INDIAN GOVERNMENT
AND ADMINISTRATION

Material Prepared by

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NON-MAJOR ELECTIVE – II (16ANMEPA2)

CONTENT

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Unit – I

Evolution of Indian Administration - Constitutional Development Framework – Salient Feature of Indian constitution

1.1 Introduction:

Indian administration, as we know, has its evolution that can be traced back to the 5000 years old Indus Valley Civilization wherein the King was all powerful and everything in the Kingdom was carried out in his name. He was assisted by a council of ministers, and also other functionaries and officers in administering the Kingdom. In other words, in the ancient times, powers of administering the Kingdom were centralized in the institution of King.

This was followed by the Vedic period. Early Vedic Aryans were organised in to tribes rather than kingdoms. The chief of a tribe was called 'Rajan.' The main responsibility of the Rajan was to protect the tribe. He was aided by several functionaries, including the purohita (chaplain), the senani (army chief), dutas (envoys), and spash (spies).

However, a systematic model of administration came in with the coming of the Mauryan and Gupta dynasties. Both the dynasties had elaborate governmental machineries that carried out state functions in a highly organized manner. The Unit therefore tends to discuss the administrative systems that prevailed during these dynasties.

We will just have a brief discussion about the evolution of the ancient administrative system to begin with.

1. 2 Evolution of Ancient Indian Administration:

The Vedic period or Vedic age (c. 1500 – c. 500 BCE) gets its name from the Vedas1. Early Vedic Aryans were organised into tribes rather than kingdoms. The chief of a tribe was called 'Rajan.' The main responsibility of the Rajan was to protect the tribe. He was aided by several functionaries, including the purohita (chaplain), the senani (army chief), dutas(envoys), and spash (spies). However, the autonomy of the Rajan was restricted by the tribal councils called 'sabha' and 'samiti.' Arthur Llewellyn Basham, a noted historian and Indologist, theorises that sabha was a meeting of great men in the tribe, whereas, samiti was a meeting of all free tribes men. The two bodies were, in part, responsible for the governance of the tribe. The Rajan could not accede to the throne without their approval.

In the later Vedic period, the tribes had consolidated into small kingdoms, which had a capital and rudimentary administrative system. The Rajan was seen as the custodian of social order and the protector of 'rashtra' (polity). Hereditary kingship started emerging. Rituals in this era exalted the status of the King over his people. He was occasionally referred to as 'samrat' (supreme ruler). The Rajan's increasing political power enabled him to gain greater control over the productive resources. The voluntary gift offering (bali) became a compulsory tribute. There was no organized system of taxation. Sabha and samiti were still there but with the increasing power of the Rajan, their influence declined. By the end of the later Vedic age, different kinds of political systems such as monarchical states (rajya), oligarchic states (gana or sangha), and tribal principalities had started emerging.

1.3 British government rule:

The present administrative system in India was evolved during the East India Company's rule in the country. This period will be divided into two parts for study purposes. First, the East India Company's rule upto 1857 and second, the British government rule from 1858 up to 1947. The East India Company came to India for purely business purposes, but later took over the government of the country. The end of the company rule came in 1858 with the taking over of the government by the British Crown. These are some of the very important evolutionary steps in the administrative history of India. After the death of Aurangzeb in 1707, the Mugha1 empire began to disintegrate and the central administration became paralysed. The small rulers who earlier accepted the suzerainty of Mughal emperors, started fighting among themselves. The East India Company took advantage of this situation and established its hold over several parts of the country. The battle of Plassey in 1757 paved the way for the real authority in the hand of the Company.'

The East India Company in the year 1765 secured the Diwani rights of Bengal, Bihar, and Orissa, but it did not change the administration of these provinces and mainly continued the administrative system of the Mughals. However, the British wanted to reduce the exploitation of the people of these provinces by the 'Zamindars' and other intermediaries. Therefore, they established rapport with the people through their own officers and this led to the establishment, in stages of the modern system of district administration. In 1772 they appointed 'Supervisors' in each bigger district, who were later nominated as 'Collectors' by Warren Hastings in 1772. The Board of Directors of the Company in 1786 directed the Governor-General in Council to place all the districts under Collectors. These collectors were responsible for collection of land revenue, dispensation of civic justice and magisterial work, etc. This office is a most significant one, even today. In the year 1829, Divisional Commissioners were appointed in Bengal to supervise the administration of a group of districts and this was the beginning of the Divisional Commissioner system, which is still in vogue in present states. Four years after receiving the 'diwani; the conferment of which did not 'ipso facto', make the company a sovereign authority in Bengal. Bihar and Orissa but which led the way to exercise of such authority, it did not make any move in respect of organizing the government which was now in a state of virtual collapse. But from 1769 onwards, the Company started making experiments in this regard. At first, they proved to be not only ineffectual but also almost disastrous. By 1786, however, it appeared to have groped its way into the right direction. But even then further experiments had to be made to make the structure efficient and well organised and the administration stable and strong. Though the Company had control over some of the Indian provinces, the administration was unstable and not so good. The result was the passing of various Acts by the British Government.

For the purpose of study of the evolution of the Indian administrative system during this period, we shall divide it into the following two periods:

1. Administrative system before 1858. And
2. Administrative system after 1858 upto 1947.

The year 1773 was a landmark in the growth of Indian Administration. Before 1773 there was no central authority in the country. The 1773 Act restricted the powers of the presidencies from making war or treaties without the sanction of the Governor-General in Council. This confirmed the British Parliament's control over East India Company's affairs. The Pitt's India Act of 1784 placed Indian Affairs under the direct control of the British Government, by establishing a Board of Control representing the British Cabinet, over the court of Directors. The Court of Directors of the East India Company were required to pay due obedience (and be) governed and .... bound by such orders as they shall from time to time. receive from the said board." The appointment of Governor-General was made by the directors with the approval of the Crown. The position of the Governor-General became very difficult with the introduction of the system of dual control. This system with some modifications remained in operation till 1858. As a result the Company's administration became not only cumbersome but also dilatory.

The Company's rule ended with the enactment of the Government of India, Act, 1858 and passed on to the Crown. The Board of Control and the Court of Directors, both were abolished and their powers were given to the newly created office of the Secretary of State for India. His office was known as India office which enabled him to discharge his functions smoothly.

1.4 Portfolio System:

The government's work increased and its pressure was felt by the successive governorgenerals. Inordinate delay became unavoidable. This situation improved when the innovation known as portfolio system was introduced in 1859 by Lord Canning. According to this innovation, a member of the Council would be appointed in charge of one or more departments of the government by Governor-General and he would issue orders on behalf of the Governor-General- In-Council. The Act of 1861 Section 8 gave statutory recognition to this innovation. Where any other department was concerned, it was also consulted: the finance department would advise on matters relating to finance and expenditure, so also the home department for

matters relating to the services of the general administration or internal politics. If the concerned department did not agree, the matter was referred to the Governor-General. Every important matter of any department, as well as where it was proposed to overrule any local (Provincial) government, reference to the Governor-General was necessary. The Portfolio system, in the first place increased efficiency and speed of the government work. Second, the members of the council were recognized as heads of their departments and had greater degree of initiative and responsibility in the working of the departments.

The Act of 1861 enlarged the Executive Council of the Governor General by adding a fifth as the law member and he was given power: to conveniently transact the business. This Act tried to render the Executive Government too strong to be handicapped by any expansion of the legislature and restored the legislative powers of the local governments without affecting central control. The Act of 1870 also empowered the governor general to suspend such measures of resolutions of the Councils which may have the interest of British possessions in India. The Indian Council Act of 1892 enlarged the function and members, of the legislative Councils, but not implemented in toto. Two fifths of the additional members were to be non-officials. The Act also introduced the principle of election in an indirect manner. Although the Act did not provide for direct election, the mode of indirect election produced a result which turned the balance of power against the landed aristocracy and placed legal Practioner in the dominant position. The Act of 1909, popularly known as the Morley-Minto Reforms. carried the above policy further. The Act increased the size of the legislative councils at all levels. They still remained deliberative bodies only. The indirect election system continued but for the first time separate representation was given for the Muslims.

1.5 Introduction of Local Self Government:

In 1688 a corporation in Madras was established. In 1726 Calcutta and Bombay corporations were created. In the Presidencies of Madras and Bombay, ancient village system of rural self-government agency was retained and in the 19th Century, Panchayats received encouragement from district authorities.

The Government of India resolution 1864 admitted the desirability of the local people's capability to run the local affairs. A further step in the direction of local self-government was taken by Lord Mayo in 1870, popularly known as Mayo Resolution of 1870. As a result New Municipal Acts were passed in various provinces between 1871 and 1874 to relieve the burden on imperial finances by levying local rates and cesses and also extended the elective principle. The next important step was taken during the viceroyalty of Ripon, who has been called the 'father of local selfgovernment in India.'

In 1882, the famous Ripon Resolution for local self Government was issued which continueud to influence the development of local government in India, till 1947. The resolution said. "It is only primarily with a view to improvement in administration that this measure is being put forward and supported, it is desirable as an instrument of political and popular education." The result was enactment of series of Municipal Acts and enactments for rural areas.

The Decentralisation Commission in its report of 1909, emphasised the importance of Village Panchayats and recommended the adoption of special measures for their revival and growth. It also recommended the lessening of government control over local bodies and augmenting the sources of income of these bodies ; but neither the government of India nor the provincial governments faithfully carried out the Ripon's Resolution.

The Montague-Chelmsford Report on constitutional Reforms (1918) examined the system of local self-government prevalent in the country and stated that local bodies would be made autonomous and outside control would be minimal.

1.6 Administrative Reforms 1919:

The Government of India Act, 1919 introduced the bicameral system and demarcated the central and provincial subjects. The central list consisted of important subjects such as defence, foreign affairs, tariff and customs, railways, post and telegraphs, income tax, currency and coinage, all India services, etc. The Provincial list included local self-government, public health, public works, education, water supply, irrigation, agriculture, land revenue, police, forests,

justice, excise & fisheries, etc. The Provincial subjects were further divided into “resolved” and “transferred” subjects. The ‘reserved’ subject being important, were placed under the charge of counsellors, who along with governor were made responsible to the Secretary of State and the Central legislature. The administration of “transferred” subjects was entrusted to the ministers responsible to the Provincial Legislative Council. The distribution of executive power between the governor-generalin- council and the governor acting on the advice of his ministers responsible to the provincial legislative council was called dyarchy. This reform reduced the control of Secretary of State for India, over the central and provincial administration so far as the “transferred” subjects were concerned; but as regards “reserved” subjects, there had been no change. This Act was a step to provide opportunity to Indians to take charge of departments of Provincial administration, not as nominated ones but as the elected leaders of legislatures. This new scheme was based on three principles. First, the central and provincial spheres were demarcated and distinguished from each other. Second, the provinces were considered to be the most suitable for experiment of self government. Third, an attempt was made to give an effective voice to the people in the conduct of the Central Government.

1.7 Administrative Reforms 1935:

The Government of India Act, 1935 had two basic concepts: one Provincial autonomy and the other, an all India federation. In the structure of the Home Government, some changes were made. The Indian Council was dissolved and to take its place, there was to be a set of advisers to the Secretary of State for India, whose number was fixed between three and six. The Secretary of State had the right to consult these advisers individually or collectively.

The Act provided for the introduction of dyarchy at the centre, whereas the system of dyarchy in the provinces, was abolished. The federal executive was made partly responsible to the federal legislature. The executive councillors were put in charge of defence, external affairs, ecclesiastical affairs and tribal affairs and were responsible to the Governor-General and not to the federal legislature. The governor General would interfere in the work of the remaining subjects in the federal legislature, on the ground that it affected the discharge of his special responsibilities. But this was never done as the scheme could not be operated.

Under the federal set-up, the subjects were divided into three lists, viz., the Federal, Provincial and Concurrent list. In the Federal list there were 59 subjects of administration related to the centre. The Provincial list had 54 items related to the provincial government. The Concurrent list consisting of 36 subjects was common for the central and provincial governments. These provisions of the Act at the central level could not be implemented, but at the provincial level, these were introduced in 1937.

Inspite of the failure of the federal provisions of, the Act, the Government of India continued its working under the provisions of the Act of 1919 with certain modifications, till the Indian Independence Act of 1947 came into force. In Britain, the Labour Party came to power after the 1945 elections and initiated a new approach. The imprisoned Indian leaders were set free; elections were held to the central and provincial legislatures; and popular ministries were restored in the provinces.

The famous Cabinet Mission Plan was published on May 16, 1946. An interim government was formed in 1946, With Jawaharlal Nehru as its Vice-President. The Muslim League initially declined to join the Interim government but later agreed. Further, elections were held to the Constitutional Assembly which met at Delhi in December 1946, but the Muslim League boycotted it, in March Mountbatten was appointed Governor - General and in June, he formulated his scheme for the partition of the country. On 18th July, the British Parliament passed the Indian Independence Act, 1947 and at mid-night on 15th August 1947. India became a free nation. The new constitution was adopted on 26th January, 1950.

1.8 Indianization of Administration:

India became independent in August 1947 with the end of the British rule. A new Constitution was framed and adopted on January 26. 1950 and India became a republic. The pertinent question is what was the new republic like, and what was handed over by Britishers along with the power’? The answer of these questions can be found easily during the period

Britishers governed the country by establishing various institutions. Though Indians were very happy to get rid of the colonial rule it was soon realised that the governmental system and administrative apparatus developed by the Britishers was capable of meeting all the needs of the country, therefore, the same administrative system was maintained even after independence, of course, with some changes as per the requirements of the time. The main features of the British governmental and administrative system, like parliamentary form of government. federal structure, governors in the states, secretariat system, central and state administration. Civil Services, District and Regional administration, the procedures of work, Rule of law, and Local government, etc. continue to be the main points of the present Indian administrative system.

1.9 Federal Structure:

The federal structure of the Indian Constitution has its roots in the Government of India Act of 1935. The Constitutional history of India shows, that the Act of 1919 mentioned 'transferred' subjects which were entrusted to ministers of provinces accountable to elected provincial legislatures, and 'reserved' subjects meant for officials under the Governors. Thus, a 'dyarchy' system was the main characteristic of the Act of 1919, sowing the seeds of division of subjects between provinces and centre. The Government of India Act 1935, added three contributions to the political development in the country: these were: first, it established a full responsible government in the provinces, second, it contained a list of division of powers between provinces and the centre, third, it established a Federal Court. The Act of 1935 provided in its 451 clauses, a model for the Indian Constitution of 1950. Thus, the type of federation we have adopted in our Constitution, is a British legacy.

1.2.1 Constitutional Framework of Indian Constitution:

The Constitution of India (IAST: Bhāratīya Saṃvidhāna) is the supreme law of India. The document lays down the framework that demarcates fundamental political code, structure, procedures, powers, and duties of government institutions and sets out fundamental rights, directive principles, and the duties of citizens. It is the longest written national constitution in the world.

It imparts constitutional supremacy (not parliamentary supremacy, since it was created by a constituent assembly rather than Parliament) and was adopted by its people with a declaration in its preamble. Parliament cannot override the constitution.

B. R. Ambedkar and Constitution of India on a 2015 postage stamp of India It was adopted by the Constituent Assembly of India on 26 November 1949 and became effective on 26 January 1950.] The constitution replaced the Government of India Act 1935 as the country's fundamental governing document, and the Dominion of India became the Republic of India. To ensure constitutional autochthony, its framers repealed prior acts of the British parliament in Article 395. India celebrates its constitution on 26 January as Republic Day.

The constitution declares India a sovereign, socialist, secular, and democratic republic, assures its citizens justice, equality, and liberty, and endeavours to promote fraternity. The original 1950 constitution is preserved in a helium-filled case at the Parliament House in New Delhi. The words "secular" and "socialist" were added to the preamble by 42nd amendment act in 1976 during the Emergency.

1928, the All Parties Conference convened a committee in Lucknow to prepare the Constitution of India, which was known as the Nehru Report.

Most of the colonial India was under British rule from 1857 to 1947. From 1947 to 1950, the same legislation continued to be implemented as India was a dominion of Britain for these three years, as each princely state was convinced by Sardar Patel and V.P.Menon to sign the articles of integration with India, and the British government continued to be responsible for the external security of the country. Thus, the constitution of India repealed the Indian Independence Act 1947 and Government of India Act 1935 when it became effective on 26 January 1950. India ceased to be a dominion of the British Crown and became a sovereign democratic republic with the constitution. Articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388,

391, 392, 393, and 394 of the constitution came into force on 26 November 1949, and the remaining articles became effective on 26 January 1950.

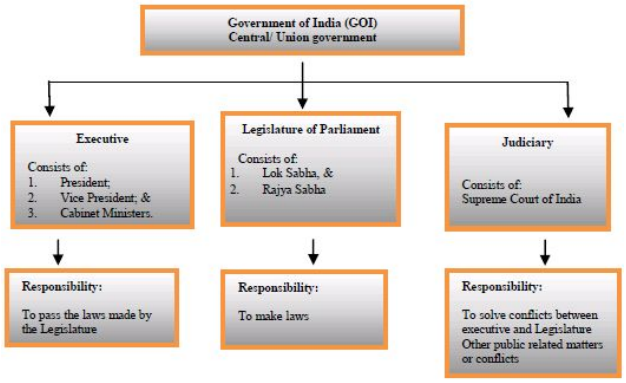
1.2.2 Governance Framework Of India

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC, and to secure to all its citizens..."

The Republic of India is governed by the Constitution of India, which was adopted by the Constituent Assembly on November 26, 1949 and came into force on January 26, 1950. The Constitution of India seeks to protect the fundamental, political and civil rights of the people. It also embodies the basic governance structure of the country.

The Constitution of India provides for a Parliamentary form of Government, which is federal in structure with certain unitary features.

Broadly, the governance structure in India can be depicted as follows:



Transparency, accountability and adherence to the rule of law depends on a systemic arrangement and coherency between the three arms of the state, viz, the Executive, the Legislature and the Judiciary. The Constitution of India provides for a system of governance based on the above-mentioned three arms within a federal framework with greater powers in the hands of the Union Government or Government of India or the Central Government (also referred to as the "Centre"), which governs the Union of India as a whole.

1.2.3 Legislature

In India, the Parliament is the supreme legislative body. As per Art 79 of the Constitution of India, the Council of Parliament of the Union consists of the President and two Houses, which are known as the Council of States (Rajya Sabha) and the House of People (Lok Sabha). The President has the power to summon either House of the Parliament or to dissolve the Lok Sabha. Each House has to meet within six months of its previous sitting. A joint sitting of two Houses can be held in certain cases.

The cardinal functions of the Legislature include overseeing of administration, passing of budget, ventilation of public grievances and discussing various subjects like development plans, international relations and national policies. The Parliament is also vested with powers to impeach the President, remove judges of the Supreme Court and High Courts, the Chief Election Commissioner, and the Comptroller and Auditor General in accordance with the procedure laid down in the Constitution of India. All legislations require the consent of both the Houses of Parliament. The Parliament is also vested with the power to initiate amendments in the Constitution of India.

1.2.4. Executive

The President serves as the Executive Head of the State and the Supreme Commander-in-Chief of the armed forces. Article 74(1) of the Constitution of India provides that there shall be a Council of Ministers, with the Prime Minister as its head to aid and advise the President.

The President appoints the Prime Minister, Cabinet Ministers, Governors of States and Union Territories, Judges of the Supreme Court and High Courts, Ambassadors and other diplomatic representatives. The President is also authorised to issue Ordinances with the force of the Act of Parliament, when Parliament is not in session.

The President must consult the Council of Ministers and the Prime Minister before taking any executive decision. It is important to note that the Council of Ministers (usually known as the "Cabinet" and constituted of the members of the ruling political party/ alliance) and the Prime Minister (usually the leader of the political party/ consensus candidate of the alliance; also heads the Cabinet) are members of Parliament and, therefore, by convention, in their hands rest the legislative and executive powers of the Centre.

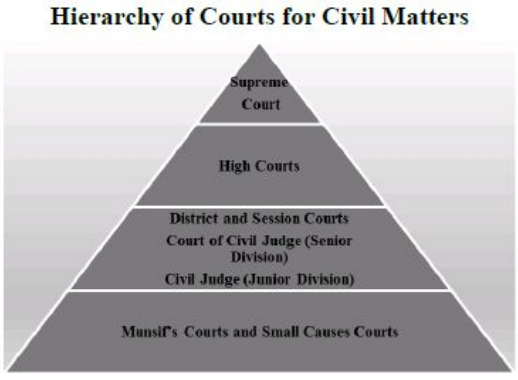
The federal units, ie, the States, have their own set-up in terms of legislatures (normally referred to as the "State Legislature") and state administrative wings similar to that of the Centre. Here, the Governor is the head of the Executive, though the real power rests with the Chief Minister and his/her Council of Ministers. There are certain territories in India that are not States, but are known as Union Territories and these are governed directly by the Centre.

The Constitution of India prescribes the separation of legislative and administrative powers between the Union and the States. Areas such as, defence, railways, maritime, interstate trade, airways, banking, etc, are under the jurisdiction of the Centre (Union List) and areas such as public order, police, agriculture, etc, fall under the jurisdiction of the States (State list). There is a third category of list also which is termed as the Concurrent List. It covers areas such as criminal law and procedure, economic and social planning, trusts, bankruptcy, etc, over which both the Centre and the States have legislative and executive powers, though in case of conflict between the two, the Centre's position prevails.

1.2.5. Judiciary

The Indian Judiciary as of today is a continuation of the British legal system established by the English in the mid-19th century. Before the arrival of the Europeans in India, it was governed by laws based on the Arthashastra, dating from 400 BC, and the Manusmriti from 100 AD. These were the influential treatises in India, texts that were considered authoritative legal guidance, however, till today the legacy of the British system is manifested from the fact that India falls into the genre of common law system. The procedure and substantive laws of the country, the structure and organisation of courts, etc, emanate from the common law system.

The Judiciary of India is an independent body and is separate from the Executive and Legislative organs of the Indian Government. The Judiciary in India provides the people of the nation the necessary "auxiliary precaution" required to ensure that the Government functions in favour of the people, for their amelioration and for the betterment of society.



The judicial system of India is divided into four basic levels. At the apex level is the Supreme Court, situated in New Delhi, which, under the scheme of the Constitution of India is the guardian and interpreter of the Constitution of India, which is followed by High Courts at the State level, District Courts at the district level and Lok Adalats at the village and panchayat level.

The Supreme Court and High Courts have the special constitutional responsibility of enforcing the "Fundamental Rights" of the citizen, as enshrined in Part III of the Constitution.

1.2.6. Below is a schematic representation of the hierarchy of courts in India:

Supreme Court

The Supreme Court has original, appellate and advisory jurisdiction. Its exclusive original jurisdiction includes any dispute between the Centre and State(s) or between States as well as matters concerning enforcement of fundamental rights of individuals. The appellate jurisdiction of the Supreme Court can be invoked by a certificate granted by the High Court concerned in respect of any judgment, decree, or final order of a High Court, in both civil and criminal cases, involving substantial questions of law as to the interpretation of the Constitution. Supreme Court decisions are binding on all Courts/ Tribunals in the country and act as precedence for lower courts. Under Art 141 of the Constitution, all courts in India are bound to follow the decision of the Supreme Court as the rule of law.

1.2.7. High Courts

High Courts have jurisdiction over the States in which they are located. There are at present, 23 High Courts in India.[1] However, the following three High Courts have jurisdiction over more than one State: Bombay (Mumbai) High Court, Guwahati High Court, and Punjab and Haryana High Courts. For instance, the Bombay High Court is located at Mumbai, the capital city of the State of Maharashtra. However, its jurisdiction covers the States of Maharashtra and Goa, and the Union Territories of Dadra and Nagar Haveli. Predominantly, High Courts can exercise only writ and appellate jurisdiction, but a few High Courts have original jurisdiction and can try suits. High Court decisions are binding on all the lower courts of the State over which it has jurisdiction.

1.2.8. District Courts

District Courts in India take care of judicial matters at the District level. Headed by a judge, these courts are administratively and judicially controlled by the High Courts of the respective States to which the District belongs. The District Courts are subordinate to their respective High Courts. All appeals in civil matters from the District Courts lie to the High Court of the State. There are many secondary courts also at this level, which work under the District Courts. There is a court of the Civil Judge as well as a court of the Chief Judicial Magistrate. While the former takes care of the civil cases, the latter looks into criminal cases and offences.

