By prioritizing accountability, inclusivity, and effective service delivery, democratic systems can foster a society where citizens are empowered, the rule of law is upheld, and governance serves the common good.

15.6 Summary

The **three objectives of democratic administration** can be summarized as follows:

- Democratic administrations must ensure that public officials and institutions are answerable to the people. This requires transparent decision-making, where government actions are open to public scrutiny, fostering trust, reducing corruption, and enhancing the legitimacy of the government.
- A democracy must guarantee that all citizens have equal access to political participation, regardless of background or status. This includes protecting civil rights and creating opportunities for all individuals to engage in the political process, ensuring that policies reflect the needs and interests of the entire population.
- Democratic governments must deliver essential services effectively and equitably. This involves managing resources well, reducing inefficiencies, and ensuring that public services (like healthcare, education, and infrastructure) are provided in a way that meets the needs of all citizens.

These objectives together aim to create a fair, responsive, and effective system of governance, where power is exercised responsibly, and citizens can participate meaningfully, and public services are delivered efficiently and equitably.

15.7 Key-Terms

- A. Democratic Administration:** Democratic governance is the bedrock of the system of discussing and taking action on vital issues of peace, security, human rights, values and standards. It is a system of government where institutions function according to democratic processes and norms, both internally and in their interaction with other institutions.
- B. Transparency:** Transparency is the quality of being easily seen through while transparency in a governance context refers to being open and honest. As part of governance best practices, this requires disclosure of all relevant information so that others can make informed decisions.
- C. Political Participation:** Political participation is any activity a citizen engages in to influence their government. Politically active citizens may seek redress for social, political, economic, cultural, or environmental issues.
- D. Delegation:** Delegation is the process of distributing and entrusting work to another person. In management or leadership within an organisation, it involves a manager aiming to efficiently distribute work, decision-making and responsibility to subordinate workers in an organization.
- F. Infrastructure:** Relating to the basic systems and services that are needed to support an economy, organization etc. infrastructure development improvement Spending on health, education, construction and other infrastructural development..

15.8 Model Questions

- Write a detail note on democratic administration and limited delegation.
How the Separation of Powers Strengthens Democratic Administration?
- “Democratic Administration refers to a system of public administration that is characterized by the principles of democracy”- Explain
- What are three objectives of democratic administration? Explain in detail..
- How you explain the role of judiciary in Democratic Administration?
- Do you think delegation as a process is an important factor for democratic administration?

15.9 Further Reading

- R.Bhargava: “Introduction: Outline of a Political Theory of the Indian Constitution”; in R.Bhargava (ed) *Politics and Ethics of the Indian Constitution*; New Delhi, Oxford University Press, 2008
- M.Singh and R.Saxena: “Towards Greater Federalization”: in *Indian Politics: Constitutional Foundations and Institutional Functioning*; PHI Learning, 2011.
- V.Hewitt and S.Rai: “Parliament” in P.Mehta and N.Jayal (Eds): *The Companion to Politics in India*; Oxford New Delhi, Oxford University Press, 2010.
- J.Manor: “The Presidency” in D.Kapur and P.Mehta (Eds) *Public Institution in India*, New Delhi, Oxford University Press, 2005
- D.Kapur and P.Mehta (Eds) *Public Institution in India*, New Delhi, Oxford University Press, 2005