1.2.9. Lower Courts

In some States, there are some lower courts (below the District Courts) called Munsif's Courts and Small Causes Courts. These courts only have original jurisdiction and can try suits up to a small amount. Thus, Presidency Small Causes Courts cannot entertain a suit in which the amount claimed exceeds Rs 2,000.[2] However, in some States, civil courts have unlimited pecuniary jurisdiction. Judicial officers in these courts are appointed on the basis of their performance in competitive examinations held by the various States' Public Service Commissions.

1.2.10. Tribunals

Special courts or Tribunals also exist for the sake of providing effective and speedy justice (especially in administrative matters) as well as for specialised expertise relating to specific kind of disputes. These Tribunals have been set up in India to look into various matters of grave concern. The Tribunals that need a special mention are as follows:

- Income Tax Appellate Tribunal
- Central Administrative Tribunal
- Intellectual Property Appellate Tribunal, Chennai
- Railways Claims Tribunal
- Appellate Tribunal for Electricity
- Debts Recovery Tribunal
- Central Excise and Service Tax Appellate Tribunal

For instance, the Rent Controller decides rent cases, Family Courts try matrimonial and child custody cases, Consumer Tribunals try consumer issues, Industrial Tribunals and/or Courts decide labour disputes, Tax Tribunals try tax issues, etc.

It also needs special mention here that certain measures like setting up of the National Company Law Tribunal (NCLT) to streamline and effectuate the liquidation proceedings of companies, dispute resolution and compliance with certain provisions of the Companies Act, 2013[3] are also in the pipeline.

1.2.11. Alternate Dispute Resolution (ADR) in India

An interesting feature of the Indian legal system is the existence of voluntary agencies called Lok Adalats (Peoples' Courts). These forums resolve disputes through methods like Conciliation and Negotiations and are governed by the **Legal** Services Authorities Act, 1987. Every award of Lok Adalats shall be deemed to be a decree of a civil court and shall be binding on the parties to the dispute. The ADR mechanism has proven to be one of the most efficacious mechanisms to resolve commercial disputes of an international nature. In India, laws relating to resolution of disputes have been amended from time to time to facilitate speedy

dispute resolution in sync with the changing times. The Judiciary has also encouraged out-of-court settlements to alleviate the increasing backlog of cases pending in the courts. To effectively implement the ADR mechanism, organisations like the Indian Council of Arbitration (ICA) and the International Centre for Alternate Dispute Resolution (ICADR) were established. The ICADR is an autonomous organisation, working under the aegis of the Ministry of Law & Justice, Government of India, with its headquarters at New Delhi, to promote and develop ADR facilities and techniques in India. ICA was established in 1965 and is the apex arbitral organisation at the national level. The main objective of the ICA is to promote amicable and quick settlement of industrial and trade disputes by arbitration. Moreover, the Arbitration Act, 1940 was also repealed and a new and effective arbitration system was introduced by the enactment of The Arbitration and Conciliation Act, 1996. This law is based on the United Nations Commission on International Trade Law (UNCITRAL) model of the International Commercial Arbitration Council.

Likewise, to make the ADR mechanism more effective and in coherence with the demanding social scenario, the Legal Services Authorities Act, 1987 has also been amended from time to time to endorse the use of ADR methods. Section 89 of the Code of Civil Procedure, as amended in 2002, has introduced conciliation, mediation and pre-trial settlement methodologies for effective resolution of disputes. Mediation, conciliation, negotiation, mini trial, consumer forums, Lok Adalats and Banking Ombudsman have already been accepted and recognised as effective alternative dispute-resolution methodologies.

1.2.12. A brief description of few widely used ADR procedures is as follows:

1. **Negotiation**: A non-binding procedure in which discussions between the parties are initiated without the intervention of any third party, with the object of arriving at a negotiated settlement of the dispute.
2. **Conciliation**: In this case, parties submit to the advice of a conciliator, who talks to the each of them separately and tries to resolve their disputes. Conciliation is a non-binding procedure in which the conciliator assists the parties to a dispute to arrive at a mutually satisfactory and agreed settlement of the dispute.
3. **Mediation**: A non-binding procedure in which an impartial third party known as a mediator tries to facilitate the resolution process but he cannot impose the resolution, and the parties are free to decide according to their convenience and terms.
4. **Arbitration**: It is a method of resolution of disputes outside the court, wherein the parties refer the dispute to one or more persons appointed as an arbitrator(s) who reviews the case and imposes a decision that is legally binding on both parties. Usually, the arbitration clauses are mentioned in commercial agreements wherein the parties agree to resort to an arbitration process in case of disputes that may arise in future regarding the contract terms and conditions.

While the judicial process is largely considered fair, a large backlog of cases to be heard and frequent adjournments result in considerable delays before a case is decided. However, matters of priority and public interest are often dealt with expeditiously and interim relief is usually allowed in cases, on merits.

1. 3. 1. SALIENT FEATURES OF INDIAN GOVERNMENT:

Indian constitution, one of the utmost admired constitutions in the world was enacted after 'ransacking' all the known constitutions of the world at that time. This constitution that we have enacted has stood the test of times. Though provisions were borrowed from other constitutions, the constitution of India has several salient features that distinguish it from constitution of other countries

1.3.2. Lengthiest written constitution:

- Constitution can be classified into written constitution such as that of America or unwritten constitution such as that UK.
- The constitution of India is a written constitution which happens to be the lengthiest written constitution in the world.
- It is comprehensive, elaborate and a detailed document

- The factors that have contributed to this phenomenon are: geographical factors (vastness of country and diversity), Historical factors (Influence of GoI, 1935), Single constitution for both centre and state and dominance of legal luminaries

1.3.3. Drawn from various sources

- It has borrowed most of its provisions from the constitution of various other countries as well as from the Government of India act, 1935. Ex: structural part from GoI, 1935, independence of judiciary from USA, Fundamental Rights from USA etc
- Though it is borrowed, the Indian constitution-makers made sure the borrowed features were made suitable to Indian conditions. **Ex**: Though we borrowed cabinet form of governance from UK, the cabinet is not all-supreme as in the case of UK.

1.3.4. Preamble of the constitution

- The Preamble consists of the ideals, objectives and basic principles of the Constitution.
- The salient features of the Constitution have developed directly and indirectly from these objectives which flow from the Preamble
- It asserts India to be a Sovereign Socialist Secular Democratic Republic and a welfare state committed to secure justice, liberty and equality for the people and for promoting fraternity, dignity the individual, and unity and integrity of the nation.
- The Preamble is the nature of Indian state and the objectives it is committed to secure for the people.

1.3.5. Democratic system

- The authority of the government rests upon the sovereignty of the people. The people enjoy equal political rights.
- Free fair and regular elections are held for electing governments

1.3.6. India is a republic

- The Preamble declares India to be a Republic.
- India is not ruled by a monarch or a nominated head of state. India has an elected head of state (President of India) who wields power for a fixed term of 5 years.
- After every 5 years, the people of India indirectly elect their President.

1.3.7. Union of states

- Article I of the Constitution declares, that “India that is Bharat is a Union of States.”

1.3.8. Fundamental Rights and duties:

- The Constitution of India grants and guarantees Fundamental Rights to its citizens.
- The constitution of India confirms the basic principle that every individual is permitted to enjoy certain basic rights and part III of the Constitution deals with those rights which are known as fundamental right.
- The Six FR include- Right to Equality; Right to Freedom; Right Against Exploitation; Right to Freedom of Religion; Cultural and Educational Rights and Right to Constitutional Remedies (Art. 32).
- The fundamental rights are justiciable and are not absolute. Reasonable constraints can be imposed keeping in view the security-requirements of the state.
- A new part IV (A) after the Directive Principles of State Policy was combined in the constitution by the 42nd Amendment, 1976 for fundamental duties.

1.3.9. Directive Principles of State Policy:

- A unique aspect of the Constitution is that it comprises of a chapter in the Directive Principles of State Policy.
- These principles are in the nature of directives to the government to implement them to maintain social and economic democracy in the country.

1.3.10. Parliamentary System:

- The Constituent Assembly decided to espouse Parliamentary form of government both for the Centre and the states.
- In Indian parliamentary system, distinction is made between nominal and real executive head.

- The Council of Ministers is responsible before the Lok Sabha, The lower house of union parliament. There are close relations between executive and legislature.

1.3.11. Federal structure of government:

- A federal state is a state where a country is divided into smaller regions and the government is functioning at two levels
- The Indian Constitution has envisaged a federal structure for India considering the geographical vastness and the diversity of languages, region, religions, castes, etc.
- Written Constitution, supremacy of the Constitution, division of powers between Union and States, bicameral Legislature, independent Judiciary, etc. are the features of Indian federation.
- Scholars describe India as a 'Quasi-Federation' (K.C. Wheare) or as 'a federation with a unitary bias, or even as 'a Unitarian federation.'

1.3.12. Universal adult franchise

- All men and women enjoy an equal right to vote. Each adult man and woman above the age of 18 years has the right to vote.
- All registered voters get the opportunity to vote in elections.

1.3.13. Single integrated State with Single Citizenship:

- India is the single Independent and Sovereign integrated state.
- All citizens enjoy a common uniform citizenship.
- They are entitled to equal rights and freedoms, and equal protection of the state.

1.3.14. Integrated Judicial system

- The Constitution provides for a single integrated judicial system common for the Union and the states.
- The Supreme Court of India works at the apex level, High Courts at the state level and other courts work under the High Courts.

1.3.15. Independent Judiciary

- It is necessary to secure the philosophical foundations of the rule of law and democracy
- Firstly, the Constitution makers created a separate Judiciary independent of Legislature and Executive.
- Secondly, the Constitution has ensured complete independence of Judiciary in the matters of administration and finances.

1.3.16. Amending the Constitution of India:

- Amending the Constitution of India is the procedure of making modifications to the nation's fundamental law or supreme law.
- The procedure of amendment in the constitution is laid down in Part XX (Article 368) of the Constitution of India.
- This procedure guarantees the sanctity of the Constitution of India and keeps a check on uninformed power of the Parliament of India.

1.3.17. Judicial Review:

- The judiciary has significant position in Indian Constitution and it is also made independent of the legislature and the executive.
- The Supreme Court of India stands at the peak of single integrated judicial system
- It operates as defender of fundamental rights of Indian citizens and guardian of the Constitution.

1.3.18. Basic Structure doctrine:

- The basic structure doctrine is an Indian judicial norm that the Constitution of India has certain basic features that cannot be changed or destroyed through amendments by the parliament.
- The basic features of the Constitution have not been openly defined by the Judiciary.
- At least, 20 features have been described as "basic" or "essential" by the Courts in numerous cases, and have been incorporated in the basic structure.

- In Indira Gandhi v. Raj Narayan case and also in the Minerva Mills case, it was witnessed that the claim of any particular feature of the Constitution to be a "basic" feature would be determined by the Court in each case that comes before it.

1.3.19. Secularism

- In no other country of the world so many religions co-exist as in India. In view of such diversity the Constitution guarantees complete freedom of religion to all.
- The citizens of our country are free to follow any religion and they enjoy equal rights without any distinction of caste, creed, religion or sex.
- The State does not discriminate against anyone on the ground of his religion, nor can the State compel anybody to pay taxes for the support of any particular religion.
- Everybody is equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.
- The Constitution regards religion as a private affair of individuals and prohibits the State from interfering with it. The Constitution also grants various cultural rights to minorities.

1.3.20. Independent bodies

- Constitution has setup various independent bodies and vested them with powers to ensure the constitutional provisions. Ex: Election Commission, CAG, Finance Commission
- These institutions have been provided with security of tenure, fixed service conditions etc to ensure that they are not susceptible to the whims of either the legislature or the executive.

1.3.21. Emergency provisions

- Indian constitution contains elaborate provisions to deal with those challenges that pose a threat to the country's security and unity (It will be discussed in detail in upcoming chapters)

1.3.22. Three-tier government

- Through 73rd and 74th amendment act, we have rural and urban local bodies as an additional constitutional tier of the government structure.
- This section fulfills the dream of Gandhi ji to see a self-functioning villages in India

Unit – II

Union Administration – President - Prime Minister - Council of Ministers – Ministries and Departments – Supreme Court.

2.1.1. Introduction:

The Government of India, also known as the Central or Union Government or simply the Centre, is the federal governing authority of the Republic of India created by the Constitution of India as the legislative, executive and judicial authority to govern the union of twenty eight states and eight union territories.

2.1.2. Union Administration:

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

2.1.3. Union Government

British Legacy — Constitutional Context Of Indian Administration

The British Government in India introduced a system of public administration which was meant to suit the needs and tasks of the mother country and not the colony. The needs and tasks of the British

2.1.4. Government can be briefly stated as

(a) maintenance of law and order in the country
(b) collection of revenue to meet its expenditure
(c) retention of strategic powers in the hands of theBritish civil servants
(d) subservience of administration to the paramount needs of the mother country.

The present administrative system in India is the sorts of legacy of British rule. Under the British rule in india, bureaucratic development underwent a periodic change. Before 1714, appointments were made by the Court of Committees. By 1765, the term 'Civil Servant' had come to be used in the records of the Company. The year 1773 provides a landmark in the evolution of the Indian Constitutional and Administrative system. The Regulating Act of 1773 provided for a distinction between the civil and commercial functions of the Company. The Pitt's India Act of 1784 provided for effective parliamentary control over the civil and military administration ofthe Company in Indian territories.

However, in independent India, not only have 'the people of India' been elevated to the status of rulers, larger goals — developmental goals and the goal of creating an egalitarian society, have also been set. The change of goals and objectives of society in independent India call for a corresponding change in the qualities and qualifications in the public servants and an appropriate institutional and procedural changes in the country's Public administration.

2.1.5 The important features of the British administrative system were :

- The Executive was not subordinate and responsible to theLegislatures.
- At the provincial level, there were some variations in detail.
- The British Government was immune to popular control.
- The British had no commitments beyond maintenance of law and order, collection of taxes and dispensation of justice.
- Members (not Ministers) were in charge of administrative departments and were appointed by the Governor-General and were also removable on his sole discretion.
- There was a vertical unitary Government.

2.2.1 The President

At the head of the Union Executive stands the President of India. The executive power of the Union including the Supreme command of Defence Forces is vested in him. But the executive power of the Union vested in the President must be exercised in accordance with the Constitution and the Constitution prescribes that there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions (Article 74).

2.2.2. Qualifications:

In order to be qualified for electionas President, a person must

(a) be a citizen of India;
(b) have completed the age of 35 years;
(c) be qualified for election as a member of theHouse of the People; and
(d) must not hold any office of profit under the Government of India or the Government ofany State or under any local or any other authority, subject to the control of any of the said Governments (Article. 58).

2.2.3. Election of the President

The President of India is indirectly elected through an electoralcollege consisting of

- The elected members of both the Houses ofParliament; and
- The elected members of the Legislative Assemblies of the State.

The election takes place on the basis of proportional representation by means of the single transferable vote system.

2.2.4.Terms of Office :

The President holds office for a term of five years from the date on which heenters upon his office. However, this term may be cut short if he resigns from office before the expiry of five years by writing addressed to the Vice-President; or if he is removed from office through impeachment on grounds of violation of the Constitution. Similarly, his term stands automatically extended beyond the expiry date if his successor is not elected or does not assumeoffice.

Under the Constitution, the President is eligible for re-election. Here it may be noted that the Constitution of U.S.A. imposes a ban on the re-election of the President for more than two full terms.

2.2.5. Impeachment of the President :

The President of India can be removed from his office before the expiry of his normal term through the process of impeachment. He can be impeached onlyon grounds of violation of the Constitution.

An impeachment is a quasi-judicial procedure in Parliament. Either House may prefer the charge of violation of the Constitution before the other House which shall then either investigate the charge itself or cause the charge to be investigated. But the charge cannot bepreferred by a House unless —

The President shall have the right to appear and to be represented at such investigation. If, as a result of the investigation, a resolution is passed by not less than two-thirds of the total membership of the House before which the charge has been preferred declaring that it sustained,such resolution shall have the effect of removing the President from his office with effect from the date on which such resolution is passed.

2.2.6. Vacancy in the Office of the President:

If the office of the President falls vacant due to death, resignation or removal of the President, fresh elections must be held within six months of the occurrence of the vacancy. The person elected to fill the vacancy is entitled to hold the office forthe full term of five years from the date on which he enters upon his office. During the interval between the date of vacancy and the date when the new President assumes office, the Vice- President of India acts as the President.

Similarly, if" the President is unable to discharge his functions owing to absence, illness or any other reason, the Vice-President discharges his functions until the date on which the President resumes his duties.

While the Vice-President acts as the President or discharges the functions of President, he enjoys all the powers and immunities of the President and is entitled to such emoluments, allowances and privileges as are enjoyed by the President.

It may be noted that if per chance the Vice-President is not available to discharge the duties of the President, the Chief Justice of India and in his absence the senior-most judge of the Supreme Court acts as President.

The Constitution of India provides for a Parliamentary Systemof Government in which

the formal executive power of the Union is vested in the President. The 'executive power' primarily means the execution of the laws enacted by the Legislature. The executive power may, in short, be defined as 'the power of carrying on the business of Government' or 'the administration of the affairs of the State', excepting functions which are vested by the Constitution in any other authority. The ambit of the executive power has been explained by the Supreme Court as "the residue of Governmental functions that remain after legislative and judicial functions are taken away."

The President of India enjoys vast administrative, legislative and various other powers. However, the President exercises his executive powers under various Constitutional limitations. The limitations may be, briefly, mentioned as follows :

(1) The Constitution explicitly requires that Ministers other than the Prime Minister can be appointed by the President only on the advice of the Prime Minister.

(2) According to Article 74(1) the executive powers shall be exercised by the President of India in accordance with the advice of the Council of Ministers.

Prior to 1976 there was no express provision in the Constitution that the President was bound to act in accordance with the advice tendered by the Council of Ministers. It was judicially established that the President of India was not a real executive, but a Constitutional head, who was bound to act according to the advice of Ministers, so long as they commanded the confidence of the majority in the House of People.

Refusal to act according to the advice given to the President by the Council of Ministers, headedby the Prime Minister, will render the President liable to impeachment.

The various powers included within the comprehensive expression 'executive power' can be classified under the following heads :

2.2.7. Administrative Powers :

In the matter of administration, the Indian President is not a real head of the executive like the American President. However, though the various Departments of Government of the Union will be under the control and responsibility of the respective Ministers in charge, the President will remain the formal head of the administration. And so, all executive action of the Union is expected to be taken in the name of the President. All contracts and assurances of property made on behalf of the Government of India is expected to be made by the President and executed in the manner as per the direction of the President.

Again, though he may not be the 'real' head of the administration, all officers of the Union are considered to be his subordinates and the President has a right to be informed of the affairs of the Union.

The President's administrative power includes the power to appoint and remove the high dignitaries of the State like the Prime Minister and other Ministers of the Union, the Attorney-General, the Comptroller and Auditor-General and so on.

However, the Indian Constitution does not vest in the President any absolute power to appoint inferior officers of the Union as is to be found in the American Constitution. The Indian Constitution, thus, seeks to avoid the undesirable 'spoils system' of America under which about twenty per cent of the federal civil officers are filled in by the President without consulting the Civil Service Commission.

In the matter of removal of civil servants (who are serving under the Union and hold office during the President's pleasure), the Constitution has provided certain conditions and procedures subject to which only the President's pleasure may be exercised, (Article 311(2)).

2.2.8. Military Powers :

The Supreme command of the Defence Forces is vested in the President of India, but the Constitution expressly lays down that the exercise of this power shall be regulatedby law.

2.2.9. Diplomatic Powers :

The President represents the nation in international affairs, appoints Indian representatives to other countries; receives diplomatic representatives of other States; and has the power of making treaties and implementing them, subject, of course, to ratification by Parliament.

2.2.10. Legislative Powers :

Like the Crown of England, the President of India is a component part of the Union Parliament. The legislative powers of the President, to be exercised according to Ministerial advice.

2.2.11. Judicial Powers :

Article 72(1) of the Constitution of India states that the President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence.

2.2.12. Emergency Powers :

The President has extraordinary powers to deal with emergencies. He is given the power to make a proclamation of emergency on the ground of threat to the security of India or any part thereof, by war, external aggression or armed rebellion. He also has the power to make a proclamation that the Government of a State cannot be carried on in accordance with the provisions of the Constitution (i.e., breakdown of Constitutional machinery).

The President is empowered to declare that a situation has arisen whereby the financial stability or credit of India or of any part thereof is threatened (Article 360).

2.2.13. Discretionary Powers :

There can be at least two situations in which the President may have to take a decision in his discretion, because the advice of the Ministers may not be available. Such a situation arose in 1979 after Morarji Desai's resignation as Prime Minister. The President did not invite Jagjivan Ram. He accepted the advice of Charan Singh, and dissolved the Lok Sabha. The President took his action in his discretion.

There is no mention of the term 'discretion', in the Constitution, in connection with the powers of the President. However, eminent Constitutional experts like D.D. Basu, N.A. Palkhiwala, T.K. Tope, H.M. Seervai and V.M. Tarkunde are of the opinion that like the Queen of England, the President of India has discretion in the appointment of Prime Minister, and dissolution of Lok Sabha. In normal times, the President acts according to well established customs.

2.3.1. THE PRIME MINISTER AND THE UNION COUNCIL OF MINISTERS

The Union Council of Ministers, headed by the Prime Minister, is the real executive of the country. The President has to exercise all his powers in accordance with the advice tendered by the Council of Ministers.

2.3.2. Composition of the Union Council of Ministers :

The Council of Ministers consists of the Prime Minister and other Ministers. The number of Ministers is not fixed. It varies from time to time.

The Prime Minister and other Ministers are appointed by the President. The President has to appoint the leader of the majority party as the Prime Minister. It is in accordance with the advice of the Prime Minister that the President appoints other Ministers.

Following are the four categories of Ministers in the Council of Ministers :

2.3.3. Cabinet Ministers :

Cabinet Ministers are those Ministers who hold very important portfolios like Defence, Home and Foreign Affairs, etc. They are highest in status, emoluments, and powers. It is these Ministers who constitute the Cabinet which has been described as a wheel within a wheel. Their number varies from time to time but seldom exceeds twenty. Cabinet Ministers and senior Ministers collectively formulate the policy of the Government and are entitled to attend all meetings of the Cabinet. Occasionally, senior leaders are included in the Cabinet as Ministers without portfolio.

2.3.4. Ministers of State :

They are next in seniority and hold independent charge of a department or a sub-department generally included in the portfolio of a Cabinet Minister. They have no share in the formulation of the Government's general policy and attend Cabinet meetings only when specially invited and when affairs of their departments are to be considered.

2.3.5. Deputy Ministers :

Deputy Minister, who are next in rank to Ministers of State do not hold independent

charge of any department and perform such functions as the Minister-in-chargemay delegate to them.

2.3.6. Parliamentary Secretaries :

They have no independent powers or functions. They assist the Ministers to whom they are attached in the Parliamentary work. They are, in fact, probationers under training and may hope to rise to higher ranks if they make good.

Thus, we can say that whereas the Council of Ministers includes all categories of Ministers, Cabinet is only a part of the Council of Ministers and includes only some important Ministers. The Council of_ Ministers meets very rarely; Cabinet meets quite frequently.

2.3.7. Functions of the Cabinet

2.3.8. Policy Formulation :

The Cabinet is responsible for policy formulation, both with regard to national and international problems. All policy decisions are taken by consensus and are conveyed by the Prime Minister to the President.

2.3.9. Control over Administration :

The types of control over administration can be broadly divided into two—Internal Control and External Control. Internal controls form part of the administrative machinery and work automatically and spon-taneously with the movement of the machinery. They comprise of the following :

1. Budgetary Control
2. Personnel Management Control
3. O and M System
4. Administrative Ethics and ProfessionalStandards
5. Leadership

External controls work within the general Consti-tutional machinery, e.g. legislative control, executive control and judicial control. Public control is also a form of external control.

2.3.10. Legislative Powers :

All the Ministers are members of Parliament and, thus, participate in legislation. Most of the Bills are introduced in the Parliament by the Ministers and are always passed by the Parliament because of the support they enjoy. The Bills to be introduced by the Ministers are considered by the Cabinet and approved. The Cabinet may make such changes in the Bills as it thinks are necessary.

2.3.11. Financial Powers :

The Cabinet is responsible for all expenses of the Government and the sources of revenue to finance the expenditure. The annual budget prepared by the Finance Minister is controlled by the Cabinet.

Here, it may be noted that the budget proposals are kept strictly secret and the Finance Minister takes the Cabinet into confidence only an hour before the introduction of the budget in Parliament. The Cabinetcannot make any changes in the budget. But in the light of discussion on the budget proposals in the Parliament, the Cabinet makes alterations. The alterations thus made are subsequently announced by the Finance Minister.

The Cabinet is responsible for approving the economic and fiscal policies and also for taking decisions on the reports submitted by the Finance Commission and the Comptroller and Auditor-General of India.

2.3.12. Power of making Appointments :

The President enjoys vast powers of appointing high dignitaries of the State. These appointments are in reality made by the President on the recommendation of the Cabinet.

The advice of the Cabinet is binding on the President and virtually all the functions of the President are performed by this body. The President may ask the Cabinet to reconsider its advice but only once. The advice given after reconsideration is binding on the President.

The Cabinet is a corporate body. It not only co-ordinates the work of various departments but also resolves the inter-departmental disputes. M.V. Pylee calls the Cabinet “the

formulator of national policies, the highest appointing authority, the arbiter of inter-departmental disputes and the supreme organ of co-ordination in Government".

2.3.13. Cabinet Meetings :

The Cabinet, ordinarily, meets once a week, and more often if the occasion demands. The Prime Minister presides over its meetings. But in case the Prime Minister is out oftown for some length of time, a senior Minister, nominated by the Prime Minister himself, presides over Cabinet meetings. After the meeting is over, the Cabinet Secretary, who remains present in it, prepares and circulates a summary embodying the decisions reached.

2.3.14. Cabinet Committees:

To relieve the Cabinet of some burden cf work, Cabinet committees have been set up. N. Gopalaswamy of the Machinery of Government (1949) recommended setting up of standing committees of Cabinet over defined fields, with appropriate strengthening of the secretariat and other organs of these committees. These were the instruments to 'organise co-ordination on a decentralised basis'.

The Cabinet Committees should cover between them all important areas of Governmental activity. It is also essential that they meet regularly so that sustained attention is given to complex problems and the progress of implementing important policies and programmes is kept under constant review. The number and names of the Cabinet committees do not remain unchanged. But three or four such committees have existed under all Governments in power at the centre, namely :

(a) Political Affairs Committee : It is chaired by the Prime Minister. Its other members include the Home Minister, the Defence Minister, and the External Affairs Minister. The committee deals with all important matters relating to both internal developments and foreign relations.

(b) Economic Affairs Committee : Its members are the Prime Minister (Chairman), Finance Minister, Rural Development Minister, and Industry Minister. Its main function is to direct and co-ordinate Governmental activities in the economic field and generally to regulate the working of the national economy.

(c) Committee on Parliamentary Affairs : Its members include Information and Broadcasting Minister, Minister for Labour and Parliamentary Affairs, Law Minister, with the Home Minister as its chairman. The committee looks after the progress of Government business in Parliament to secure the smooth passage of legislation and determine the Government's attitude to non-official Bills and resolutions coming up before Parliament.

(d) Appointment Committee : The members of the Appointment Committee are the Prime Minister who is also its chairman, the Home Minister and the Minister concerned.

2.3.1. The Prime Minister

The Constitution of India gives formal recognition to the pre-eminent position which the Prime Minister enjoys in relation to the Council of Ministers. Article 74(1) says, "There shall be a Council of Ministers with the Prime Minister at the head to aid and advice the President in the exercise of his functions."

2.3.2. Functions of the Prime Minister : The Prime Minister is the key stone of the Cabinet arch. He controls the entire administration. Unlike the powers of the President which are in name only, thepowers of the Prime Minister are real and vast. The Prime Minister is the central figure in the formation, existence and termination of the Cabinet. In Britain, the position of the Prime Minister has been described by Lord Morley as 'primus inter-pares', i.e., 'first among equals'. In theory, all Ministers or members of the Cabinet have an equal position, all being advisers of the Crown, and all being responsible to Parliament in the same manner. Nevertheless, the Prime Minister has a pre-eminence, by convention and usage. The position of the Ministers and the Prime Minister is similar in India. Thus,

The Prime Minister is the leader of the party in majority in the popular House of the Legislature.

- He has the power of selecting the other Ministers and also advising the President to dismiss any of them individually, or require any of them to resign.
- The allocation of business amongst the Ministers is a function of the Prime Minister.
- He is not only the chairman of the Cabinet, but is also the chairman of important Cabinet committees.
- He summons the meetings of the Cabinet and presides over them.
- While the resignation of other Ministers merely creates a vacancy, the resignation or death of the Prime Minister dissolves the cabinet.
- The Prime Minister is the link between the President and the Cabinet.
- Though individual Ministers have the right of access to the President on matters concerning their own departments, and important communication, particularly relating to policy, can be made only through the Prime Minister.
- The Prime Minister is in charge of coordinating the policy of the Government and has, accordingly, a right of supervision over all the departments.

In short, the Prime Minister is head of the ruling party, the Parliament and the Government at the same time. He is chief advisor to the President and working head of the Union of India. He is the main spokesman of the country in national and international matters. However, the actual position of the Prime Minister depends greatly upon his or her personality and political situation in the country.

2.3.3. The Central Secretariat

The word 'Secretariat' means the Secretary's office. The Secretary, being the principal adviser to the Minister, needs to be equipped with an office to assist him in the performance of his functions. For the purpose of good administration, the Government of India is divided into Ministries and Departments which together constitute the Central Secretariat.

2.3.4. Role and Objectives of the Secretariat:

It assists the Ministers in the formulation of Governmental policies. The Ministers present to the electorate, broad programmes of action which need to be provided with content and;.shape in order to be made workable. Besides, Ministers have to finalise policies on various unforeseen problems. For the formulation of policies on all these matters, adequate precedents and other relevant information is required. The Secretariat makes these available to the Minister, thus enabling him to formulate policies.

The legislative leadership in the Parliamentary system of Government like ours rests with the Government. Thus, the Secretariat prepares drafts of legislations to be introduced in the Legislature. It is also responsible for collecting relevant information for answering Parliamentary questions and also for various Parliamentary committees. In the words of Prof. Maheswari, "the Secretariat acts as an institutionalised memory to enable the Government to examine the emerging problems in the light of precedents and past practices, which is essential for ensuring objectivity , consistency and continuity". The Secretarial acts as the clearing house, preliminary to Governmental decisions. This is done by carrying out a detailed scrutiny of a problem. It brings to bear an overall comprehensive viewpoint on the matter, gets the approval, if necessary, of other lateral agencies like the Ministry of Law and the Ministry of Finance, and also consults other organisations concerned with that particular matter.

The Secretariat is the main channel of communication between the States or with agencies like the Planning Commission, Finance Commission, etc. It ensures that field offices execute, with efficiency and economy, the policies and decisions of the Government.

The functions of the Secretariat may be broadly divided into two categories—general and specific.

They may be briefly mentioned as follows :

General Functions :

- Policy-making;
- Framing rules and principles of procedure;
- Exercise of financial control;

- Work associated with legislation;
- Guiding and directing the executive agencies in the performance of their tasks, and alsoevaluating their work.

2.3.5. Specific Functions :

- ✓ Assisting the Minister in policy-making and in modifying policies from time to time, as and when necessary;
- ✓ Framing legislation and rules and regulations;
- ✓ Sectoral planning and programme formulation;
- ✓ Budgeting and control of expenditure in respect of activities of the Ministry/department;
- ✓ According or securing administrative and financial approval to operational programmes and plans and their subsequent modifications;
- ✓ Supervision and control over the execution of policies and programmes by the executive departments or semi-autonomous field agencies and evaluation of theresults;
- ✓ Assisting the Minister in the discharge of his Parliamentary responsibilities;
- ✓ Initiating measures to develop greater personnel and organisational competenceboth in the Ministry or department and its executive agencies;
- ✓ Co-ordination and interpretation of policies;
- ✓ Assisting other branches of the Government; and
- ✓ Maintaining contact with State Governments.

2.3.6. Central Secretariat Service:

The need for a Central Secretariat Services (CSS) was felt even before 1947. A scheme for setting up of CSS was approved by the Central Secretariat Reorganisation and Reinforcement Schemes. The CSS which replaced the old Imperial Secretariat Service, was originally organised in four grades:

1. Under Secretary Class-I
2. Section Officer Class-I
3. Section Officer Class-II
4. Assistants - Class III (Non-Gazetted)

In 1959, the Section Officer Class I and II categories were merged into one continuous Class-II grade. A new selection grade above Grade-I, was also created which was to consist of the post of Deputy Secretary and above.

2.3.7. The Cabinet Secretariat

The efficiency of the Cabinet depends, to a large extent, on the Cabinet Secretariat whose duty is

- to prepare the agenda of the Cabinet meeting,
- to provide information and material necessary forits deliberations,
- To draw up records of the discussions and decisions both of the Cabinet and its committees,
- To oversee the implementation of the necessary decisions by the Ministries concerned. This involves the calling of information from various Ministries and departments.
- To keep the President, the Vice-President and all the Ministries informed of the major activities of the Government conducted in several Ministries by undertaking the circulation of monthly summaries and brief notes on important matters.
- to service the Committees of Secretaries which meet periodically under the chairmanship of the Cabinet Secretary to consider advise on problems requiring inter-ministerial consultationand co-ordination.
- to finalise the rules of business and allocate the business of the Government to the Ministries and departments under the direction of the Prime Minister and with the approval of the President.
- to give secretarial assistance to the Cabinet committees.

2.3.8. Organisation of the Cabinet Secretariat :

The Cabinet Secretariat is headed by the Prime Minister who is assisted by a Cabinet Secretary and other secretariat staff. The Secretariat was re-organised in 1961 and consists of two Departments, viz., the Department of Cabinet Affairs,and the Department of Statistics.

2.3.9. Department of Cabinet Affairs :

The Department of Cabinet Affairs is divided into four wings

Main Civil Secretariat:

The main secretariat is headed by the Cabinet Secretary. Below him, there are three Secretaries including one Secretary (Co-ordination), followed by one Additional Secretary, four Joint Secretaries and one Secretary (TPIC), an ex-officio Joint Secretary and six Deputy Secretaries.

The main civil wing is the institutional machinery through which the Cabinet Secretary provides the secretarial service to the Cabinet and its Committees. It also provides secretarial service to the Committees of Secretaries which function under the chairmanship of the Cabinet Secretary. The civil wing is divided into four sections :

- ✓ Co-ordination Section
- ✓ Cabinet Section
- ✓ General Section
- ✓ Administrative Section

O and M Division :

The Organisation and Methods Division was created in March, 1954. It functions directly under the Prime Minister. It pays attention not only to what is done but also to how it is done and at what cost in time, labour, money and also pays attention to the design of the machinery and its working processes.

2.3.10. The Prime Ministers's Office

The Prime Minister's Office, known as the Prime Minister's Secretariat till June 1977, came into existence in August 1947, when India emerged as an independent nation. It took the place of the Secretary to the Governor-General (Personal), as the Prime Minister assumed functions which, prior to August 15, 1947, the Governor-General performed as head of the Government. The Prime Minister's Office (PMO) occupies the status of a department of the Government of India under the Allocation of Business Rules, 1961. It is a link between the Prime Minister and his Ministers, the President, Governors, Chief Ministers and Foreign Representatives. The Prime Minister's Secretariat assists the Prime Minister in his public activities and functions as head of the Government. Its functions are :

a) To deal with all references which under the Rules of Business have come to the Prime Minister.
b) To help the Prime Minister in respect of his responsibilities as the Chairman of the Planning Commission and the National Development Council.
c) To look after public relations, such as, contact with the press and general public.

The year 1964-65 might be regarded as a watershed in the history of the Prime Minister's Secretariat as Lai Bahadur Shastri, who succeeded Jawaharlal Nehru as Prime Minister, greatly strengthened it. From this time on, it became a regular department under a full-fledged secretary and its influence in top-level policy-making increased.

However, during Indira Gandhi's te.nure as Prime Minister from January 1966 to March 1977, and more so during the internal emergency period, the office gained rather dizzy heights of power and authority and was verily functioning as the Government of India.

The first step which the Janata Party Government, after coming to power in 1977, took, was to trim the Prime Minister's Secretariat. Measures were taken to decentralise power. The name of the body was changed to Prime Minister's Office.

Though Mrs. Gandhi returned to power in 1980, this office did not reach its earlier heights. Both a quantitative and a qualitative change took place when Rajiv Gandhi became the Prime Minister. A large number of advisors were appointed to advise on important matters, in the process putting the regular machinery of Government at a distance. Today, the Prime Minister's

Office is a body with awesome powers and influence and has become an important organ of the Government of India.

2.4.1. Union Council of Ministers

is the highest executive body of the Government of India. The council is responsible for exercising chief administrative authority over the state and advising the president of India. It is chaired by the prime minister and includes the heads of each of the executive government ministries. Currently, the council is headed by prime minister Narendra Modi and consists of 31 members, including the prime minister. The council is subject to the Parliament of India.

A smaller executive body called the Union Cabinet is the supreme decision-making body in India; it is a subset of the Union Council of Ministers.

1.4.2. Regulation:

Pursuant to Article 75(3), the Council of Ministers is responsible collectively to the lower house of the Indian parliament, called the Lok Sabha (House of the People).[3] When a bill introduced by a minister in the Lok Sabha is not approved by it, the entire council of ministers is responsible and not the minister. The council of ministers upon losing the confidence of Lok Sabha shall resign to facilitate the formation of a new government.

A minister shall take any decision without being considered by the council of ministers per Article 78(c). All union cabinet members shall submit in writing to the President to propose a proclamation of emergency by the president in accordance with Article 352.

According to the Constitution of India, the total number of ministers in the council of ministers must not exceed 15% of the total number of members of the Lok Sabha. Ministers must be members of parliament. Any minister who is not a member of either of the houses of the parliament for six consecutive months is automatically stripped off his or her ministerial post.

2.4.3. Ranking:

There are five categories of the council of ministers as given below, in descending order of rank:

- Prime Minister: Leader of the executive of the Government of India.
- Deputy Prime Minister (if any): Presides as prime minister in his absence or as the senior most cabinet minister.
- Cabinet Minister: A member of the cabinet; leads a ministry.
- Minister of State (Independent charge): Junior minister not reporting to a Cabinet Minister.
- Minister of State (MoS): Deputy Minister reporting to a Cabinet Minister, usually tasked with a specific responsibility in that ministry.

2.3.5. Appointment:

Pursuant to Article 75, a minister who works at the pleasure of the president, is appointed by The President on the advice of The Prime Minister. Since at least the turn of the millennia, evidence indicates that an MP's electoral performance enhances the likelihood of being granted a ministerial portfolio.

2.3.6. Removal:

- ✓ Upon death.
- ✓ Upon self resignation, or resignation or death of Prime Minister.
- ✓ Upon dismissal by the President for minister's unconstitutional acts per Article 75(2).
- ✓ Upon direction from the Judiciary for committing violation of law.
- ✓ Upon ceasing eligibility to be a member of Parliament.
- ✓ Under the provision of "Collective Responsibility" under Article 75, the Prime Minister and the entire Council of Ministers resign if a Vote of No Confidence is passed in the Lower House (Lok Sabha) of the Indian Parliament.

2.4.1. Council of Ministers in State Governments:

Every state in India is governed by its council of ministers with rules and procedures similar to the union council of ministers per Articles 163, 164 and 167(c).

In March 2020, the Supreme Court of India used its powers for the first time to do "complete justice" under Article 142 of the Indian Constitution to remove a minister functioning in the state of Manipur.

2.5.1. Ministries and Departments

Prime Minister's Office (PMO)

- Ministry of Agriculture and Farmers Welfare
  - Department of Agriculture and Co-operation (AGRICOOP)
  - Department of Agricultural Research and Education (DARE)
  - Indian Council of Agricultural Research (ICAR)
- Ministry of AYUSH
- Ministry of Chemical and Fertilizers
  - Department of Chemicals and Petrochemicals (DCPC)
  - Department of Fertilizers (FERT)
  - Department of Pharmaceuticals
- Ministry of Civil Aviation
- Ministry of Coal
- Ministry of Commerce and Industry
  - Department of Commerce
  - Department for Promotion of Industry and Internal Trade (DPIIT)
- Ministry of Consumer Affairs, Food and Public Distribution (DCA)
  - Department of Consumer Affairs
  - Department of Food and Public Distribution
- Ministry of Communications
  - Department of Posts
  - Department of Telecommunications (DOT)
- Ministry of Corporate Affairs (MCA)
- Ministry of Culture
- Ministry of Defence (MoD)
  - Department of Defence
  - Department of Defence Production
  - Department of Ex-Servicemen Welfare
- Ministry of Development of North Eastern Region (DoNER)
- Ministry of Earth Sciences (MoES)
  - India Meteorological Department (IMD)
- Ministry of Electronics and Information Technology (MEITY)
- Ministry of Environment, Forest and Climate Change (MoEFCC)
- Ministry of External Affairs (MEA)
- Ministry of Finance (MoF)
  - Department of Economic Affairs
  - Department of Expenditure
  - Department of Financial Services
  - Department of Investment and Public Asset Management
  - Department of Revenue
- Ministry of Fisheries, Animal Husbandry and Dairying
  - Department of Animal Husbandry, Dairying & Fisheries (AH&D)
  - Department of Fisheries
- Ministry of Fd Poorocessing Industries (MOFPI)
- Ministry of Health & Family Welfare (MoHFW)
  - Department of Health and Family Welfare
  - Department of Health Research, Ministry of Health & Family Welfare
- Ministry of Heavy Industries & Public Enterprises
  - Department of Heavy Industry (DHI)
  - Department of Public Enterprises (DPE)

- Ministry of Home Affairs (MHA)
- Ministry of Housing and Urban Affairs (MoHUA)
- Ministry of Education (MoE)
  - Department of Higher Education
  - Department of School Education and Literacy
- Ministry of Information and Broadcasting (Ministry of I&B)
- Ministry of Jal Shakti (MoWR)
  - Department of Drinking Water and Sanitation
  - Department of Water Resources, River Development and Ganga Rejuvenation
  - Ministry of Labour & Employment
  - Ministry of Law and Justice
    - Department of Justice
    - Department of Legal Affairs
    - Legislative Department
  - Ministry of Micro, Small and Medium Enterprises (MSME)
  - Ministry of Mines
  - Ministry of Minority Affairs
  - Ministry of New and Renewable Energy (MNRE)
  - Ministry of Panchayati Raj
  - Ministry of Parliamentary Affairs (MPA)
  - Ministry of Personnel, Public Grievances and Pension (PERSMIN)
    - Department of Administrative Reforms and Public Grievances (DARPG)
    - Department of Pension & Pensioner's Welfare
    - Department of Personnel and Training
  - Ministry of Petroleum and Natural Gas (MOP&NG)
  - Ministry of Power
  - Ministry of Railways
  - Ministry of Railways
  - Ministry of Rural Development
  - Ministry of Science and Technology
    - Department of Bio-Technology (DBT)
    - Department of Science and Technology (DST)
    - Department of Scientific and Industrial Research (DSIR)
  - Ministry of Shipping
  - Ministry of Skill Development and Entrepreneurship
  - Ministry of Social Justice and Empowerment
  - Department of Empowerment of Persons with Disabilities
  - Ministry of Statistics and Programme Implementation (MoSPI)
  - Ministry of Steel
  - Ministry of Textiles (TEXMIN)
  - Ministry of Tourism
  - Ministry of Tribal Affairs
  - Ministry of Women and Child Development
  - Ministry of Youth Affairs and Sports
    - Department of Sports
    - Department of Youth Affairs

  Apex/Independent Offices
- Cabinet Secretariat
- Central Bureau of Investigation (CBI)
- Central Information Commission (CIC)
- Central Vigilance Commission (CVC)
- Comptroller and Auditor General (CAG) of India, Indian Audit and Accounts Department
- Election Commission of India (ECI)

- Fifteenth Finance Commission of India
- Insurance Regulatory and Development Authority (IRDA)
- National Commission for Minorities (NCM)
- National Human Rights Commission (NHRC), India
- NITI Aayog - National Institution for Transforming India
- National Commission for Women (NCW)
- National Commission for Scheduled Tribes (NCST)
- Office of the Principal Scientific Adviser
- President of India
- Telecom Regulatory Authority of India (TRAI)
- Union Public Service Commission (UPSC)
- Vice President of India
- Central Armed Police Forces
  - Assam Rifles
  - Border Security Force (BSF)
  - Central Industrial Security Force (CISF)
  - Central Reserve Police Force (CRPF)
  - Directorate of Coordination Police Wireless
  - Indo Tibetan Border Police (ITBP)
  - National Security Guard (NSG)
  - Sashastra Seema Bal (SSB)
- Central Police Organisation
  - Bureau of Police Research and Development (BPR&D)
  - National Institute of Criminology and Forensic Science (NICFS)
  - National Investigation Agency (NIA)
  - North Eastern Police Academy (NEPA)
  - Sardar Vallabhbhai Patel National Police Academy

Central Government (Independent Departments)

- Department of Atomic Energy (DAE)
- Department of Space
  - Indian Space Research Organisation (ISRO)

2.6.1. Supreme Court of India: Composition, Power and Functions

India is a federal State having a single and unified judicial system with a three-tier structure, i.e., Supreme Court, High Courts and Subordinate Courts. Read this article to find out about the Supreme Court of India, its composition, power and functions.

India is a federal State having a single and unified judicial system with a three-tier structure, i.e., Supreme Court, High Courts and Subordinate Courts.

Established	1 October 1937 (as Federal Court of India)
	28 January 1950 (as Supreme Court of India)
Location	Tilak Marg, New Delhi
Motto	Yato Dharmastato Jayah (Where there is Dharma, there will be victory)
Composition method	Collegium of the Supreme Court of India
Authorized by	Constitution of India
Judge term length	Mandatory retirement at 65 years of age
Chief Justice of India	N. V. Ramana

The Indian Constitution under Article 124(1) states that there shall be a Supreme Court of India consisting of a Chief justice of India (CJI) and 34 judges, including the CJI. The Jurisdiction of

the Supreme Court of India can broadly be categorised into original jurisdiction, appellate jurisdiction and advisory jurisdiction.

2.6.2. Supreme Court of India

Supreme Court at the apex of the Indian Judiciary is the highest authority to uphold the Constitution of India, to protect the rights and liberties of the citizens, and to uphold the values of rule of law. Hence, it is known as the Guardian of our Constitution.

The Indian Constitution provides for a provision of the Supreme Court under Part V (The Union) and Chapter 6 titled 'The Union Judiciary'. The Constitution of India has provided an independent judiciary with a hierarchical setup containing High Courts and Subordinate Courts under it.

2.6.3. Composition of the Supreme Court

Article 124(1) and Amendment act of 2008 states that there shall be a Supreme Court of India consisting of a Chief justice of India (CJI) and **34 judges including the CJI.** Article 124(2) states that every judge of the Supreme Court shall be appointed by the President of India by warrant under his hand and seal after consultation with such of the judges of the Supreme Court and of the High Courts in the states.

Here, the collegium system(appointment of judges to the courts) was followed which is also known as the three judges cases, which comprises of the Chief Justice of India (CJI) and four senior-most judges of the SC, one Chief Justice of the High Court and two of its senior-most judges. This system demanded a consensus decision of all the senior-most judges in conformity with the Chief Justice of India.

However, due to lack of transparency and delay in the appointment, a new article 124 A was incorporated in the constitution, under which the National Judiciary Appointments Commission (NJAC) replaced the collegium system for the appointment of judges as mandated in the existing pre-amended constitution by a new system.

2.6.4. The NJAC consists of the following persons:

1. Chief Justice of India (chairperson)
2. Two senior-most Supreme Court judges
3. The Union Minister of Law and Justice
4. Two eminent persons nominated by a committee consisting of CJI, Prime minister of India and the Leader of the Opposition.

2.6.5. Functions of the Commission are as follows:

- Recommending persons for CJI, judges of the Supreme Court, Chief Justice of High court, Judges of High court
- Transfer of Chief justices and judges from one court to other
- Ensure persons recommended are of ability and integrity

2.6.6. Jurisdiction (Articles 141, 137)

Articles 137 to 141 of the Constitution of India lay down the composition and jurisdiction of the Supreme Court of India. Article 141 states that Law declared by Supreme Court is binding on all the courts in India and Article 137 empowers Supreme Court to review its own judgment. The Jurisdiction of the Supreme Court of India can broadly be categorised into three parts:

2.6.7. Original Jurisdiction- (Art 131)

This jurisdiction extends to cases originating in the Supreme Court only and states that the Supreme Court of India has original and exclusive jurisdiction in cases between:

- The government on one hand and one or more states on the other
- Government and one or more states on one side and other states on the other
- Two or more states

2.6.8. Appellate Jurisdiction- (Art 132,133,134)

The appeal lies with the Supreme Court against the High court in the following 4 categories:

1. Constitutional matters-

   If the High court certifies that the case involves a substantial question of law that needs interpretation of the constitution.

2. Civil matters-

If the case involves a substantial question of law of general importance.

3. The criminal matters-

If the High court has on appeal reversed the order of acquittal of an accused and sentenced him to death or has withdrawn for trial before itself any case from subordinate court.

4. Special leave to appeal is granted by SC if it is satisfied that the case does not involve any question of law. However, it cannot be passed in case of the judgment passed by a court or tribunal of armed forces.

However, under this jurisdiction, the Supreme Court can transfer to itself cases from one or more high courts if it involves the question of law in the interest of justice.

2.6.9. Advisory Jurisdiction (Art 143)

Article 143 authorises the President of India to seek an advisory opinion from the Supreme Court in the two categories of matters:

(a) matters of public importance

(b) of any question arising out of pre-constitution, treaty, agreement, engagement, Sanad or other similar instruments.

Also, Article 144 states that all authorities civil and judicial in the territory of India shall act in aid of the Supreme Court.

2.6.10. Powers of the Supreme Court

1. Power to punish for **contempt (civil or criminal) of court** with simple imprisonment for 6 months or fine up to Rs. 2000. Civil contempt means wilful disobedience to any judgment. Criminal contempt means doing any act which lowers the authority of the court or causing interference in judicial proceedings.
2. **Judicial review** to examine the constitutionality of legislative enactments and executive orders. The grounds of review is limited by Parliamentary legislation or rules made by the Supreme Court.
3. Deciding authority regarding the **election of President and Vice President.**
4. Enquiring authority in the **conduct and behaviour of UPSC members**.
5. **Withdraw cases pending before High Courts** and dispose of them themselves.
6. **Appointment of ad hoc judges-** Article 127 states that if at any time there is a lack of quorum of Judges of Supreme Court, the CJI may with the previous consent of the President and Chief Justice of High Court, concerning request in writing the attendance of Judge of High Court duly qualified to be appointed as Judge of the Supreme Court.
7. **Appointment of retired judges of the Supreme Court or High Court** - Article 128 states that the CJI at any time with the previous consent of the President and the person to be so appointed can appoint any person who had previously held the office of a Judge of SC.
8. **Appointment of acting Chief Justice-** Article 126 states that when the office of CJI is vacant or when the Chief Justice is by reason of absence or otherwise unable to perform duties of the office, the President in such case can appoint Judge of the court to discharge the duties of the office.
9. **Revisory Jurisdiction-** The Supreme Court under Article 137 is empowered to review any judgment or order made by it with a view to removing any mistake or error that might have crept in the judgement or order.
10. **Supreme Court as a Court of Record-** The Supreme Court is a court of record as its decisions are of evidentiary value and cannot be questioned in any court.

2.6.11. Removal of Supreme Court Judge:

A judge of the Supreme Court can be removed only from the office by the President of India on the basis of a resolution passed by both the Houses of Parliament (Lok Sabha and Rajya Sabha) with a majority of the total membership and a majority of not less than two-thirds of the members present and voting in each House, on the grounds of proved mis behaviour or incapacity of the judge in question.

Hence, a democratic country like India needs a judiciary because democratic values tend to lose their prominence without proper checks and balances.

UNIT – III

State Administration – Executive – Council of Ministers – Departments and Directorate – State Public Service Commission – High Court – District Administration – Local Government.

3.1.1. State administration

The constitution also governs state administration. The purpose of state administration is to implement laws passed by the Parliament.

3.1.2. Government

The Government is the highest-ranking body in the state administration. It consists of the Cabinet formed by the Prime Minister and other ministers and it makes decisions on duties that, according to the Constitution, fall under its remit as well as on matters that, according to law, do not fall under the remit of the President of the republic or other governmental body. In other words, the Government exercises general governmental power in Finland.

3.1.3. The hierarchy in state administration

The state administration is divided into three levels: central, regional and local government. Central government comprises the ministries and the agencies and institutes operating under their aegis. There are some 90 central government organisations in total, including the ministries. The most important of government organisations and institutions are the National Board of Education, National Institute for Health and Welfare, Finnish Transport Agency and Finnish Communications Regulatory Authority.

Since 2010, regional government has been entrusted to Regional State Administrative Agencies and the Centres for Economic Development, Transport and the Environment (ELY Centres). The Regional State Administrative Agencies are in charge of the implementation, steering and overseeing of legislation in their respective regions. Their goal is to promote legal protection, well-being and health and safety. For example, the agencies provide training for teachers, supervise care homes, inspect businesses with alcohol licenses and monitor occupational safety at places of work.

ELY Centres are responsible for the regional implementation and development tasks of central government. They aim to promote the development of a good living environment and the competitiveness of business and industry. ELY Centres provide an advisory service and funding, maintain the transport infrastructure, supervise construction and manage nature preservation areas, among other things.

3.1.4. Local government

Local government is run by a number of different agencies: the police, local registry offices, the enforcement office and employment services. In the past few years, the jurisdiction of local authorities has expanded to cover much larger geographical areas, even entire regions. At the beginning of 2014, there were 24 police departments, 11 local registry offices, 22 enforcement offices and 15 employment services. In addition, tax offices, customs offices and legal aid offices are part of local state administration.

There are a number of other organisations that may exercise governmental power under the supervision of the Government and ministries. For example, the local offices of the Finnish Wildlife Agency issue hunting licenses while the forest management associations oversee tree planting. These organisations form an “intermediary” state administration, providing support to state administration in carrying out certain duties.

The Constitution guarantees municipalities self-government and the right to levy taxes. Municipalities organise, independently or jointly with other municipalities, the public services their residents require. However, in practice, central administration and local authorities work in close co-operation.

3.1.5. State And District Administration

The Constitution of India provides for a federal Government, having separate systems of administration for the Union and the States. The Constitution contains provisions for the governance of both. It lays down a uniform structure for the State Government in Part VI of the Constitution, which is applicable to all the States, except the State of Jammu and Kashmir

(which has a separate Constitution for the State.) The pattern of Government in the States is the same as that for the Union. The executive head (the Governor) being a Constitutional ruler, who has to act according to the advice of Ministers responsible to the State Legislature, except in matters where the Governor is Constitutionally authorised to act in his discretion (Article 163).

3.1.6. THE GOVERNOR

Just as the President stands at the head of the Union executive, the Governor heads the State executive. The executive power of the State is vested in the Governor and all executive action of the State is taken in the name of the Governor. Normally, there is one Governor for each State, but it is possible to appoint the same person as the Governor of two or more States (Article 153). Appointment, Qualifications, Tenure and Emoluments The Governor of a State is appointed by the President and holds his office at the pleasure of the President. In order to be appointed as Governor a person must be a citizen of India, over 35 years of age. He must not hold any other office of profit, nor be a member of the Legislature of the Union or of any State. If a member of a Legislature is appointed as Governor, he ceases to be a member immediately upon such appointment. The normal term of office of Governor is five years. But it may be terminated earlier by

(i) Dismissal by the President, at whose 'pleasure' he holds office, or

(ii) Resignation. He can be reappointed. There is no bar to a person being appointed Governor more than once. The Governor receives a monthly salary of Rs. 36,000 besides rent-free official residence and prescribed travelling, sumptuary and other allowances for discharging the duties of his office with convenience and dignity.

3.1.7. Powers of the Governor

The Governor has no diplomatic or military powers like the President, but he possesses executive, legislative and judicial powers analogous to those of the President.

Executive Powers :

The Governor is the executive head of the State and all executive powers are vested in him. His powers extend to the administration of all matters included in the State List. In case of matters specified in the Concurrent List, the powers of the Governor are subject to the exercise of the powers of the President.

The Governor has the power to appoint the Chief Minister, the Council of Ministers, the Advocate- General and the Members of the State Public Service Commission. The Ministers and the Advocate-General hold office during the pleasure of the Governor. But the Members of the State Public Service Commission can be removed only by the President on the report of the Supreme Court and not by the Governor.

Legislative Powers :

The Governor is a part of the State Legislature just as the President is a part of Parliament. He has a right to address and to send messages, to summon, prorogue and dissolve the State Legislature. He causes to be laid before the State Legislature, the annual financial statement and the Money Bills. The Bills passed by the Legislature are sent to the Governor for his assent. He may give his assent or may withhold assent. He may even reserve the Bill for the consideration of the President. The Bills may be sent back by the Governor for reconsideration but if they are again passed with or without amendments he has to give assent to them.

Financial Powers :

Money Bills can be introduced in the Assembly on the recommendation of the Governor. The Finance Minister submits to the Legislature the annual financial statement or budget showing estimated receipts and expenditure for the next financial year in the name of the Governor. No demand' for grants may be made except on the recommendation of the Governor. The Legislature may reduce the grants sought by the Governor but cannot increase them. The Governor is the custodian of the Contingency Fund of the State and has the power to make payments in emergency without prior sanction of the State Legislature.

Judicial Powers :

The Governor has no power to appoint Judges of the State High Court but he is entitled to be consulted by the President in the matter. He determines the question of appointments, postings and promotions of District Judges and other judicial officers in the State. The Governor has the power to pardon, commute or suspend sentence of any person convicted of any offence against any law relating to matters to which the executive power of the State extends. He can exercise this power either before the trial or during or even after the trial.

Emergency Powers :

Under Article 356 of the Constitution, the Governor has the power to make a report to the President whenever he is satisfied that a situation has arisen in which Government of the State cannot be carried on in accordance with the provisions of the Constitution. The Governor, however, has no emergency powers to meet the situation arising from external or internal aggression as the President has.

Discretionary Powers :

Though in the exercise of all his powers the Governor is aided and advised by the Council of Ministers, in the exercise of his discretionary powers the Governor is not required to act according to the advice of his Ministers or even to seek such advice. If any question arises as to whether a matter is or is not a matter for which the Governor is not required by the Constitution to act in his discretion, the decision of the Governor is final

3.1.8. Position of the Governor

The position of Governor of the State is the same as that of the President of the Union. Theoretically, he is the chief administrator. But in practice, it is not so. The Constitution provides that the Governor shall function with the aid and advice of the Council of Ministers, headed by a Chief Minister. Even in the exercise of his discretionary powers, the Governor is not free in the sense that he has to act under instructions from the President of India or in accordance with some set conventions. For instance, it is a set convention that the Governor invites only the leader of the majority parly in the Assembly to be the Chief Minister since only such a leader is capable of forming a stable Government. If no parly has a clear majority, the Governor invites the leader of the largest single party to form the Government. Thus, it is only in the latter instance that he uses his discretion. In summoning, proroguing or dissolving the House, the Governor has to seek the advice of the Ministers. There is no denying the fact that the Governor plays a dual role. On the one hand, he is the Constitutional head of the State, acting on the advice of Council of Ministers and advising the State Ministry on various important political and administrative issues, on the other hand, he serves as an agent of the Central Government and keeps the Centre informed of the working of the State Government. The Governor is an essential part of our federal system. The success of this system depends on the personality of the Governor, his knowledge and ability to solve the problems in an impartial manner.

3.2.1. State Executives:

We have already studied that India is a union of 28 States and 7 Union Territories and that the Founding Fathers of the Indian Constitution adopted a federal system. The executive under a system is made up of two levels: union and states. You have learnt in Lesson No.10 about the Union Executive. At the State level, Generally following the central pattern, the Governor, like the President, acts as a nominal head and the real powers are exercised by the Council of Ministers headed by the Chief Minister. The members of the Council of Ministers at the State level are also collectively and individually responsible to the lower House of the State Legislature for their acts of omission as well as commission.

3.3.1. State Council of Ministers: Formation, Categories and Other Details:

The Constitution of India provides for a parliamentary system of government at the state level. The Governor acts as the constitutional and nominal executive head of the state. The real executive powers are in the hands of the State Council of Ministers headed by the Chief Minister. The Constitution provides for each state a Council of Ministers with the Chief Minister as its head for aiding and advising the Governor in the exercise of his functions. However, in reality the Chief Minister and his Council of Ministers act as the real executive in the State.

1. Formation of the State Council of Ministers:

The procedure for the formation of the Council of Ministers at the state level is the same as in the case of the Union Council of Ministers. After each general election, the party or the group which secures majority in the State Legislative Assembly elects its leader. The Governor then summons him to form the ministry.

In other words, the leader of the majority in the State Legislative Assembly is appointed as the Chief Minister who selects his team of ministers. He submits the list to the Governor who formally appoints them as ministers. Normally, all ministers are taken from the members of the state legislature.

However, the Chief Minister can appoint even a non-member of the Assembly as a minister. But such a person has to secure a seat in the state legislature within a period of six months from the date of his appointment as minister. In case he fails to do so, he has to resign his minister-ship.

The strength of the State Council of Ministers cannot be more than 15% of the strength of State Legislative Assembly. Orissa Assembly has 147 members. As such the maximum strength of Orissa Council of Ministers can be 22. In May 2009, the Biju Janata Dal (BJD) President Naveen Pattnaik was sworn in as the Chief Minister of Orissa for the third consecutive term. A 21-member Council of Ministers was formed.

2. Categories of Ministers in the State Council of Ministers:

(a) Cabinet Ministers:

Cabinet Ministers are those ministers who are given cabinet rank. They hold independent charge of the important departments, like finance, Local Bodies, home affairs, health etc. They together determine the policies of the state. The CM and the cabinet ministers together constitute the State Cabinet. It is the most powerful part of the State Council of Ministers.

(b) Ministers of State:

They enjoy number two status in the Ministry. They do not attend the meetings of the Cabinet. They help the cabinet ministers and are attached to them in their departments. Currently, several Parliamentary Secretaries are appointed by the Chief Minister from amongst his party MLAs.

It is done to please them without violating legal condition which limits the maximum size of the state ministry to 15% of the total strength of State Legislative Assembly. The Parliamentary Secretaries do not get any salary. However, they enjoy some parks and perform some functions for the departments to which they are attached.

3. Tenure:

Theoretically the ministers hold office during the pleasure of the Governor. It means so long as they continue to have a majority support in the State Legislative Assembly. In fact they hold office during the pleasure of the Chief Minister. The Chief Minister can ask any minister to resign and his desire is always fulfilled by the concerned minister. If he resists, the Chief Minister can advise the Governor to dismiss him. The Governor always accepts such an advice. The Chief Minister can cause the fall of the ministry by tendering his own resignation to the Governor. As such virtually a minister holds office so long as he enjoys the confidence of the Chief Minister.

4. Responsibility of State Council of Ministers to the State Legislative Assembly:

The ministers are individually responsible to the State Legislature Assembly. In case the latter passes a censure motion against a minister for any lapse in the working of his department, he has to resign from office. A minister remains in office only so long as he enjoys the confidence of majority in the State Legislative Assembly.

The State Council of Ministers is also collectively responsible before the State Legislative Assembly. In case the latter passes a vote of no-confidence against the Council of Ministers or against the Chief Minister or rejects any bill sponsored by the Ministry or rejects the budget of the Government, or rejects any policy of the Government, or cuts the funds of the state government, the entire Council of Ministers resigns. The Council of Ministers remains in office

so long as it enjoys the support and confidence of the majority in the State Legislative Assembly.

5. Powers and Functions of the State Council of Ministers:

The State Council of Ministers is the real executive of the state. It exercises vast executive powers.

(a) Formulation of State Policies:

The Council of Ministers in reality the state cabinet has the responsibility of formulating the policies of the state. All the policies are discussed and decided upon the State Cabinet (Not by the entire Council of Ministers.)

(b) Running of Administration:

The State Council of Ministers runs the state administration. The ministers are responsible for this work. They do so in accordance with the policies of the government as approved and passed by the state legislature. Their duty is to see and ensure that the administration of the state is run in accordance with these policies. Each minister has one or more departments under his control and he is responsible for the administration of these.

(c) Co-ordination Function:

The State Cabinet is also responsible for securing co-ordination in the working of various governmental departments. It has the responsibility to resolve conflicts and deadlocks between various departments. All the ministers are committed to follow the decisions of the cabinet.

(d) Appointment-making Powers:

The Cabinet makes all important appointments in the state. The appointments of the Advocate General, Vice Chancellors or Pro-Vice Chancellors (as in case of Punjab) of the Universities in a state, Chairman and members of the State Public Service Commission, Chairmen of various Corporations and Boards, etc., are all made by the Governor on the advice of the Chief Minister and his Council of Ministers.

(e) Role in Law-making:

Law-making is the function of the state legislature but the ministers plays a key role in this sphere. It is the ministry which really decides the legislative agenda. Most of the bills, nearly 95%, are introduced and piloted by the ministers in the state legislature. The bills moved by the ministers are mostly passed by the legislature because the ministry enjoys the support of the majority. A private member bill has little chance of getting passed, unless it is supported by the ministry.

When the state legislature is not in session, the Council of Ministers can satisfy the need for law-making by getting ordinances issued from the Governor. These ordinances have the force of law and can be got converted into laws from the State Legislature when it comes into session. The Governor, summons, prorogues and dissolves the state legislature upon the advice of the Chief Minister and his Council of Ministers. Thus, the Council of Ministers plays an important role in law-making process.

(f) Financial Functions:

The Council of Ministers manages the finances of the state. The Cabinet really determines the fiscal policies of the state. It formulates and implements all developmental policies and plans. It manages the finances of the state in accordance with the policies and budget as prepared by the State Council of Ministers and approved by the state legislature.

6. Position of the State Council of Ministers:

As the real executive, the State Council of Ministers enjoys a dominant and powerful position. It “is the strongest and the most powerful institution in the state. It really runs the state administration by exercising all the powers vested in the Governor of the state. However, in an emergency under Article 356, the Governor runs the administration of the state independently and without the help and presence of State Council of Ministers.

3.4.1. Chief Minister:

Each State has a Council of Ministers to aid and advise the Governor in the exercise of his functions. Chief Minister is the head of the government in the State. The Council of Ministers with the Chief Minister as its head exercises real authority at the State level.

3.4.2. Formation of the Council of Ministers:

The Chief Minister is appointed by the Governor. The person who commands the majority support in the State Legislative Assembly (Vidhan Sabha) is appointed as the Chief Minister by the Governor. The other Ministers are appointed by the Governor on the advice of the Chief Minister. The ministers included in the Council of Minister's must belong to either House of the State legislature. A person who is not a member of the State legislature may be appointed a minister, but he/she ceases to hold office if he/she is not elected to the State legislature within six months of his appointment. The portfolios to the members of the Council of Ministers are allocated by the Governor on the advice of the Chief Minister.

3.4.3. Functions of the Chief Minister:

Structure of Government Chief Minister is the head of the Council of Ministers of his State. The constitutional position of the Chief Minister is more or less similar to that of the Prime Minister. The Chief Minister plays an important role in the administration of the State. We can discuss his functions as follows:

1. Chief Minister is the real head of the State Government. Ministers are appointed by the Governor on the advice of the Chief Minister. The Governor allocates portfolios to the ministers on the advice of the Chief Minister.
2. Chief Minister presides over the Cabinet meetings. He/she coordinates the functioning of different ministries. He/she guides the functioning of the Cabinet.
3. Chief Minister plays a key role in framing the laws and policies of the State Government. Bills are introduced by the ministers in the State legislature with his/her approval. He/she is the chief spokesman of the policies of his government both inside and outside the State Legislature.
4. The Constitution provides that the Chief Minister shall communicate to the Governor all decisions of the Council of Ministers relating to the administration and the affairs of the State and proposals for legislation.
5. The Chief Minister furnishes such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for.
6. If the Governor so requires, the Chief Minister submits for consideration of the Council of Ministers any matter on which a decision has been taken by a minister but which has not been considered by the Cabinet.
7. The Chief Minister is the sole link of communication between the Cabinet and the Governor. The Governor has the right to be informed by the Chief Minister about the decisions taken by the Council of Ministers. The above functions show that the real authority is vested with the Council of Ministers headed by the Chief Minister.

The Council of Ministers is the real executive in the State. The position of the State Council of Ministers largely depends upon the strength of the ruling party in the State Assembly and the personality of the Chief Minister. The position of the Chief Minister is more powerful when his party is in power in the Centre as well. As long as the Chief Minister and his Council of Ministers enjoy the confidence of majority in the Legislative Assembly, he exercises the real executive power in the State.

3.4.4. Relationship of the Governor with the Chief Minister:

The Governor is the constitutional head of the State. All executive actions in the State are taken in his name. The Governor appoints the Chief Minister and on the advice of the Chief Minister he appoints other ministers.

The Governor is responsible for smooth running of the State administration. It is his/her duty to see that the State administration is carried on in accordance with the provisions of the Constitution. If he/she finds that the constitutional machinery of the State has broken down or the administration cannot be carried on in accordance with the provisions of the Constitution,

he/she may recommend to the Union Government to proclaim emergency in the State. The Governor in his/her report can advise the President to impose President's Rule in the State. If the President is satisfied, he/she will declare emergency under Article 356, popularly known as President's Rule in the State. After proclamation, the State comes under the control of the Centre and the Governor acts as the Centre's agent. The Council of Ministers is dismissed and Assembly (Vidhan Sabha) is dissolved or suspended.

The Constitution provides that there shall be a Council of Ministers with the Chief Minister as its head to aid and advise the Governor in the exercise of his functions, except when he/ she is required by the Constitution to act on his discretion. When the Chief Minister enjoys the confidence of the majority in the State legislature, then the Governor's capacity to exercise his/her discretionary powers is reduced. In such a situation the Chief Minister is the real head of the State administration and the Governor is the constitutional head. So we see that the Governor plays a dual role. As the constitutional head of the State, he/she acts on the advice of the Council of Ministers and also serves as the agent of the Central Government. The relations between the Governor and the Chief Minister are influenced by the political and constitutional conditions in the State.

In normal conditions, the Governor is the ceremonial head of the State but during the President's Rule he/she becomes the agent of the Centre and assumes control of the State administration. Keeping the spirit of the Constitution in mind, the Governor may in a sense be the "eyes and ears" of the Central Government and as he/she is appointed, removed or transferred by the Centre he continues to be subservient to Centre as well as the party in power there. It may he emphasised that the job of the Governor would not be merely that of an umpire to see that the game is played according to the letter and spirit of the Constitutional provisions.

3.4.5. Dismissal of Chief Minister

There is a sharp controversy as to whether a Governor has the power to dismiss a Council of Ministers. headed by the Chief Minister, on the assumption that the Chief Minister and his Cabinet have lost their majority in the popular House of the Legislature. The Governor has the power to dismiss an individual Minister at any time. He can dismiss a Council of Ministers or the Chief Minister (whose dismissal means a fall of the Council of Ministers), only when the Legislative Assembly has passed a no-confidence motion against the Council of Ministers. The Governor cannot dismiss the Chief Minister at his pleasure, on his subjective estimate of the strength of the Chief Minister in the Assembly at any point of time. It is for the Legislative Assembly to enforce the collective responsibility of the Council of Ministers to itself.

DEPARTMENTS AND DIRECTORATE

3.5.1. The Secretariat:

The word Secretariat refers to the complex of departments whose heads administratively are Secretaries and politically are Ministers. The Secretary is the Secretary to the Government as a whole, not to the individual Minister. The Secretary is normally a generalist civil servant. But in the case of the Public Works Department, the Chief Engineer is usually the Secretary. Normally, more than one department is entrusted to one Secretary. Hence, the number of Secretariat departments is greater than the number of Secretaries. Like his Central counterpart, the Secretary is

(a) the principal adviser to the Minister,
(b) head of the department(s) under his charge,
(c) responsible for carrying out the policies and decisions made by the political chief, and
(d) representative of his deparlment(s) before the legislative committees.

3.5.2. Organisation of a Department:

A department consists of officers among whom arc included, besides the Secretary, the Deputy Secretary, Under Secretary and/or Assistant Secretary. The larger departments may also have Additional and Joint Secretaries. Secretaries, Additional Secretaries, Joint Secretaries Deputy Secretaries and Under Secretaries are all, except those belonging to the Secretariat Civil Service, subject to the Tenure System. They are, thus, appointed to the Secretariat for a fixed term. However, the Chief Secretary is not subject to the Tenure System.

Let us now briefly discuss the functions of the officers of the departments.

1. Secretary :

The Secretary is the overall incharge of the department. He is the chief advisor to the Minister regarding matters pertaining to his department. He allocates work among the various officers of his department and represents his department before the committees of the Legislature.

2. Special/Additional Secretary :

When the work in a particular department becomes too heavy, some-posts of Special/Additional Secretaries may be created to relieve the Secretary of some of the workload. These officers can directly perform some of the functions of the Secretary and may submit files directly to the Minister in respect of the delegated functions performed by them.

3. Deputy/Joint Secretary :

The Secretary is assisted by the Deputy Secretary. In some States the posts of Joint Secretaries have been created in order to distinguish between the officers of different seniorities. Sometimes the officers coming from the State civil service are designated as Deputy Secretaries while those coming from the IAS are designated as Joint Secretaries. However, they perform the same functions. The Deputy/Joint Secretaries are placed in charge of a definite wing of the Department and supervise the work of the Under Secretaries. Some powers, to dispose of certain routine cases, are also delegated to the Deputy Secretary. He sends important cases to the Additional Secretary or the Secretary, depending upon the scheme of delegation of work. The Deputy Secretaries are supposed to have a thorough knowledge of the wing controlled by them. They are supposed to analyse the various policy alternatives before sending the files upwards.

4. Under Secretary :

Under Secretaries are the lowest level officers who perform the vital function of providing a link between the office and the officers. They are placed in charge of a number of sections each headed by a Section Officer. Section is the lowest unit of work. In some States, the Section is headed by an Assistant Secretary whereas in others it is headed by a Section Officer. The Section Officer is responsible for the distribution of work among the various functionaries of the section. He supervises the work of the Assistants and Upper Division Clerks working in his section, makes them present the cases suitably docketed and referenced and thus ensures the timely submission of files to the officers. Precedents of similar cases have also to be cited while presenting the files. Besides the officers, the department also consists of the office.

3.5.3. Number of Secretariat Departments :

The number of Secretariat departments varies from State to State, ranging between 11 and 34. Most States, however, have the following Secretariat departments :

(1) General Administration
(2) Home
(3) Revenue
(4) Food and Agriculture
(5) Planning
(6) Panchayati Raj
(7) Finance
(8) Law
(9) Public Works
(10) Irrigation and Power
(11) Education
(12) Industries
(13) Co-operation
(14) Transport
(15) Local Government
(16) Jails
(17) Labour and Employment

(18) Excise and Taxation.

3.6.1. State Public Service Commission

The Government of India Act, 1935 provided for the establishment of a state public service commission at the provincial level. Later, it was given constitutional status by the constitution of India.

Parallel to the Union Public Service Commission in the center, the State Public Service Commission works at the state level. The same set of Articles (315 to 323 in Part XIV) of the Constitution also deals with the composition, appointment, and removal of members, power and functions, and independence of a State Public Service Commission.

3.6.2. About Public Service Commission (PSC)

The table below mentions everything that you must know about the State Public Service Commission.

Composition	01 Chairman and other members (Number of other members is not fixed. It is determined by the Governor of the state)
Appointment by	Governor
Qualification	The qualification of the chairman and other members is NOT SPECIFIED in the constitution. However, there is a condition that one-half of the members of the commission should be such persons who have held office for at least ten years either under the government of India or under the Government of a state
Term	6 years or until they attain the age of 62 years (Initially, the retirement age was 60 years. It was extended to 62 years by the 41st Constitutional Amendment Act, 1976)
Resign to	Governor
Annual Report is submitted to	Governor, who then tables it before the State Legislature for the discussion.
Removal of Chairman and members	By President (Although they are appointed by the Governor, only President can remove them from their post)
Conditions for removal of the chairman or other members of SPSC by President	If he is adjudged as insolvent If he engages in any paid employment outside the duties of his office If he, in the opinion of the president, is unfit to continue in office. The president can also remove the chairman or other members on the grounds of misbehavior. In this case, the president has to refer the matter to the Supreme Court.
Reappointment after retirement	Chairman: The Chairman of the State PSC cannot be reappointed for the next term in the same PSC. However, he can be appointed as the chairman or member of UPSC or chairman

	of other PSC or JPSC Member: A member cannot be reappointed for the next term in the same PSC. However, he can be appointed as the chairman of that PSC or chairman or member of other PSC/JPSC or UPSC.

3.6.3. Functions of State Public Service Commission

A state public service commission performs all those functions at the state level as UPSC does at the central level. Thus, a state PSC is responsible for the following:

- It conducts examinations for the appointment of the services in the state.
- It is consulted on the following decisions related to personnel management:
- Methods of recruitment and selection to the state civil service and civil posts.
- Principles to be followed in these recruitments
- In making promotions and transfers from one service to another
- Disciplinary matters

However, the decisions and recommendations of the State Public Service Commission are advisory in nature and not binding in nature.

3.6.4. Articles Related to SPSC at a Glance

The important articles related to State Public Service Commission are mentioned below:

Article Number	Subject-Matter
315	Provision of UPSC for union and SPSC for states
316	Appointment and term of service for the chairman and members
317	Removal and suspension of the member
320	Functions of PSC
321	Power to extend functions of PSC
322	Expenses of PSC
323	Reports of Public Service Commission

3.6.5. Headquarters and Official Website of State Public Commissions of India

The headquarters of various state public service commissions along with their official websites are mentioned in the table below:

Name of State PSC	Headquarter	Official Website
Andhra Pradesh Public Service Commission	Vijayawada	https://psc.ap.gov.in/
Arunachal Pradesh Public Service Commission	Itanagar	http://www.appsc.gov.in/
Assam Public Service Commission	Guwahati	http://www.apsc.nic.in
Bihar Public Service	Patna	http://www.bpsc.bih.nic.in

Commission		
Chhattisgarh Public Service Commission	Raipur	http://www.psc.cg.gov.in
Goa Public Service Commission	Panaji	http://gpsc.goa.gov.in/
Gujarat Public Service Commission	Gandhinagar	http://www.gpsc.gujarat.gov.in
Haryana Public Service Commission	Panchkula	http://www.hpsc.gov.in
Himachal Pradesh Public Service Commission	Shimla	http://www.hp.gov.in/hppsc
Jammu and Kashmir Public Service Commission (1957–2019)	Srinagar	http://jkpsc.nic.in/
Jharkhand Public Service Commission	Ranchi	http://www.jpsc.gov.in
Karnataka Public Service Commission	Bangalore	http://kpsc.kar.nic.in/
Kerala Public Service Commission	Thiruvananthapuram	http://www.keralapsc.gov.in/
Madhya Pradesh Public Service Commission	Indore	http://www.mppsc.com
Maharashtra Public Service Commission	Mumbai	http://www.mpsc.gov.in
Manipur Public Service Commission	Imphal	http://mpscmanipur.gov.in
Meghalaya Public Service Commission	Shillong	http://mpsc.nic.in/mpsc/
Mizoram Public Service Commission	Aizawl	http://mpsc.mizoram.gov.in/
Nagaland Public Service Commission	Kohima	http://www.npsc.co.in
Odisha Public Service Commission	Cuttack	http://www.opsc.gov.in/
Punjab Public Service Commission	Patiala	http://www.ppsc.gov.in
Rajasthan Public	Ajmer	http://www.rpsc.rajasthan.gov.in/

Service Commission		
Sikkim Public Service Commission	Gangtok	http://www.spscskm.gov.in
Tamil Nadu Public Service Commission	Chennai	http://www.tnpsc.gov.in
Telangana State Public Service Commission	Hyderabad	http://www.tspsc.gov.in/
Tripura Public Service Commission	Agartala	http://www.tpsc.gov.in
Uttar Pradesh Public Service Commission	Allahabad	http://www.uppsc.org.in
Uttarakhand Public Service Commission	Haridwar	http://www.ukpsc.gov.in
West Bengal Public Service Commission	Kolkata	https://www.pscwbonline.gov.in/apps/home/

This is the complete overview of the state public service commission. Keep visiting our Academic Articles repository for more informative articles.

3.7.1. High Court:

Powers And Functions Of High Court :

Indian Polity High Courts are the highest courts in a state. Presently, there are 25 High Courts in India, with some states having a common High Court. They are an important part of the judicial system in India and hence, very important from the point of view of Indian polity for the UPSC exam. High Courts and their functions, powers, jurisdiction, along with the rules for the appointment of High Court judges are fundamental concepts in the polity section of the IAS syllabus. In this article, we present this very vital information in a crisp manner for students to study easily

3.7.2 Powers and Functions of the High Court

The High Court is the highest court in a state in India. Articles 214 to 231 in the Indian Constitution talk about the High Courts, their organisation and powers. The Parliament can also provide for the establishment of one High Court for two or more states. For instance, Haryana, Punjab and the Union Territory of Chandigarh have a common High Court. The northeastern states also have one common High Court. In addition, Tamil Nadu shares a High Court with Puducherry. Currently, there are 25 High Courts in India. The High Courts of Calcutta, Madras and Bombay were established by the Indian High Courts Act 1861.

3.7.3. Functions:

The functions of the High Court are described in the below section under subsections such as its jurisdiction, powers, role, etc. High Court Jurisdiction The various kinds of jurisdiction of the High Court are briefly given below: Original Jurisdiction The High Courts of Calcutta, Bombay and Madras have original jurisdiction in criminal and civil

- ✓ cases arising within these cities. An exclusive right enjoyed by these High Courts is that they are entitled to hear civil cases which
- ✓ involve property worth over Rs.20000. Regarding Fundamental Rights: They are empowered to issue writs in order to enforce
- ✓ fundamental rights. With respect to other cases: All High Courts have original jurisdiction in cases that are related to
- ✓ will, divorce, contempt of court and admiralty. Election petitions can be heard by the High Courts.

3.7.4. Appellate Jurisdiction In civil cases:

An appeal can be made to the High Court against a district court's decision.

- ✓ An appeal can also be made from the subordinate court directly, if the dispute involves a value higher than Rs. 5000/- or on a question of fact or law.
- ✓ In criminal cases: it extends to cases decided by Sessions and Additional Sessions Judges.
- ✓ If the sessions judge has awarded an imprisonment for 7 year or more. o If the sessions judge has awarded capital punishment. The jurisdiction of the High Court extends to all cases under the State or federal laws.
- ✓ In constitutional cases: if the High Court certifies that a case involves a substantial question of law.
- ✓ High Court Powers Apart from the above, the High Courts have several functions and powers which are described below. As a Court of Record High Courts are also Courts of Record (like the Supreme Court).
- ✓ The records of the judgements of the High Courts can be used by subordinate courts for deciding

All High Courts have the power to punish all cases of contempt by any person or institution.

3.7.5. Administrative Powers

1. It superintends and controls all the subordinate courts.
2. It can ask for details of proceedings from subordinate courts.
3. It issues rules regarding the working of the subordinate courts.
4. It can transfer any case from one court to another and can also transfer the case to itself and decide the same.
5. It can enquire into the records or other connected documents of any subordinate court.
6. It can appoint its administration staff and determine their salaries and allowances, and conditions of service.

3.7.6. Power of Judicial Review:

High Courts have the power of judicial review. They have the power to declare any law or ordinance unconstitutional if it is found to be against the Indian Constitution.

Power of Certification:

A High Court alone can certify the cases fit for appeal before the Supreme Court.

High Court Autonomy The independence of the High Courts can be corroborated by the points given below:

1. Appointment of Judges:

The appointment of judges of the High Courts lies within the judiciary itself and is not connected to the legislature or the executive.

2. Tenure of the Judges:

High Court judges enjoy security of tenure till the age of retirement, which is 62 years. A High Court cannot be removed except by an address of the President.

3. Salaries and allowances:

The High Court judges enjoy good salaries, perks and allowances and these cannot be changed to their disadvantage except in case of a financial emergency. The expenses of the High Court are charged on the Consolidated Fund of the State, which is not subject to vote in the state legislature.

4. Powers:

The Parliament and the state legislature cannot cut the powers and jurisdiction of the High Court as guaranteed by the Constitution.

5. Conduct of judges:

Unless a motion of impeachment has been moved, the conduct of the High

3.8.1. DISTRICT ADMINISTRATIVE STRUCTURE

District is the basic unit of administration in India. The Oxford Dictionary defines it as a 'territory marked off for special administrative purpose'. A district is generally named after the largest town or city of the territorial area of the concerned district Therefore, a district is an

administrative unit in the hierarchy of administration which consists of a number of territorial areas, namely, villages, towns and cities. Hence, the word 'District Administration' means the management of the tasks of government as it lies within an area legally recognised as a district. The five types of the district in India are the rural district, urban district, industrial district, backward district and the hill district.

3.8.2. Features of District Administration

Generally, the district administration has the following features.

1. It is at district level that the state government comes into contact with the people.
2. District administration is a field work as opposed to staff or secretariat functions.
3. The problems at the district level are local relating to the district.
4. At district level, policy formulation ends and the implementation begins.
5. The District Officer is the last agent of the state government and the 'man of the spot' for any activity or incidence in the district; and
6. At the district, there is functional aggregation of units. A large number of departments have their field agencies located in the district.

3.8.3. District Level Functionaries

The District Collector is the head of district administration. The office of the collector at first was created by Warren Hastings in 1772 for the dual purpose of collecting revenue and dispensing justice. Strictly speaking, the collector is for the collection of land revenue in the beginning. But, at present, there are enormous functions to the district collector. The general roles and the functions of the district collector are following.

1. As Collector, he has to collect land revenue.
2. As District Magistrate, he has to maintain law and order in the district.
3. As District Officer, he has to deal with the personnel matters like salary, transfer, etc within the district.
4. As Development Officer, he is responsible for the implementation of rual development programmes.
5. As the Returning Officer, he is the chief for the elections to the Parliament, the State Legislative Assembly, and the local government in the district. Hence, he coordinates the election works at the district level.
6. As the District Census Officer, he conducts the census operations once in ten years.
7. As the Chief Protocol Officer, he has to protect the VIPs in their tour and stay in the district.
8. As the coordinator, he supervises the district level other functionaries and departments.
9. He presides over the District Plan Implementation Committee.
10. He acts as the official representative of the state government during the ceremonial functions in the district.
11. He acts as the Public Relations Officer of the state government.
12. He acts as the Crisis Administrator in chief during the natural calamities and other emergencies.
13. He supervises and controls the local government institutions.
14. He handles the work pertaining to civil defence; and
15. He is responsible for civil supplies, food and other essential commodities.

Hence, the District Collector is the multi-functionary in the district level. In fact, the work-load functions are more to a collector due to the welfare state policy in which the government has to implement a large number of programmes for the people. Actually, the office of the District Collector is very much prestigeous. The District Collector is the hero of the district administration. The other important district level functionaries are following.

1. Superintendent of Police
2. District Medical Officer
3. District Health Officer
4. District Forest Officer

5. Assistant Registrar of Cooperative Societies
6. District Agricultural Officer.
7. District Industries Officer
8. District Judges
9. Backward Class Welfare Officer
10. Superintendent of Jails
11. District Labour Officer

3.8.4. Division Level

In Tamil Nadu, Revenue Divisional Officer is the head of divisional administration especially for revenue administration and for the maintenance of law and order. But, the development administration is headed by Assistant Director (Development) (Formerly by the Divisional Development Officer - DDO) in the division level. Under AD (Development), there are functionaries namely, extension officers for agriculture, cooperation, industry, eduction, animal husbandry, etc.

3.8.5. Taluk Level

Tahsildar is the head of taluk level administration in Tamil Nadu. For assisting him, the Deputy Tahsildars are there in the Tehsil. This is for the revenue administration. For the development administration, panchayet unions are there in the state. The Panchayet Union Commissioner or Block Development Officer (BDO) is the head and there are extension officers for agriculture, health, cooperation, animal husbandry, education, and industry.

3.8.6. Firka Level

Revenue Inspector is the head of Firka level revenue administration. Every taluk is divided into many firkas in Tamil Nadu. But, the nomenclature of this level differs from state to state.

3.8.7. Village Level

Village Administrative Officer is the head of village level administration. He is the most important functionary in the field especially in the village. Under him, there are village level workers. He performs revenue, police, and general administrative duties and acts as the representative of the government in the village.

3.9.1. Local Government:

Since the late 1980s, we have been witnessing a wave of decentralisation globally, which is founded upon the idea of making governance more participatory and inclusive. In 1992, India too embraced this wave and amended its constitution with the intent to strengthen grassroots-level democracy by decentralising governance and empowering local political bodies.

The objective was to create local institutions that were democratic, autonomous, financially strong, and capable of formulating and implementing plans for their respective areas and providing decentralised administration to the people. It is based on the notion that people need to have a say in decisions that affect their lives and local problems are best solved by local solutions.

Though traditional forms of local governance have existed in India for centuries, the post-Independence period saw a shift towards building a system of local government, in no small part due to the influence of Mahatma Gandhi. The passing of the 73rd and 74th constitutional amendments, made it mandatory for each state to constitute rural and urban local governments, to establish mechanisms to fund them, and to carry out local elections every five years. The creation of this new three-tier system of local governance provided constitutional status to rural and urban local bodies, ensuring a degree of uniformity in their structure and functioning across the country. Provisions of these two amendments are similar in many ways, and differ mainly in the fact that the former applies to rural local government (also known as Panchayati Raj Institutions or PRIs), while the latter applies to urban local bodies.

Currently, there are more than 250,000 local government bodies across India with nearly 3.1 million elected representatives and 1.3 million women representatives.

3.9.2. How is the system structured:

With the introduction of the constitutional amendments, India's two-tier system of a central and state government was transformed into a three-tier one, now with a local level below the state.

In the case of rural areas, there are three nested bodies. At the apex, is the district council or zilla parishad, which is made up of a cluster of block councils or panchayat samitis, which in turn, are made up of village councils or gram panchayats. Each village has a village assembly or gram sabha comprising all adults in the village, who have the power to directly elect members of the panchayat. States with a population of less than two million (such as Arunachal Pradesh) may also choose to have a two-tiered structure, without the intermediate block-level institution.

In urban areas, there are three types of local bodies: municipal corporations or mahanagar palikas for areas with a population of more than one million, municipal councils/ municipalities or nagar palikas for areas with less than a million people, and town councils or nagar panchayats for areas transitioning from rural to urban. For ease of administration, large municipal areas may be further subdivided into wards.

The structure of PRIs is uniform across all states in the country, except for the scheduled and tribal areas, which are legally exempt from implementing the Panchayati Raj system. The Panchayat Extension to Scheduled Areas (PESA) Act, 1996 provides for the extension of the 73rd Amendment (with certain modifications and exceptions) to tribal and forested areas across 10 states of India, excluding tribal areas in the states of Assam, Meghalaya, Tripura, and Mizoram, which are governed by District or Regional Councils. These provisions have been put in place to protect customary law, social and religious practices, and traditional management practices of community resources.

Local government institutions are made up of both directly and indirectly elected representatives. A minimum of one-third of the seats in all local bodies are reserved for women on a rotational basis—an important innovation given that there is no reservation for women at the central and state level. Over time, states such as Odisha, Punjab, and West Bengal have increased the representation of women in both rural and urban local bodies to 50 percent.

Seats are also reserved for people belonging to scheduled castes, scheduled tribes, and other backward classes in proportion to their population. Under each of these categories, the minimum 30 percent reservation for women is mandatory.

3.9.3. Functions:

In line with their objectives of promoting local economic development and social justice, local government bodies have the power to:

– Prepare development plans for the areas they serve.

– Implement a wide range of schemes relating to 29 core areas for rural local governments, and 18 for urban local bodies. These include (but are not limited to) health, education, poverty alleviation, housing, and the promotion of small-scale industries, among others.

However, since individual state governments (rather than the centre) are responsible for the functioning of their respective local governments, the actual powers and functions of these institutions are highly dependent on the laws of the state in which they operate.

PRIs play a crucial role in rural development and perform the following roles:

- ✓ Administrative activities such as the maintenance of village records, the construction, maintenance, and repair of roads, tanks, wells, and so on.
- ✓ Improving socio-economic welfare through the promotion of rural industries, health, education, women and child welfare, among others.
- ✓ Judicial functions such as trying petty civil and criminal cases such as minor thefts and money disputes are also performed either by separate adalati or nyaya panchayats, or by gram panchayats.

The functions of urban local bodies can be classified as:

3.9.4. Obligatory functions:

Those which they have to perform, including the maintenance of public health and sanitation, providing public utilities such as water and electricity, and education.

3.9.5. Discretionary functions:

Which depend on the availability of funds, and include transportation, and the creation and maintenance of public spaces, among others.

3.9.6. How are local bodies funded?

In order to effectively carry out their mandates, both urban and rural local bodies require funding. States are required to set up a State Finance Commission once every five years to review the financial position of local government institutions and to make recommendations to the state governments, in order to ensure that local bodies have adequate financial resources to function.

Broadly, local bodies have two main sources of revenue: internal and external. Internal (or own-source revenue) is that which they raise themselves, either through taxes such as land or property tax, or through non-tax sources which include rents and user-fees. External revenue sources include:

– Assigned revenue, which covers taxes, duties, tolls, and fees due to local bodies, that are collected by the state and central governments. The exact percentage allocation of these revenues is done through recommendations of State Finance Commissions.

– Grants-in-aid and loans from the central and state governments, domestic institutions, financial intermediaries, capital markets, and/or donor agencies.

Due to the differing nature of functions performed, the exact sources of revenue vary for rural and urban local bodies. For example, large urban centres such as Delhi and Mumbai are able to mobilise newer and more innovative forms of finance such as private finance, while smaller municipalities and rural bodies continue to depend on traditional sources such as central and state government tax shares, loans, and grants.

3.9.7. What are some of the challenges faced by local government bodies?

In India, though political decentralisation has been successfully achieved through the establishment of local government bodies, the actual transfer of functions, finances, and functionaries to these institutions remains incomplete. This weakens the system and inhibits its proper functioning.

A Devolution Report, published by the Ministry of Panchayati Raj in 2015-2016 estimates the extent to which states have devolved functions, finances, and functionaries. It concludes that while certain states such as Kerala, Karnataka, and Maharashtra have transferred relatively more power to local bodies, real decentralisation has a long way to go in India.

3.9.8. Functional challenges:

The power to devolve functions to local governments rests with the state government. For a variety of reasons, states do not devolve adequate functions to local government bodies, severely affecting the system's efficiency and effectiveness. For instance, state governments have been known to create parallel structures for the implementation of projects around agriculture, health, and education—undermining areas for which local bodies are constitutionally responsible.

Additionally, many local bodies lack the support systems necessary to carry out their mandates. The 74th amendment requires a District Planning Committee to be set up in each district, so that the development plans prepared by the panchayats and urban local bodies can be consolidated and integrated. However, it was seen that District Planning Committees are non-functional in nine states, and failed to prepare integrated plans in 15 states.

3.9.9. Financial challenges:

Devolving functions is meaningless without providing adequate funds to carry out said functions. After nearly 25 years of decentralisation, local government expenditure as a percentage of GDP is only two percent—a number that is extremely low when compared to other major emerging economies such as China (11 percent) and Brazil (seven percent).

Most local bodies, both rural and urban are unable to generate adequate funds from their internal sources, and are therefore extremely dependent on external sources for funding. Studies show that around 80 percent to 95 percent of revenue is obtained from external

sources, particularly state and central government loans and grants. There are two main reasons for low internal revenue collection:

– Local bodies may lack the capacity to properly impose taxes, due to ambiguous taxation norms, lack of reliable records, and so on.

– State governments have not devolved enough taxation powers. Most states only permit local bodies to collect property taxes and water tariffs, but not land tax or tolls, which can provide more substantial revenues.

3.9.10. Functionary challenges:

The capacity of local bodies to carry out their mandate is often circumscribed by the state government officials. Additionally, the secretariats of local governments are grossly under-staffed and under-skilled, and therefore unable to provide the required support to the elected body. Their capacities need to be further strengthened through training of existing personnel and the recruitment of new staff. Though local bodies are authorised to recruit staff, this is prevented by limited funding.

India's local governance system needs to be empowered in all three areas to ensure that power truly rests with the people, not just on paper, but also in practice.

Constitutional Authorities - Finance Commission - Union Public Service Commission - Election Commission - Comptroller and Auditor General of India

4.1.1. Constitutional Authorities in India

When you hear about the UPSC or Election Commission, somebody may add that these are Constitutional bodies.

There are many who consider the constitutional bodies as more 'prestigious' or 'powerful' than other organizations or institutions in India.

You should already be knowing about many Constitutional Posts like the President of India, Prime Minister of India, Governors, etc. But what exactly is a Constitutional Body

4.1.2. What is a Constitutional Body?

Those bodies whose formation is prescribed by the Indian Constitution itself are known as Constitutional Bodies.

They derive their powers and authority from the Indian Constitution.

A constitutional amendment is often required to change any powers or functions related to such bodies.

The powers, functions, and responsibilities of various Constitutional Bodies in India (Video Explanation)

Note: Subscribe to ClearIAS YouTube Channel to learn from more free videos.

In this article, we discuss the powers, functions, and responsibilities of various Constitutional Bodies in India.

List of Constitutional Bodies in India

Sl. No.	Constitutional Bodies	Article
1	Attorney General of India	76
2	Comptroller and Auditor General of India	148
3	Advocate General of State	165
4	State Finance Commission	243-I
5	State Election Commission	243-K
6	District Planning Committee	243ZD
7	Metropolitan Planning Committee	243ZE
8	Inter-State Council	263
9	Finance Commission	280
10	Goods and Service Tax Council	279A
11	UPSC Public Service Commission	315-323
12	State Public Service Commission	315-323
13	Election Commission of India	324
14	National Commission for Scheduled Castes	338
15	National Commission for Scheduled Tribes	338A
16	National Commission for Backward Classes[	338B
17	Scheduled Area and Scheduled Tribes Commission	339
18	Backward Classes Commission	340

19	Official Language Commission and Official Language Committee of Parliament	344
20	Special Officer for Linguistic Minorities	350B

1. Attorney General Of India

- Article 76 of the Constitution provides for the Attorney General of India.
- He is considered the highest law officer in the country.
- He is appointed by the president and holds office during his pleasure.
- A person who is qualified to be appointed as the judge of the Supreme Court is eligible for the office of Attorney General of India.

Duties of AG:

- To advise the government on the legal matters referred to him by the president.
- To appear on behalf of the GOI in SC in all the cases concerning the government.
- To represent GOI in the references made by the president to the SC under Article 143.
- To appear in HC in the cases concerning GOI when required.

Rights of AG:

- AG has the right to audience in all the courts in the territory of India.
- He has the right to speak and take part in the parliamentary proceedings. However, he doesn't enjoy the right to vote.
- All the privileges and immunities available to a member of parliament are granted to the AG.

2. Comptroller And Auditor General Of India

- Article 148 of the Constitution provides for an independent office of Comptroller and Auditor General of India.
- CAG is considered as the guardian of the public purse.
- Along with the Supreme Court, the Election Commission, and the Union Public Service Commission, the office of CAG is treated as one of the bulwarks of the democratic system.

Appointment:

- President of India appoints CAG by a warrant under his hand and seal.
- He holds office for a period of six years or up to the age of 65 years, whichever is earlier.
- CAG can be removed from his office in the same manner as a judge of the Supreme Court.

Independence:

- CAG is provided with the security of tenure.
- His rights cannot be altered to his disadvantage after his appointment.
- All the expenses of the office of CAG are charged on the Consolidated Fund of India.
- His salary is equal to that of a judge of the Supreme Court.

Duties:

- The duties and powers of CAG are mentioned in article 149 of the Constitution.
- All the accounts related to the expenses from the Consolidated Fund of India, Consolidated Fund of the States, and Union Territories are audited by CAG.
- Also, the expenditure from Contingency Fund and Public Account of India and States are audited by CAG.
- The net proceeds of any tax or duty are ascertained and certified by CAG.
- CAG acts as a guide, friend, and philosopher of the Public Accounts Committee.
- All the receipts and expenditure of bodies financed from the central or state revenue are also audited by CAG.
- The audits of any other body as and when requested by the President or Governor are audited by CAG.
- Three reports are submitted by CAG to the President. They are: (1) Audit report on appropriation accounts (2) Audit report on finance accounts (3) Audit report on public undertakings

Role of CAG:

- The office of CAG secures the accountability of the executive to the Parliament in the sphere of financial administration.
- The CAG acts as an agent of the Parliament and is responsible only to the Parliament.
- Along with legal and regulatory audits, CAG also conducts propriety audits.

3. ADVOCATE GENERAL OF THE STATE

- Article 165 of the Constitution provides for Advocate General for the states.
- He is considered the highest law officer in the state.
- The Advocate General is appointed by the governor and holds the office during his pleasure.
- A person qualified to be appointed as a judge of a high court is eligible for the office of Advocate General.

Duties and Rights of Advocate General:

- To advise the government of the state on the matters referred to him by the governor.
- To discharge those functions conferred upon him by the Constitution of India.
- He has the right to speak and take part in the proceedings of both the houses of the state legislature. However, he doesn't enjoy the right to vote.

4. STATE FINANCE COMMISSION

- The governor of a state shall, after every five years, constitute a finance commission.
- Articles 243-I and 243-Y deal with the formation of this body.
- The composition, qualifications of members, and the manner of their selection is decided by the concerned state legislature.

Functions:

- The distribution of the net proceeds of taxes, tolls, and fees between the state and local bodies.
- The determination of such taxes, duties, and tolls to be assigned to local bodies.
- The grants-in-aid to be given to the local bodies from the consolidated fund of the state.
- Measures to be taken for improving the financial position of local bodies.
- Any other matter referred to the commission by the governor of the state.

5. STATE ELECTION COMMISSION

- The elections to the panchayats and municipalities are looked after by the State Election Commission.
- Articles 243-K and 243-ZA deal with the elections to the rural and urban local bodies.
- SEC consists of a state election commissioner who is appointed by the governor.
- The removal of the state election commissioner is the same as that of a judge of the state high court.

6. DISTRICT PLANNING COMMITTEE

- A district planning committee is constituted and given the task to consolidate the plans of both panchayats and municipalities.
- It prepares a draft development plan for the district.
- Article 243-ZD deals with the committee for district planning.
- The composition, manner of election of chairperson and members is decided by the state legislature.
- Four-fifths of the committee are elected by the elected members of panchayats and municipalities.
- The representation of these members is proportional to the ratio of the rural and urban population in the district.
- In preparing the plan, DPC should consider the following:

1. Matters of common interest between the rural and urban local bodies regarding sharing of resources, infrastructure development, and conservation of environment.
2. Extent and type of resources available.

7. METROPOLITAN PLANNING COMMITTEE

- A metropolitan planning committee is constituted for every metropolitan area.
- Article 243 -ZE deals with the committee for metropolitan planning.

- The composition, manner of election of chairpersons and members, functions, etc are decided by the concerned state legislature.
- Two-thirds of MPC are elected by the elected members of the municipalities and chairpersons of panchayats.
- The representation of these members is proportional to the ratio of the population of municipalities and panchayats.
- While preparing the draft plan, the committee shall consider:

1. Plans of municipalities and panchayats in the metropolitan area.
2. Matters of common interest between the rural and urban local bodies regarding sharing of resources, infrastructural development and conservation of environment.
3. The extent of investments to be made in the concerned metropolitan area.
4. Objectives and priorities of the center and the concerned state.

8. INTER-STATE COUNCIL

- Article 263 deals with the establishment of Inter-State Councils for the coordination between centre and states as well among the different states.
- The president establishes such a council and also defines its duties and organization.
- Its decision is advisory in nature and is not binding.

Composition:

- The council consists of the following members:

1. Prime Minister as the chairman
2. Chief Ministers of all the states and union territories having a legislative assembly
3. Administrators of union territories with no legislative assemblies
4. Governors of states under the president's rule
5. Six central cabinet ministers nominated by PM

- The council consists of a standing committee set up in 1996. Its members are:

1. Union Home Minister as the chairman
2. Five Union Cabinet Ministers
3. Nine Chief Ministers

4 FINANCE COMMISSION

- Finance Commission is a quasi-judicial body.
- The formation of FC is provided by the constitution under article 280.
- It is constituted every fifth year or at such an earlier time as the president of India considers necessary.

Composition:

- FC consists of a chairman and four other members appointed by the president.
- The qualification of the members and the manner of their selection is determined by parliament.
- They are eligible for reappointment.
- The four members should be selected from amongst the following:

1. A judge of HC or one qualified to be appointed as such.
2. A person with specialized knowledge in finance and accounts of the government.
3. A person with wide experience in financial matters and administration.
4. A person with special knowledge in economics.

Functions:

- FC makes recommendations to the president on the following matters:

1. Distribution and allocation of the net proceeds of the taxes between center and states and also among different states.
2. The principles that should govern the grants-in-aid to the states.
3. Measures needed to augment the consolidated fund of the state to supplement the resources of local bodies.
4. Any other matter referred to it by the president of India.

Role of FC:

- The commission submits its report to the president who lays it before both the Houses of the Parliament.
- The recommendations made by FC are only advisory in nature and are not binding on the government.
- Finance Commission is envisaged as the balancing wheel of fiscal federalism in India.

10. GOODS AND SERVICES TAX COUNCIL

- GST council is formed under article 279-A.
- Its function is to make recommendations to center and state governments regarding GST.
- It has representation from both centre and states and hence is a federal body.
- GST council consists of the following members:

1. Union Finance Minister as Chairperson
2. Union Minister of State in charge of revenue or finance as a member
3. Minister in charge of revenue or finance or any other minister nominated by the state government as members.

- The decisions of the council are taken by a majority of not less than three-fourths of weighted votes cast by the members present and voting.
- The weightage of the vote of the central government is one-third of the total votes and the weightage of votes of state government is two-thirds of all votes cast.
- It aims to uphold the principle of cooperative federalism.

11. UNION PUBLIC SERVICE COMMISSION

- UPSC is the central recruiting agency of the country.
- Articles 315 to 323 in Part XIV of the constitution talk about UPSC.
- UPSC is visualized as the watchdog of the merit system of the country.

Composition:

- UPSC consists of a chairman and other members. The number of other members is left to the discretion of the president.
- Generally, the number of members in the commission including the chairman is nine to eleven.
- They hold the office for a term of six years or until they attain the age of 65 years, whichever is earlier.

Removal:

- The chairman and other members of UPSC can be removed by the president under the following situations:

1. If he is adjudged an insolvent
2. While in office, if he engages in any paid employment
3. If he gets unfit by reason of infirmity of mind or body
4. For misbehavior

- In the last case, the president has to refer the matter to Supreme Court for inquiry. The advice of SC is binding on the president.

Independence:

- The chairman and the members of the commission enjoy the security of tenure.
- Their conditions of service cannot be varied after an appointment.
- Their entire expenses are charged on the Consolidated Fund of India.
- The chairman of UPSC is not eligible for any future employment in the government of India or a state.

Functions:

- Examinations for recruitment to All India Services, central services, and public services of union territories are held by UPSC.
- All disciplinary matters affecting a person in civil capacity are dealt with by UPSC.
- Assists the states in matters relating to joint recruitment.

12. STATE PUBLIC SERVICE COMMISSION

- Just as UPSC at the center, there is a State Public Service Commission in every state.

- Articles 315 to 323 in part XIV of the constitution deal with the various provisions of SPSC.
- SPSC is considered as the watchdog of the merit system in the state.

Composition:

- SPSC consists of a chairman and other members appointed by the governor. The number of other members is left to the discretion of the governor.
- One-half of the members should be such persons who have held office either under the government of India or the state for at least ten years.
- The term of office is six years or until they attain the age of 62 years, whichever is earlier.

Removal:

- The chairman and members of the commission can be removed only by the president.
- They can be removed under the following situations:

1. If he is adjudged an insolvent
2. If he engages in any other paid employment
3. If he is deemed unfit by reason of infirmity of body or mind
4. For misbehavior

- In the last case, the president has to refer the matter to SC for inquiry.

Independence:

- The chairman and the members of the commission enjoy the security of tenure.
- Their conditions of service cannot be varied after an appointment.
- Their entire expenses are charged on the Consolidated Fund of the state.
- The chairman of SPSC is not eligible for any other employment under the government of India or state other than for appointment as chairman/ member of UPSC or as the chairman of other SPSC.

Functions:

- SPSC conducts all the examinations for the appointment to the services of the state.
- All disciplinary matters affecting a person in civil capacity are dealt with by SPSC.
- Any claim for reimbursement of legal expenses borne by a civil servant is also looked into by SPSC.

13. ELECTION COMMISSION

- Election Commission is a permanent and independent body.
- The formation of EC is prescribed by article 324 of the constitution.
- It is common to both central and state governments.
- The elections to parliament, state legislatures, the office of president, and vice president are looked after by EC.

Composition:

- EC consists of a chief election commissioner and other election commissioners. President fixes the number of election commissioners.
- The appointment of the chief election commissioner as well as the other election commissioners is made by the president.
- At present, EC consists of a chief election commissioner and two election commissioners.
- The term of office of election commissioners is six years or until they attain the age of 65 years, whichever is earlier.
- The powers of the election commission can be divided into three categories. They are:

1. Administrative
2. Advisory
3. Quasi-Judicial

Independence:

- Security of tenure is provided for the chief election commissioner.
- He can be removed from the office in the same manner as a judge of the Supreme Court.
- Other election commissioners cannot be removed from the office except on the recommendations of CEC.

14. NATIONAL COMMISSION FOR SCs

- It is established by article 338 of the constitution.

- Initially, there used to be a single commission for SCs and STs. However, the 89th Constitutional Amendment Act of 2003 bifurcated it into two separate bodies.
- Thus, a separate National Commission for SCs came into existence in 2004.

Composition:

- It consists of a chairperson, a vice-chairperson, and three other members.
- They are appointed by the President by warrant under his hand and seal.
- President determines their tenure as well as conditions of service.

Functions:

- The following are the functions of the commission:

1. To investigate the matters regarding various safeguards provided for SCs.
2. To inquire into the complaints related to the deprivation of the rights of SCs.
3. To advise on the planning process for the socio-economic development of SCs.
4. To submit reports to the president regarding the working of various safeguards.
5. To make recommendations to union and state governments regarding the measures to be taken for effective implementation of safeguards.
6. To discharge such other functions as the President may specify.

- On all the major policy matters regarding the welfare of SCs, the commission is consulted by the government.

15. NATIONAL COMMISSION FOR STs

- It is established by article 338-A of the constitution.
- The 89th Constitutional Amendment Act of 2003 inserted a new article 338-A.
- Thus, a separate commission for STs came into existence in 2004.

Composition:

- It consists of a chairperson, a vice-chairperson, and three other members.
- They are appointed by the president by warrant under his hand and seal.
- Their tenure and conditions of service are determined by the president.

Functions:

- The following are the functions of the commission:

1. To investigate the matters regarding various safeguards provided for STs.
2. To inquire into the complaints related to the deprivation of the rights of STs.
3. To advise on the planning process for the socio-economic development of STs.
4. To submit reports to the president regarding the working of various safeguards.

- On all the major policy matters regarding the welfare of STs, the commission is consulted by the government.

16. NATIONAL COMMISSION FOR BACKWARD CLASSES

- The 102nd Constitutional Amendment Act of 2018 made NCBC a constitutional body.
- This act inserted a new article 338-B into the constitution.
- Initially, NCBC was a statutory body formed through the National Commission for Backward Classes Act, 1993.

Structure:

- It consists of a Chairperson, Vice-Chairperson, and three other members.
- They are appointed by the president by warrant under his hand and seal.
- Their tenure and conditions of service are determined by the president.

Functions:

- The following are the functions of the commission:

1. To investigate the matters regarding various safeguards provided for socially and educationally backward classes.
2. To inquire into the complaints related to the deprivation of the rights of socially and educationally backward classes.
3. To advise on the planning process for the socio-economic development of socially and educationally backward classes.
4. To submit reports to the president regarding the working of various safeguards.

- NCBC is the competent authority to look into the grievances of backward classes.

17. SCHEDULED AREA AND SCHEDULED TRIBES COMMISSION

- To submit a report on the administration of schedule areas and welfare of the scheduled tribes, the president may appoint a commission.
- President defines the powers, composition, and procedure of the commission.
- The union government shall give directions to states to take measures for the welfare of the scheduled tribes.

18. BACKWARD CLASSES COMMISSION

- Under article 340 of the constitution, the government has the obligation to promote the welfare of OBCs.
- OBCs is a term used to define the socially and educationally backward sections of society.
- The first backward classes commission under the chairmanship of Kaka Kalelkar was established in 1953.
- This commission recommended the reservation for backward classes in government services and local bodies.
- However, the report was not accepted by the government.
- The second backward classes commission known as the Mandal Commission was established in 1979.

Mandal Commission Report:

- The commission submitted its report in 1980.
- It identified as many as 3743 castes to be socially and educationally backward.
- Excluding the Scheduled Castes and Scheduled Tribes, these castes constituted about 52% of the population.
- The commission proposed for 27 percent reservation for OBCs in government jobs so that the total reservation for SCs, STs and OBCs do not exceed 50 percent.

19. OFFICIAL LANGUAGE COMMISSION

- At the expiration of five years from the commencement of constitution and thereafter at the expiration of ten years from such commencement, the president shall appoint such a commission.
- The commission recommends the president regarding the progressive use of Hindi for official purposes.
- It also recommends restrictions on the usage of the English language for official purposes.
- Also, the Official Language Act (1963) provided for setting up a Committee on Official Language.
- Its purpose was to review the progress made in the use of Hindi.
- Such a committee was set up in 1976.

20. SPECIAL OFFICER FOR LINGUISTIC MINORITIES

- The formation of this office was prescribed by the States Reorganization Commission.
- This was formed by the Seventh Constitutional Amendment Act of 1956 which inserted a new article 350-B in Part XVII.
- The Special Officer for Linguistic Minorities is appointed by the president.
- The Commissioner has its headquarters at Allahabad with three regional offices at Belgaum, Chennai, and Kolkata.
- The Commissioner is assisted by Deputy Commissioner and an Assistant Commissioner at headquarters.
- The Commissioner falls under the Ministry of Minority Affairs and submits reports to the President through Union Minority Affairs Minister.

Role of the Commissioner:

- All the grievances related to the various safeguards provided for the linguistic minorities are looked into by the Commissioner.
- The Commissioner strives for providing equal opportunities to the linguistic minorities.
- He works for the effective implementation of the various safeguards.

Constitutional Bodies vs Non-Constitutional Bodies

For any student of Indian Polity, Constitutional Posts and Constitutional Bodies are very important.

As discussed above, there are about 20 bodies that find mention in the Indian Constitution.

Apart from the Constitutional Bodies, there are also various Non-Constitutional Bodies you should learn about.

All the states of the Indian federation are not on the same level of economic conditions. There are industrially developed areas or states. There are also economically backward areas or states. There are states with predominantly tribal areas. There are over-populous states.

Naturally the financial requirements of all these various types of states are not same. But for the balanced growth of all these states some need more financial support from the Centre. Again, the Centre has an over-all responsibility so far as economic growth is concerned. Keeping all these factors in mind the makers of our Constitution made recommendations for the constitution of a F.C.

Their intention was that the F.C. will view the financial condition and all related issues impartially. But if we look at the entire financial situation and other matters we shall find that the Central Government always gets favour in matter of revenues. During the last five decades many states had been clamouring that the scale of financial balance is in favour of the Centre and the states are deprived of their due share of national resources. This has affected the development of states.

Some states have also complained that the union government very often shows step-motherly attitude to some states and this is absolutely unfair and unethical. Some states are of opinion that their sources of revenue are very limited and because of this they are incapable of taking bold steps for the growth of their economy. Furthermore, the Centre has power to print currency notes while the states do not enjoy such powers.

Comptroller and Auditor General:

One of the important constitutional authorities in India is Comptroller and Auditor General (hereafter only CAG) of India. Chapter V of our Constitution (Art 148) makes the following announcement. There shall be a Comptroller and Auditor General of India who shall be appointed by the President by warrant under his hand and seal and shall only be removed from office in like manner and on the like grounds as a judge of the Supreme Court.

Art. 124(4) states that a judge of the Supreme Court shall not be removed from the office except by an order of the President passed after an address by each house of Parliament supported by a majority of the total membership of that house and by a -majority of not less than two-thirds of the members of that house present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity. It is now quite obvious that the removal of the CAG from office is not an easy task. It may be observed that the makers of our Constitution have deliberately made the removal of CAG so difficult and highly complicated.

Before entering into office the CAG makes and subscribes before the President an oath or affirmation and the form of this oath has been stated in the third schedule of the Constitution. The Parliament shall determine the salary and service conditions of the CAG. He shall not be eligible to hold office after he has ceased to be CAG. This is an important provision because after retirement the CAG will not get any opportunity to apply or invest his knowledge and experience for the benefit of private organisation.

We find the duties and powers of the CAG in Art. 149. It has been stated that the CAG shall perform such duties and exercise such powers in relation to the accounts of the union and of the states and of any other authority as may be prescribed by the Parliament. The CAG has been empowered by the constitution to audit and report on all types of expenditure from the Contingency Funds and Public Accounts of India and the states. It is also the duty of the CAG to audit the financial matters of various manufacturing agencies of union and the states.

There is another function of the CAG. If any organisation or agency is substantially financed by the central or state governments the CAG will audit the financial matters of those organisations.

The CAG will also report the economic affairs of government companies and various corporations. Let us summarise the important functions of the CAG.

In 1971 The Comptroller and Auditor General Act was passed and in this Act we find the following functions of the CAG:

1. It is the duty of the CAG to furnish information to the government whenever necessary.
2. The CAG will, in all possible ways, assist the government in the preparation of accounts. It is because of the fact that in the department of CAG there are experts on accounts and related matters.
3. The CAG will prepare the accounts of every financial year and will report.
4. A very important function of the CAG is to maintain the accounts.
5. Since CAG is the highest body about accounts it can help other accounting bodies in regard to accounts.

Importance of CAG:

Since 1950 several changes have been made to update the CAG and to make it more important. In 1976 accounting was separated from auditing. It is generally observed the CAG is a very important constitutional authority of India. We all know that money is the primary source of numerous evils and pervading corruption. Particularly in India authority like CAG has special importance. Government spends hundreds of crores of rupee for development and reconstruction purposes.

In this situation there is ample scope of misuse and misappropriation of public money. The unholy alliance between politicians and bureaucrats has been in India or primary sources of corruption, especially laundering of public money. Crores of rupees are siphoned through backdoors. According to international standards India is one of the most corrupt nations. And because of rampant corruption, development has been the greatest victim. In such a situation the CAG has a special role to play. During the last few years the CAG has exposed the misuse of public funds, misappropriation of public money and misuse of authority for personal pecuniary gains.

Many people still believe that the CAG is the true authority to bring the dark deeds of some politicians and powerful bureaucrats into public view and, in fact, it is doing so. In recent year the CAG report on 2G scam has created a lot of debate both in parliament and in public, press and electronic media.

The CAG report on the accounts of Indian union is submitted to the President and is placed before each house of parliament. Similarly, the CAG reports on states are submitted to the Governor and is placed before the state legislature. This provision enables both parliament and state legislatures to be acquainted with the health of finance and depth of corruption.

Durga Das Basu in his Introduction to the Constitution of India has said that there is controversy or difference of opinion regarding the authority or jurisdiction of CAG. The function of CAG is to audit the expenditure incurred by various departments. But government departments spend only the sanctioned money. In such situation the jurisdiction to comment on the expenditure is uncalled for and undesirable.

Which expenditure is extravagant or useless the CAG cannot decide unilaterally. It has been said that the question of economy is inseparably connected with the efficiency of administration and that, having no responsibility for the administration, the CAG or his staff has no competence on the question of economy. Apple by in his Re-examination of India's Administrative System says: "Auditors do not know, and cannot be expected to know very much about good administration. Auditing is a necessary but highly pedestrian function with a narrow perspective and very limited usefulness".

But Dr. B R. Ambedkar, the great architect of our Constitution, said: "The Comptroller and Auditor General of India shall be the most important officer under the Constitution of India. For, he is to be the guardian of the public purse and it is his duty to see that not a farthing is spent out of the Consolidated Fund of India or of a state without the authority of the appropriate legislature. In short, he shall be the impartial head of the audit and account system of India. In

order to discharge this duty properly, it is highly essential that this office should be independent of any control of the executive.

Election Commission:

Like the Comptroller and Auditor General, the Election Commission is also a constitutional Authority which means that its functions are derived from the constitution. Elections are parts of democracy because people elect their representatives through elections. Art. 324 says: The superintendence, direction and control of the preparation of the electoral roles for, and the conduct of, all elections to parliament and to the legislature of every state and of election to the offices of President, Vice-President held under this constitution shall be vested in a Commission referred to in this Constitution as the Election Commission.

We thus find that for the election of President, Vice-President parliament and state legislatures the framers of our constitution made provision for setting up an Election Commission. The Representation of People's Act, 1951, has also referred to the Election Commission (Part IV, Section 19A).

The Election Commission will conduct election on the basis of two general principles. One is that election will be held on the basis of universal adult franchise which means that every citizen of India above the age of 18 shall -have the right to vote. Of course he will not be declared invalid by any provision of the constitution. There is another principle. In India there shall be only one electoral roll. In this electoral roll there shall be made no mention of caste, creed or religion or status.

So far as the constitution of the Election Commission is concerned our Constitution declares that the Election Commission shall consist of the Chief Election Commissioner, and such number of other Election Commissioners as the President may from time to time fix. The appointment of the Chief Election Commissioner and other Election Commissioners shall be made by the President subject to the law made in that behalf by parliament. It is clear that the parliament has full authority to make law in regard to the constitution of Election Commission and the President is the final authority to endorse the law and appointment of Election Commissioners. When any other Election Commissioner is appointed the Chief Election Commissioner will act as the Chairman of the Election Commission. In India there is only one centralised Election Commission.

A critic observes: The centralised election machinery has stemmed from the national urge to curb and thwart any intention of the state governments to project regionalism into the preparation of the electoral list. Though in nature India is a federal state, in function and other affairs it is a unitary state. The constitutional units of Indian federation have no freedom in the conduct and management of election.

The election to the state legislatures is under the full control of the Election Commission. In every state there exists an election department which works under the authority of Chief Electoral officer. Section 20A of the People's Representation Act, 1951, says: Subject to the superintendence, direction and control of the Election Commission, the-chief electoral officer of each state along with district election officer shall co-ordinate and supervise all works relating to election.

Disputes in respect of election, may arise and if these are not constitutionally settled that may give rise to deeper and complicated issue and instability. For this Art 329 provides: no election to either house of parliament or to the house or either house of the state legislature shall be called in question except by an election.

Petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate legislation. The People's Representation Act, as it stood on 2001/provides that only the High Court has jurisdiction to try an election petition (80A).

We think that our Election Commission is one of the important pillars of democracy. The other pillars are: CAG, Public Service Commission and Judiciary, S. R. Maheswari says "The Election Commission is among the four institutional bulwarks of our democracy, the other three being the Supreme Court, the Comptroller and Auditor General of India and the Public Service Commission".

During the past several decades the Election Commission along with the state election bodies have done yeoman service. The performance of our Election Commission has received applause from almost all national corners. Even many foreign states have eulogised the efficiency and working of our Election Commission.

The pillar of our democracy is a representative system and the Election Commission is making all sorts of efforts to make it fool-proof. But there is a tragic side, In spite of all the efforts of the Election Commission, money and muscle power is substantially vitiating the election process.

Large number of corrupt and tainted persons are elected to the state legislature and the lower house of Union Parliament The Election Commission has approached the Union Government to make proper laws and amend the Representation of the People's Act, 1951. The purpose is to debar the tainted and corrupt men from getting elected. The greatest tragedy is that neither the Central Government nor the political parties are rising to the occasion.

Finance Commission:

Distribution of Finance and Federation:

India is a federal state. The constituent units have their own administration and the governments of the units are to do development works for which fund is necessary. But a major part of revenues goes to the fund of the Union government. In such a situation the structure of federation cannot survive if sufficient fund for the states is not available. For this reason there is a scheme for the division of funds between the Centre and the states and this scheme is primarily based on the Government of India Act 1935.

The federal structure of independent India is based on the above Act. At the initial stages there was a lot of controversy about the exact norm of distribution of funds between the Centre and the states and the controversy was settled by the Supreme Court in 1971 in a case Coffee Board vs. C.T.O.A. 1971.

In this case the Supreme Court made the following observation:

Sources of revenue which have to be allocated to the union are not meant entirely for the purposes of the union but have to be distributed according to the principles laid down by the parliamentary legislation. All the taxes and duties levied by the union do not form part of the Consolidated Fund of India, but many of these taxes and duties are distributed among the states and form Consolidated Fund of the States.

Even those taxes and duties which constitute the Consolidated Fund of India may be used for the purposes of supplementing the revenues of the states in accordance with their needs. This judgment of the highest Court clearly establishes the fact that in a federal state both the union and the states have share in the revenue.

The Constitution makes it clear that there are certain items on which the Union Government has exclusive power to levy taxes. In the second category there are some items on which the state governments have power to impose taxes. In the third category there are some items on which the Central Government imposes taxes, but these taxes are collected by the state governments and appropriated by the states.

In the fourth category we find that there are some taxes which are levied and collected by the Central Government but are assigned to the states within which they are liveable. Finally there are taxes which are levied and collected by the Central Government and the proceeds are distributed between the Central and state governments. So far as the levy of taxes and the collection and distribution are concerned there are large number of provisions in our Constitution.

The Constitution further states that the taxes levied by the states and the shares in central taxes received from the central fund may not be sufficient for running the administration of states and launching development programmes. In that case there is a provision for Grants-in-Aid. In each year the-parliament will decide how much grants-in-aid is to be given to which states. Particularly in tribal areas the parliament grants special funds.

The purpose of grants-in-aid is to ensure balanced growth of all areas and provinces of India. There are a large number of backward and tribal areas and for their development special

aid or fund is required and the system of grants-in-aid does this job. For all these issues the Constitution-makes the provision of forming a Finance Commission.

Composition and Function:

Art. 280(1) states the composition of the Finance Commission. The following is the text of the Constitution. The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as the President may consider necessary, by order constitute a Finance Commission (F.C.) which shall consist of a Chairman and four other members to be appointed by the President.

The Constitution further provides that the requisite qualification necessary for the membership of the F.C. shall be determined by the Parliament. Hence in regard to the F.C. both the President and the Parliament are the final authorities. In 1951 the first F.C. was constituted. The Act of 1955 contains a section called Miscellaneous Provisions. Hence the provisions of Art. 280(1) shall be read with that of 1951 including that of Miscellaneous Provisions.

In the Act of 1951 we find the following provisions regarding the qualifications etc. of the members of the F.C. These are, The Chairman of F.C. shall be a man of "experience in public affairs". No other qualification has been mentioned in the Act.

The four other members of the F.C. shall be appointed from the following categories:

1. A High Court Judge or one qualified as such.
2. A person having special knowledge of the finances and accounts of the government.
3. A man/person having wide experience in both finance and administration.
4. A man who has special knowledge in economics.

It is clear that the qualifications of person for the membership of F.C. are quite reasonable and appropriate. The members must be well-versed in finance audit and economics.

Art. 280(3) has laid down the following functions of the F.C: It shall be the duty of the F.C. to make recommendations to the President:

1. The distribution between the union and the states of the net proceeds of taxes which are to be or may be divided between them and the allocation between the states of the respective shares of such proceeds.
2. The F.C. will also recommend the principles which will govern the grants- in-aid of the revenues of the states out of the Consolidated Fund of India.
3. Another function of the F.C. is to recommend the measures needed to augment the Consolidated Fund of a state to supplement the resources of the panchayats in the state on the basis of the recommendations made by the F.C. of the state. This provision was instituted by the seventy-third amendment of the Constitution.
4. The fourth function is that the F.C. will recommend such measures as needed to augment the Consolidated Fund of a state to supplement the resources of the municipalities in the state on the basis of recommendations made by the F.C. of the state.

Besides all these functions the F.C. may consider any matter or suggestion made by the President for better financial situation or sound economy. The Parliament has also power to ask the F.C. to consider any other matter for healthy economic condition of India.

The report of the F.C. shall be submitted to the President and he will send the report with recommendation to both houses of Parliament.

The fathers of our constitution had an objective and this is to ensure justice in the matter of the distribution of revenues collected by the union and the states.

Assessment:

All the states of the Indian federation are not on the same level of economic conditions. There are industrially developed areas or states. There are also economically backward areas or states. There are states with predominantly tribal areas. There are over-populous states.

Naturally the financial requirements of all these various types of states are not same. But for the balanced growth of all these states some need more financial support from the Centre. Again, the Centre has an over-all responsibility so far as economic growth is concerned.

Keeping all these factors in mind the makers of our Constitution made recommendations for the constitution of a F.C.

Their intention was that the F.C. will view the financial condition and all related issues impartially. But if we look at the entire financial situation and other matters we shall find that the Central Government always gets favour in matter of revenues. During the last five decades many states had been clamouring that the scale of financial balance is in favour of the Centre and the states are deprived of their due share of national resources. This has affected the development of states.

Some states have also complained that the union government very often shows step-motherly attitude to some states and this is absolutely unfair and unethical. Some states are of opinion that their sources of revenue are very limited and because of this they are incapable of taking bold steps for the growth of their economy. Furthermore, the Centre has power to print currency notes while the states do not enjoy such powers.

Planning Commission:

Introduction:

In the strictest sense the planning is not a constitutional authority in the sense the F.C. is. But in a broader sense we may treat the Planning Commission (PC.) is a constitutional authority. India, we know, is a developing nation that is, she is in-between the highly developed countries of the West and the most backward countries. I have noted several time that the sole objective of the British raj was to plunder the natural wealth of India and exploit the people and in order to achieve this nefarious objective the law and order had to be kept in proper position suitable for the British government.

Naturally economic development was a neglected idea. After political freedom the ruling community of independent India strongly felt the necessity of rapid development and the people at the helm of power wanted to make development time-bound. It means that the entire development is to be divided into sectors or divisions and each division is to be achieved in a fixed period of time. This feeling necessitated the introduction of planning which means development through planning.

What is planning? Planning in the modern form was first introduced by the erstwhile USSR in the thirties of the last century. The communist government of Soviet Union introduced planning to achieve impressive progress in economic sector. The purpose was to develop industrially backward Russia within a very short span of time. There was another purpose. It was to establish the superiority of socialism over capitalism. To the communist rulers socialism and planned progress were synonymous.

Hence the Russian communists emphasised planning as a very suitable technique of rapid progress within a fixed period of time. And since the 1930s many states have adopted planning as a way to reach the fixed targets of development—and India is one of these countries. Though Planning Commission like Finance Commission or Election Commission is not a constitutional authority it works or discharges its responsibilities like a constitutional authority.

In the light of the above analysis we once again can define planning. Avasthi and Avasthi (Indian Administration) have defined planning in the following words: “Planning may be defined as delineating the things that need to be done, and the methods for doing them in order to accomplish the purpose set for the agency”.

Planning means the use of national resources into rational and planned way. Planning also means what is to be done in future is to be decided well advance of the commencement of the work —to proceed or to start development works in accordance with the programme decided earlier. Planning also means a type or kind of promise —the promise taken earlier—and try to realise it subsequently.

Hence planning is a hyphen between present position and future progress. So planning means conscious programme for future progress. The word conscious is important here. There is no place of unrealistic programme or choices in planning. Planning implies consciousness, realism, and rationality.

There may be different alternatives and the planner will select any one or more from these. Hence the idea of planning carries with it the well-known idea—rational choice theory —which was very popular in the sixties and seventies of the last century. Today planning is treated as a part of rational choice theory.

Planning in India:

The origin of planning in India may reasonably be traced to pre-independence. Netaji Subhas Chandra Bose strongly felt that for time bound economic progress of India planning is essential. It is said that M. Visweswaraya first thought that the progress of India could be achieved only through planning and he proposed for a ten-year planning. Nehru in his Discovery of India said that economic structure of India, in general and that of Bengal had practically collapsed and without strenuous and planned efforts the revival of India's economy was not possible.

He said, "The idea of planning and a planned society is accepted now in varying degrees by almost everyone. But planning by itself has little meaning and need not necessarily lead to good results. Everything depends on the objectives of the plan and on the controlling authority, as well as of course the government behind it".

In 1938 Indian National Congress showed active interest in the industrialisation and rapid economic progress of India and since Nehru was interested in planning a National Planning Committee was formed and Nehru was made its chairman. It is to be noted here that behind Nehru's interest in planning there was his special sympathy for Soviet type of planning and socialism.

He had developed a firm belief (and subsequently he changed it) that the economic progress of India could be achieved through Soviet form of planning and several times he unequivocally supported Soviet planning. Nehru's interest in planning and progress through planning did not evaporate. After freedom the Government of India adopted a resolution to set up a Plan body which is known as Planning Commission and it was set up in 1950.

The Planning Commission: Composition, Functions etc.:

On 15 March 1950 the Government of India by a resolution constituted the Planning Commission, the backbone of development process. From the very beginning the Prime Minister has been the Chairman of the Planning Commission. But since the Prime Minister is a very busy man the major part of responsibility of the P.C. was vested in the Deputy Chairman. The deputy chairman was the minister of planning and he was a minister of cabinet rank. Because of this the Deputy Chairman was accountable to the Parliament.

The two parts the deputy chairman (or minister of planning) and finance minister — though different in regard to functions, were important personalities because the economic development of India considerably depended upon these two ministers. At different times different Prime Ministers took personal decisions about the composition of the P.C. For example, when Indira Gandhi became Prime Minister she terminated the Sixth Plan and introduced a new Five Year Plan from 1980-1985.

After Indira Gandhi Rajiv Gandhi became Prime Minister and he reconstituted the P.C. He also raised the number of the membership of the P.C. In his time there were some full time and some part time members. But of all members two persons were key to the decision-making process of the P.C. one is Prime Minister and the other is Deputy Chairman of the P.C., who is in the rank of cabinet minister.

Again, the deputy chairman alone cannot take any decision. The Prime Minister plays the most important role. All major and crucial decisions regarding planning and development are taken by the Prime Minister and Deputy Chairman.

In India the P.C. performs all important works regarding planning and development. In fact, the P.C. decides everything regarding development, resources allocation, determination of strategy of Plan and development.

1. Before the end of a Five Year Plan the P.C. formulates the next Five Year Plan. This is a very important function. While formulating a Plan the Plan body takes the full notice of

availability of resources, because the success of a Plan depends on the availability of resources.

2. Another important function is allocation of available resources among various sectors While doing this the P.C. considers the issue of priority. For a balanced and rapid development the question of priority must be fully brought under consideration.
3. All the important resources are not always available. Naturally collection of resources is an important task. There are two sources one is internal and the other is external. Since India is a developing nation she is to depend to a large extent on the external resources. This function is important because it is related to foreign affairs management. The P.C. keeps itself in touch with the external affairs of the Government of India. The P.C. builds up a working nexus between itself and external affairs.
4. Today human resources also constitute an element of development and the P.C. invests its energy and intelligence to the collection and proper utilisation of human resources.
5. The P.C. also takes note of the success and failures of the projects it launched.
6. Above all the P.C. determines its aims and objectives. It is to be remembered that these must be realistic.

Some Features of Planning:

There are some important features of Indian planning. In the first place, Indian planning is biased to public sector. I have earlier pointed out that Nehru had special weakness for Soviet type of planning and he believed that economic progress in India could be achieved through the strengthening of public sector and since Nehru's time special emphasis on public sector is being given.

Second, Indian planning is not fully public sector centered. There is a ample scope for and important role of private sector. The recent experience teaches us that the private sector plays important role in the development of India.

Third, from the beginning of the twenty-first century a new term has been coined and India's planning process has corroborated it. This is called Private- Public Partnership or P.P.P. model. That is, both the public and private sectors have crucial role to play in the gigantic task of development. The PC has not only accepted it, the Plan body also thinks that the private sector should be given adequate importance in the development of Indian economy.

Fourth, Indian planning is a decentralised one which means that there is a central planning, there are state Plans and again there are district Plans. The seventy-third amendment to the constitution in 1992 also gave some powers regarding implementation of Plan to the panchayats.

Fifth, some people claim that Indian planning is to some extent biased to socialism. In our planning system state always plays the most dominant role.

Sixth, the liberalisation of economic policy first introduced in India in 1991 considerably changed the economic face of India, but this liberalisation has not affected planning. Here I quote an important observation of two well-known person on this issue: After liberalisation (1991), the features of Indian planning have not been modified drastically. However, the Planning Commission, in its annual reports of 1992-93 and 1993-94, has used the term "Indicative" planning for the prospective planning systems.

Notwithstanding the newer orientation, the break on the proliferation of the public sector and the gradual but controlled disinvestment policy the indicative planning in India in the foreseeable future, cannot be expected to be patterned after the indicative planning of the Western nations. It is inconceivable that in an environment of scarcity, poverty, unemployment… the role of the state, in the near future, can be substantially reduced. Thus the Indian economy is likely to continue as a mixed economy".

What was found at the start of the nineties of the last century is being found again. The UPA-II is adamant to allow the foreign investors to invest in India. It is primarily due to the reason that there are not sufficient investment resources in India which can suffice the rate of growth. Due to the scarcity of resources the PC is incapable of taking bold steps for rapid growth.

Whereas, rapid development is a must for India. In this situation both the P.C. and the Government of India are determined to open and broaden the avenues of opportunities for foreign investment. From the very commencement of 2012 the length and breadth of India is raged by the controversy about Foreign Direct Investment.

An Assessment of Planning Commission:

Several criticisms have been made against the constitution of the Planning Commission:

1. In the strict sense, the P.C. is not the constitutional authority. But this has not stood on the way of its rising importance. In fact the P.C. always plays crucial role in the gamut of economic development. But tragedy is —this body has hardly any scope to transact its duty independently because the Prime- Minister is the Chairman of the P.C. Naturally the P.C. cannot take any decision against the view or opinion of the government. If would have been better if the P.C. were fully independent like CAG or Election Commission. In order to make the P.C. more effective it has been suggested that the body must be made independent of general administration.
2. It is generally said that the primary functions of the P.C. is to formulate Plan and make suggestions. But the problem is the suggestions must be impel merited and this requires funds and resources. It is not the duty of the P.C. to collect resources. If so, the suggestions of the P.C. will remain unrealised and the stark reality is that it is happening. Large number of suggestions of the P.C. remain unimplemented and the P.C. is helpless.
3. The P.C. has passed through a number of ups and downs. Nehru was an enthusiastic supporter of planning. But when Indira Gandhi became P.M. her interest in Plan and in making it a success was not satisfactory at all. She was a politician and imposed her political ideas upon the P.C. Moreover, she once thought of Annual Plan instead of Five Year Plan. Her declaration of Emergency thwarted the functioning of P.C.
4. Some critics have viewed the activities of the P.C. from a different angle. It is said that the P.C. was set up with certain definite objectives, but gradually it has extended its functions and authority over a number of departments. Only defence and foreign affairs departments still remain outside the control of P.C. This enhancement of power and influence of the Plan body has not been a welcome development.
5. Some critics have said the P.C. is the economic cabinet of the whole country. There is an exaggeration in this estimate. But a major part of this estimate is correct. The Prime Minister is practically all-in-all of the P.C. Apparently it may see that there is a whole time deputy chairman. But the P.M. is the determiner of everything. The deputy is a doll at the hands of the PM. Nehru once said: “The commission which was a small body of serious thinkers had turned into a government department complete with a crowd of secretaries, directors and of course a big building.”
6. More than half century ago Nehru made this comment and during-this period the P.C. has been able to make its body more flabby. D. D. Basu says: “According to some critics the Planning Commission is one of the agencies of encroachment upon the autonomy of the states under the federal system. The extent of the influence of this commission should be precisely examined before arriving at any conclusion.” D. D. Basu further says that the exact function of the P.C. should be to prepare a Plan for the most effective and balanced utilisation of the country’s resources. But the success of the P.C. in this sector is not encouraging at all.

UNIT – 5

Constitutional Authorities - Finance Commission - Union Public Service Commission - Election Commission - Comptroller and Auditor General of India

5.1.1. Issues in Indian Administration: Introduction

In the previous unit you learned about financial administration. In this unit, you will study about the various issues related to administration in India. The unit will begin with a discussion on the relationship between permanent executive and political executive in administration. Then the discussion will turn to the two broad functional categories in the government, that is, generalists and specialists. The unit will conclude with a discussion on the economic model followed in India known as the liberalization, privatization and globalization model.

5.1.2. Relationship Between Permanent Executive And Political Executive

The political executive derives authority from the people while the permanent executive derives strength from its administrative positions and technical know-how. The permanent executive is subordinated to the political executive because the latter represents the people. The unambiguous separation of powers between the three wings of government—legislature, judiciary and executive—marks a noteworthy beginning of a new system of power distribution. The exclusive goal in this system is to enforce proper checks on each branch of the government and more so upon the executive branch. The government's executive branch comprises two wings:

(a) political executive,

(b) permanent executive.

As far as the political executive is concerned, it exercises power by virtue of its elections and the constitutional status. Hypothetically, it derives power from the people themselves. On the other hand, the permanent executive draws its strength and status partially from its administrative positions but mainly from its technical know-how and proficiency. Since the political executive represents the people and modern governments are based on the concept of popular sovereignty, the permanent executive is subordinated to the political executive on the practical level. In the parliamentary form of government, the political executive is responsible to the legislature which in turn is accountable to the people.

The political executives use their time and resources for the political mobilization of the masses and also for their political education. Apart from mobilizing the masses, they can judge the value preferences by comprehending popular moods and changing views and aspirations among different sections of society. In addition, they also discuss a variety of alternatives at a fairly high level. The permanent executive, on the other hand, can constantly evaluate its own field experience and draw meaningful lessons for subsequent programmes and plans. It can also supervise various schemes at day-to-day or step level to better understand the position. It can further devote more time to enhance its own managerial and technical skills for better and effective realization of the objectives. So this separation of functions and powers leads to division of labour which in turn contributes to a higher level of efficiency in the administration and society. There are various reasons for cooperation between these two executives becoming weaker during the recent decades. The following are some of the significant reasons for this worsening situation.

(1) Firstly, the cooperation between the political and permanent executive is dependent upon the societal consensus on the goals that are being pursued. Some of the Western capitalist societies possess this advantage. They have a substantial consensus on developmental goals. Further, there is a certain degree of homogeneity in the societal formations. It provides an additional advantage to these systems. We can also say that the conditions prevailing in the society provide the basis for a better relationship pattern between the political and permanent executives. In Third-World societies such as India, where the consensus on development objectives has not yet emerged, certain problems are bound to exist. Both the political and the permanent executives share the heterogeneity of the society. In the absence of consensus on development and socio-political homogeneity, the political executives are subjected to political uncertainty. In the

absence of long-range view of the society, the ideological base gets weakened, which in turn leads to a lot of ambiguity in policy preferences and choices. It leads to what has come to be popularly termed as adhocism. Adhocism is not a suitable condition to provide direction to the permanent executive. On the other hand, political processes are prone to occupy even the technical and managerial space under such circumstances. It results in narrowing down of the distinction between the political and permanent executives. It can definitely strain the relationship.

(2) Secondly, the conflict between these two categories of executives partially originates from the historical processes and in part from the socio-economic developments. Historically, during the British period the permanent executive not only performed the administrative role but political as well. During the colonial phase, these two functions converged to a degree that to make a distinction between the two became almost impossible. The anti-colonial movement, aimed at political power for the elected representatives, led to the demarcation of separate roles. The freedom movement represented people's aspirations, whereas the bureaucracy emerged as a counterforce. So the political elite had their own suspicions and doubts. On the other hand, the bureaucratic elite—deeply rooted in the colonial administrative culture—had an exaggerated view of their image and status. They suffered from the elements of ego and arrogance in their professional behaviour. With the attainment of freedom, we should have redesigned the whole bureaucratic system to make it fit to perform the new tasks and challenges. However, the political elite hesitated to recast the system. As a result the bureaucracy, which was used by the Britishers against the freedom fighters, remained the very same instrument of the elite of Independent India. The differences having roots in historical process made the task of achieving cordiality between the two branches very difficult.

(3) Thirdly, one more dimension leads to conflict. There is a difference in the social origins of the political and administrative elites in India. It is a fact that both the elites do not come from the large masses. However, they differ in their middle class origins. The political elite are relatively more heterogeneous than the middle- and higher-level administrative functionaries. Most of the members of the political executive, particularly at the state level, are drawn from the rural and agricultural background. On the other hand, the top and middle level administrators draw roots from the urban middle and upper-middle classes. One can easily spot these differences in their living styles, communication modes, ways of looking at things, behaviour and mannerisms. So the differences get preserved and accentuated over a period of time. Although the character of bureaucracy is changing, but the rate of change has been very slow. The nature of political elite is also undergoing a change. Still, one cannot say that they are comparable or identical. In other words, the urban, industrial middle class on the one hand and rural agrarian upper or middle strata on the other dominate the permanent and political executives, respectively. The relationships are also partly decided by these basic factors.

(4) Fourthly, several institutional mechanisms also heighten or widen the areas of conflict. Normally, the political institutions are empowered with more discretion and flexibility. They are also supposed to be comparatively more responsive because they are in regular contact with the social system. In the parliamentary system of government, the political executive takes even the legislature for granted. In various cases, they take the decisions to the legislature or Parliament just for ratification. Under such circumstances, the initiative does not lie with the legislature. In fact, the whole process gets reduced to either the ratification or rejection of what has been brought before the legislative houses. So the political executive has become quite strong.

Over a period of time, it is observed that parliamentary governments have become the cabinet system of governments. These, in turn, are turning into prime ministerial governments. Hence the executive branch has appropriated the powers of the legislative organs and grown quite powerful as a consequence. Equipped with this substantial power,

they just want the matters to move faster. They also feel no constraints in exercising power. The permanent executive has also gained greater power for being an integral part of the executive branch of the government. Nonetheless, due to long colonial background and the rules, regulations and established procedures, the permanent executive is inclined to be less flexible. They also do not appreciate the political expediency. From their viewpoint, precedent is very important. In fact, the very nature of the institution is such that their authority is positioned in the law. Consequently, they are not enthusiastic about experiments and innovations. The political executive does try to change these institutions through administrative reforms. There have been a number of instances to prove that the permanent executives do not welcome the reforms. In fact, at the first instance they try to hold back the reform measures. The earnest habit of clinging to the rules and regulations continues to influence their approach and viewpoints.

5.2.1. Generalist: Specialist Controversy

Basically there are two broad functional categories in the government: generalists and specialists. They have to play a very critical role in giving advice to the political executives, help in policy making and in implementing these policies. Presently, administration has become more specialized in nature. So it needs various types of personnel with essential skills, knowledge and qualities to fulfill challenging and complex functions. The debate between these two sets of functionaries, both of whom are irreplaceable in modem organizations, is very old. It is still one of the intensely fought- out issues in the domain of Public Administration. In 1958, James Fesler recorded the revival of this controversy in the UK. In 1968, the Fulton Report on Civil Services reopened the issue and provoked further debate. In India, following the tradition of the British-era Indian Civil Service (ICS), initially the preeminence of the generalists was more or less accepted and hence it was not challenged very seriously. The successor to the ICS, the Indian Administrative Service (IAS), gained prominence with its personnel usually occupying the top posts both at the central as well as state levels besides the positions of heads of various departments. However, this dominance of the generalists in administration bred discontent which has been gaining momentum during the recent decades.

5.2.2. Generalist: Meaning

Leonard White observes, 'General administration is understood to mean those duties which are concerned with the formulation of policy; with the coordination and improvement of government machinery and with general management and control of the departments.' So a generalist administrator basically deals with all types of administrative processes indicated by the expression 'POSDCORB', i.e., 'planning, organizing, staffing, directing, coordinating, reporting and budgeting'. The generalists enter administration on the basis of a university degree, irrespective of the subjects involved. This certain level of education indicates the indispensable minimum requirements of intellectual and mental status.

Further, the posting of a generalist civil servant in various government departments has nothing to do with his/her education or any administrative experience or skills. As per this approach, a generalist entrant having commerce background may be posted in irrigation department. From a purely negative point of view, a generalist is an individual who is not an expert or a scientist in a particular field. However, in a positive sense, the concept of a generalist is applicable to a person who is called a professional administrator, if administration is taken as a field and a profession like law, engineering, medicine, etc. In their professional capacities, the generalists possess the techniques and skills of a manager as well as politician. Functioning as a manager, the generalist is given the responsibility of getting things done. Further, as a 'politician' he/she is made responsible for interpreting public opinion in the context of the multifaceted social, economic and even political problems of the times.

5.2.3. Role of Generalists

The descent of the generalist dominating the administrative machinery at the top is traced to the administrative philosophy of nineteenth-century England where generalism was made an absolute administrative principle. Northcote Treveleyan Report on the Organization of Permanent Civil Service (1854) and the Macaulay Report on the Indian Civil Service (1854) were

the two authorities which helped in the build-up of a generalist image. These reports lent solid support for the recognition of generalist supremacy. Their emphasis was on young graduates, who with no particular education or technical background, could form the elitist administrative part. In India as well, like in England, this administrative arrangement came to be accepted as the logical extension of the same philosophy. The ICS during the British era dominated the administrative scenario. Its members were deployed in various governmental positions. During those days, the experts and specialists were smaller in number and the Indian Civil Service was groomed as an elitist service.

5.2.4. Specialists: Meaning

A specialist possesses special knowledge of some specific field. Therefore, specialists in government are those who are recruited to the posts for which professional, scientific, technical or other specialist qualifications are necessary. It includes engineers, doctors, scientists, lawyers, statisticians, economists and other technical people. In order to qualify as a specialist, the basic requirement is an institutional specialty, i.e., one must possess a pre-employment spell of either techno-professional academic education and/or pre-entry vocational or occupational training. Hence, the hallmark of a specialist is devotion to the discipline, unwavering commitment to the professional cause and practice and unflinching pursuit of a specialty. Critics usually view specialists as narrow, unidisciplinary professionals who handle all issues from a very limited vision or angle. They also hold the opinion that they are incapable of comprehending in a holistic manner the complexities of live administrative and management problems and hence are not suitable for holding top policy positions.

5.2.5. Role of Specialists

Undoubtedly, the present day administration has become technical, professional and specialized in nature. The concept of 'development' is viewed as a dynamic process aimed at transforming the whole society including socio-political and economic aspects. It has a major impact on the bureaucratic functioning. In the process of modernization, if the state is taken as the economic and social diagnostician, as well as the regulator, mediator and provider of services, the bureaucracy must offer the basic support to the states playing this role. To accomplish this, the bureaucracy must be professionally equipped. It does not matter whether it is an administration dominated by generalists or specialists; the fact remains that all must be professional in the role because without professionalism the chances of success get diminished.

The postulation that the technical element in the administration is a negligible factor or that the experts do possess holistic and comprehensive approach is not totally valid. One of the basic reasons responsible for the narrow outlook of the specialists is the system of education and training. Similarly, it may not be appropriate to believe that generalists possess all the necessary specialized elements or can completely comprehend and judge in conflicting circumstances. So, the services of both these groups are valuable in administration.

5.2.6. Generalist vs. Specialist Debate in India

In India, the origin of the 'generalist vs. specialist' debate can largely be drawn to the concept of 'nearness' or 'remoteness' from the top policy-making spot. It is more post-centred than person-oriented. In fact, the tussle between the two is for holding certain positions. Nonetheless, the actual debate must be centred on formulating an acceptable and adequate staffing policy or evolving a progressive, constructive and goal-oriented, egalitarian personnel philosophy.

There are historical reasons for establishing the supremacy of the 'generalist' in Indian administration. These factors further accentuated the dichotomy between these two categories of personnel. During the British period, the public service in India was more or less a closed system having no lateral entry. It included young individuals who on the basis of a competitive examination got entry into it. From the structural point of view, it was a hierarchical career pattern from the district to the central level. In this system, majority of posts were reserved for the Indian Civil Service members. In the constitution of the generalist services, the 'intelligent amateur theory' reigned supreme. It continued even after Independence since it was felt that the old frame of public services was still useful to provide stability to the government. It was also found effective

in tackling the problems of law and order, integration of princely states, etc. So the concept of All-India Services evolved with the Indian Administrative Service replacing the earlier Indian Civil Service. In this way, the preeminence of the generalist civil service was established in India. We can clearly see that it was the result of certain historical circumstances. It bred resentment in the technical and functional services which also desired to be entrusted with policy-making functions.

5.2.7. A Suitable Way Out

One way to handle this problem is to experiment with integrated hierarchy in place of present 'separate' and 'parallel' hierarchies. In case of separate hierarchies, policy is decided by the generalists and the specialists then execute it. On the other hand, in a parallel hierarchy each class has its own parallel sub-hierarchy and the work between the two is coordinated by frequent cooperation and interaction. The organization of specialists and generalists in distinct hierarchies, with the policy and financial aspects of the work exclusively reserved for generalist administrators, has some disadvantages like slowing down the decision-making process. Critics point out that it might also generate inefficiency and prevent the specialists from exercising the full range of responsibilities usually associated with their professions.

To overcome these problems and also to remove the hindrances which presently stop the specialists from reaching the top management levels, wider outlets are required through suitably modifying the prevailing concept of 'monopoly of generalism'. All this can be accomplished by facilitating liberal entry of specialists as administrative and policy functionaries at key positions. Further, the specialists should be integrated into the main hierarchy, and accompany other generalist administrators in sharing equal responsibilities for management and policy formulation. They should be given identical status, executive responsibility and authority. It would help in preserving their morale and confidence. Such integration schemes enable the technical experts to enter the 'central pipeline' to ensure that technical advice and policy structures are not separated into water-tight compartments. In fact, a complete distinction between policy making and executive functioning is neither possible nor desirable since policy usually flows out of the executive experience. Integrated hierarchy can be set up by constituting a unified civil service comprising both generalists and specialists having uniform emoluments and other service conditions. In India, no steps have been taken in this direction, while Pakistan has already created a unified civil service in 1973 in which all the services and cadres in their civil service were merged in one service.

5.3.1. Centre-state relations

- The constitution of India divides all powers- legislative, executive and financial between the centre and the states
- Maximum harmony and coordination centre and state is essential for the effective operation of the federal system. Thereby, the constitution incorporates several provisions to ensure this.
- Centre-state relations can be better understood under the following three heads:
    - Legislative relations
    - Administrative relations
    - Financial relations

Legislative Relations

5.3.2. There are four aspects in the Centre-state legislative relations:

- Territorial extent of central and state legislation
- Distribution of legislative subjects
- Parliamentary legislation in the state field
- Centre's control over state legislation

5.3.3. Territorial extent of central and state legislation

- Parliament can make law for the whole or any part of the territory of India (territory includes union, state, UT)

- State legislature can make laws for the whole or any part of the state. Laws made by the state are not applicable outside the state, except when there is sufficient relation between the state and object
- Parliament can alone make 'extra-territorial' legislation
- Instances when laws made by the Parliament are not applicable:
- President can make regulations which has a same effect as that of the law made by parliament for- Andaman and Nicobar islands, Daman and Diu, Dadra and Nagar Haveli and Lakshadweep
- Governor is empowered to direct that an act of parliament does not apply to a scheduled area in the state or apply with specified modifications and exceptions
- Governor of Assam can likewise direct that an ac of Parliament does not apply or apply with some modification. The same power is vested in President in relation to Meghalaya, Tripura and Mizoram

5.3.4. Distribution of Legislative subjects

- Constitution provides for three-fold classification- union list, state list and concurrent list
- Parliament has exclusive powers vis-à-vis the union list
- State legislature in normal circumstances has exclusive powers to make laws with matters enumerated in the state list
- Both state and centre can make laws on matters enumerated in the concurrent list

5.3.5.Parliamentary legislation in state field

- Constitution empowers the Parliament to make laws on any matter enumerated in the state list under the following five extraordinary circumstances:
- If Rajya Sabha passes a resolution supported by a 2/3rd members present and voting empowering parliament to make a law on a matter enumerated in the state list in the best interest of the country. Such a resolution stays in effect for a year. Such a resolution can be renewed any number of times but not for more than a year at a time. The laws made under this cease to have an effect after expiration of six months of the resolution. However, state can make a law on the same subject, but if there is an inconsistency between state and union law, the latter prevails
- When a proclamation of National emergency is in vogue then the Parliament can legislative on a matter enumerated in state list. The laws made under this cease to have an effect after expiration of six months of national emergency. Here also, a state law can make a law on the subject, however, the union law would prevail if there is any inconsistency
- When states make a request for Parliament by passing a resolution to that effect than Parliament becomes empowered to legislate on matters enumerated in the resolution. Once this resolution is passed, the state forfeits every right with regards to that subject
- Parliament can enacts laws on matters enumerated in the state list so as to enforce international agreements
- Parliament becomes empowered to enact a law on the state matter during the time of operation of President's rule. The law made during this time would continue even after the expiration of the president's rule. However, the state can later pass an act to either modify, or nullify the act as it sees fit

5.3.6. Centre's control over state legislation

- Constitution has empowered the centre to exercise control over the state's legislative matters in the following ways:
- Governor can reserve certain types of bills passed by state legislature for the consideration of the president. The president enjoys absolute veto over them
- Bills on certain matters enumerated in the state list can be introduced in the state legislature only with prior recommendation of the President. Ex: Inter-state trade and commerce

During a financial emergency, president can call upon a state to reserve money bills and other financial bills for his consideration

5.3.7. Administrative Relation:

- The executive power has been divided between the centre and the states on the lines of distribution of legislative powers
- The power of the centre extends to the whole of India on matters where it has exclusive jurisdiction (union list) and to the exercise of rights, authority and jurisdiction conferred on it by any treaty or agreement
- The jurisdiction of the state extends to those matters enumerated in the state list
- In matters related to concurrent list, the executive power rests with the states
- Obligation of states to the centre:
- These directions are coercive in nature (Article 365) since any failure to abide by them could invite the use of Article 356
- Centre has been empowered to issue advice to states in the following instances:
    - Construction and maintenance of means of communication declared to be of national importance or military importance by the state
    - Measures to be taken for the protection of the railways within the state
    - Provision of adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups
    - The drawing up and execution of the specified schemes for the welfare of the ST in the states
- The coercive sanction behind the central directions under article 365 is also applicable in this case
- **Mutual delegation of functions:** The constitution provides for inter-governmental delegation of executive functions in order to mitigate the rigidity and avoid a situation of deadlock
    - The president with the consent of the state government may delegate the executive functions of the union to the state
    - The governor with the consent of the central government may delegate the executive functions of the state to the union
    - This mutual delegation could be either conditional or unconditional
    - The constitution also provides for delegation of union executive functions to the state without the consent of the state. However, such delegation is made by Parliament and not President. However, a state cannot delegate its executive power in the same way
- **Cooperation between the centre and the states:** The following provisions have been included to secure cooperation and coordination between the centre and the states
    - Parliament can provide for the adjudication of any dispute or complaint with respect to the use, distribution and control of waters of any inter-state river and river valleys
    - President can establish an Inter-state council to investigate and discuss subject of common interest between the centre and the states.
    - Full faith and credit is to be given throughout the territory of India to public acts, records and judicial proceedings of the centre and every state
    - Parliament can appoint an appropriate authority to carry out the purposes of the constitutional provisions relating to the interstate freedom of trade, commerce and intercourse

5.3.8. Finance Relation:

- Article 280 provides for this quasi-judicial body
- It is constituted by the President every five years or even earlier
- It is required to make recommendations to the President on the following matters:

- Distribution of net proceeds of taxes shared between the centre and the states, and the allocation between the states, the respective shares of such proceeds
- Principles which should decide the grants-in-aid as per article 275
- Measures needed to augment the Consolidated Fund of the state to supplement the resources of panchayats and municipalities in the state based on the recommendation of the state finance commission
- Any other matter referred to it by the President

- Some bills can be introduced in the Parliament only on the recommendation of the President so as to protect the financial interests of the states:
  - A bill which imposes or varies any tax or duty in which states are interested
  - A bill which varies the meaning of the term 'agricultural income' as defined for the purposes of the enactments relating to the income tax
  - A bill which affects the principles on which moneys are or may be distributable to states; and
  - A which imposes any surcharge on any specified tax or duty for the purpose of the centre

5.3.9. Borrowing by the centre and the states

- The central government can borrow either within India or outside upon the security of the Consolidated Fund of India or can give guarantees, but both within the limits fixed by the parliament. As of now, no such law has been enacted by the Parliament
- A state government can borrow within India and not abroad upon the security of the consolidated fund of the state or can give guarantees but both within the limits fixed by the legislature of that state
- The central government can make loans to any state or give guarantees in respect of loans raised by any state. Any sums required for the purpose of making such loans are to be charged on the consolidated fund of India
- A state cannot raise any loan without the consent of the centre, if there is still outstanding any part of loan made to the state by the centre or in respect of which a guarantee has been given by the centre

5.3.10. Inter-governmental tax immunities

- The property of centre is exempted from all taxes imposed by a state or any authority within a state like municipalities, district boards, and panchayats and so on. However, Parliament can remove this ban. This exemption is not applicable to companies or corporations created by the central government.
- The property and income of a state is exempted from central taxation. However, the centre can tax commercial operations of a state if Parliament provides for it. The property and income of local authorities situated within a state are not exempted from central taxation.

5.4.1. Corruption:

It is an issue which affects economy of central, state and local government agencies in many ways. Corruption is blamed for stunting the economy of India.[1] A study conducted by Transparency International in 2005 recorded that more than 62% of Indians had at some point or another paid a bribe to a public official to get a job done.In 2008, another report showed that about 50% of Indians had first hand experience of paying bribes or using contacts to get services performed by public offices.In 2021 their Corruption Perceptions Index ranked the country in 85th place out of 180, on a scale where the lowest-ranked countries are perceived to have the most honest public sector. Various factors contribute to corruption, including officials siphoning money from government social welfare schemes . Examples include the Mahatma Gandhi National Rural Employment Guarantee Act and the National Rural Health Mission.Other areas of corruption include India's trucking industry which is forced to pay billions of rupees in bribes annually to numerous regulatory and police stops on interstate highways.

The media has widely published allegations of corrupt Indian citizens stashing millions of rupees in Swiss banks. Swiss authorities denied these allegations, which were later proven in 2015–2016. In July 2021, India's Central Board of Direct Taxes (CBDT) replied to Right To Information (RTI) requests stating undeclared assets of Rs 20,078 crore identified by them in India and abroad following the investigation till June 2021.

The causes of corruption in India include excessive regulations, complicated tax and licensing systems, numerous government departments with opaque bureaucracy and discretionary powers, monopoly of government controlled institutions on certain goods and services delivery, and the lack of transparent laws and processes. There are significant variations in the level of corruption and in the government's efforts to reduce corruption across India.

5.4.2. Forms of Corruption

Corruption is spread over in the society in several forms. The major ones are: –

1. Bribe – money offered in cash or kind or gift as inducement to procure illegal or dishonest action in favour of the giver
2. Nepotism – undue favour from holder of patronage to relatives
3. Misappropriation – using others money for one's own case
4. Patronage – wrong support/encouragement given by patron and thus misusing the position

5.4.3. Corruption in India

In India corruption exists at a high, middle and at a petty or lower level. A corruption of systems and institutions formulating and implementing public policy, malpractices during defense purchases, public investments in infrastructure, procurement for food grains for the Public Distribution System etc. can be sited as the examples of corruption at high level. Malpractices at the execution or implementation levels for the public projects or during delivery of services are the examples of middle level corruption. The petty level corruption frequently occurs in everyday life. Though the amounts are small, it is exploitative in nature.

Corruption needs immediate attention as it has retarded our development. It has created the black and red money which is not available for the productive investment. In spite of liberalization of economy, corruption comes in the way of Foreign Direct Investment inflows. In short, it has become a threat to the national security of India. The serious consequences of corruption have created the need to fight it from all angles at the earliest.

5.4.4. Recommendations for Prevention of Corruption

This paper deals with some of the genuine recommendations to combat corruption. Corruption in any system or society depends on three factors – firstly, the set of individuals' sense of values, secondly, the set of social values and thirdly, a system of governance or administration.

1. The first solution is that the citizens should fight corruption more strongly. In the past, the perception was that a citizen will have to bribe a public servant if he wants to get a benefit which was illegal. But today we have reached a stage where even if the legitimate requirements are satisfied, the citizens have to bribe the public servant. According to N. Vittal, Ex-Central Vigilance Commissioner, we should put into practice the advice of the **Taitreya Upanishad** about how we can resolve our problems by coming together.
2. A family attachment is an important cause of corruption. A family person feels that he should earn enough not only for himself and his lifetime but also for his children and grandchildren and perhaps seven generations. So he requires enormous accumulation of wealth. In this situation, a strong youth movement in the country can help reducing the corruption at a family level. Each student should take a vow to begin this exercise courageously within the family. Former President, Dr. Abdul Kalam has shown a great confidence in the youth to bring India out of the clutches of corruption by 2020.
3. We have evolved in our country red tape ridden elaborate system leading to enormous delays. This probably makes the common man consider paying bribe as 'speed money'. So the system of governance should be changed. Transparency should be a

key word in the public offices. Technological development can be the best solution in this respect. Online transactions would reduce the need for the citizens to visit public offices and government departments.

4. The law enforcement authorities also have a crucial role to play in this context. The only thing, which has to be ensured, is proper, impartial, and unbiased use of various anti-corruption Acts to take strong, deterrent prompt and timely legal action against the offenders, irrespective of their political connections, and money or muscle power. Fast track judiciary courts to resolve the corruption related cases may help in reducing the intensity of the problem.
5. Simplified forms and procedures reduce dependence of the users on intermediaries. This will also minimise the Government-citizen interfaces and reduce the potential for corruption.
6. A value based leadership encourages effective governance. Positive values like compassion, helping others, love, truthfulness etc. help to build and develop a society. Mahatma Gandhi and Jamshedji Tata are the examples of value-based leaders. India should have such leadership in politics, religion, science, industry, education, administration and practically in every sphere.
7. The implementation of policies like anti-poverty programmes should be corruption-free. Only a small fraction of the benefit in these programmes accrues to the target population. There should be control check points to find out scope of corruption. Strict measures should be taken against those enforcing programmes only with the intention to make money out of it.
8. Good practices of organisations in the corporate sector should be highlighted. Regulatory mechanisms should be strengthened. For example, the accounting firms, many a times act as consultants of the firm. This leads to a conflict of interest. Perhaps one of the simplest things to do would be to prevent the auditing firm from doing consultancy for the same firms so that scam like the Enron can be avoided. An important feature of the Public Sector Enterprises was the vigilance function performed under the overall supervision of the Central Vigilance Commission. It is necessary to define the role of such authority after post-reforms and disinvestment policy.
9. Other effective way of curtailing corruption could be to introduce a method which will enable political parties to secure electoral funds in a bonafide manner, or the central government may finance elections through an election fund. This system is being followed in Germany, Norway, Sweden and some advanced countries of Europe.
10. The media has to perform quite an active role in exposing causes of corruption. It should not be just do the sting operations but also expose bad practices to the public, making them aware and compelling them to avoid such incidences in the future. The strategy of building public opinion against corruption can be effectively implemented through mass media.

5.5.1. Lokpal:

The term "Lokpal" was coined by Dr. L.M.Singhvi in 1963. The concept of a constitutional ombudsman was first proposed in parliament by Law Minister Ashoke Kumar Sen in the early 1960s. The first Jan Lokpal Bill was proposed by Adv Shanti Bhushan in 1968and passed in the 4th Lok Sabha in 1969, but did not pass through the Rajya Sabha.Subsequently, 'lokpal bills' were introduced in 1971, 1977, 1985, again by Ashoke Kumar Sen, while serving as Law Minister in the Rajiv Gandhi cabinet, and again in 1989, 1996, 1998, 2001, 2005 and in 2008, yet they were never passed.Forty five years after its first introduction and after ten failed attempts, the Lokpal Bill was finally enacted in India on 18 December 2013 after the tenth attempt. President gave his assent to Lokpal and Lokayuktas Act on 1 January 2014.

The Lokpal Bill provides for the filing, with the ombudsman, of complaints of corruption against the prime minister, other ministers, MPs,and group A, B, C and D officers of the central government. The first Administrative Reforms Commission (ARC) recommended the enacting of

the Office of a Lokpal, convinced that such an institution was justified, not only for removing the sense of injustice from the minds of citizens, but also to instill public confidence in the efficiency of the administrative machinery.

Following this, the Lokpal Bill was, for the first time, presented during the fourth Lok Sabha in 1968, and was passed there in 1969. However, while it was pending in the Rajya Sabha, the Lok Sabha was dissolved, and thus the bill lapsed.

The bill was revived several times in subsequent years, including in 2011. Each time, after the bill was introduced to the House, it was referred to a committee for improvements, to a joint committee of parliament, or to a departmental standing committee of the Home Ministry. Before the government could take a final stand on the issue, the house was dissolved again. Several conspicuous flaws were found in the 2008 draft of the Lokpal Bill. The basic idea of a lokpal is borrowed from the Office of the Ombudsman, which has the Administrative Reforms Committee of a Lokpal at the centre, and Lokayukta in the states.

Anna Hazare started agitation in Delhi to get this bill passed and it did pass on 27 December 2011, around 9:30with some modifications. These were proposed as the Jan Lokpal Bill. However, Hazare and his team, as well as other political parties, claimed that the Lokpal Bill passed was weak, and would not serve its intended purpose. So the proposed bill by the ruling Congress Party has yet to be accepted in the Rajya Sabha. As of 29 December 2011, the bill has been deferred to the next parliamentary session, amid much controversy and disruption by the LJP, RJD and SP parties. The media at large, and the opposition parties, claimed the situation had been staged.[13]

The apex Institution primarily created to inquire and investigate complaints relating to allegation of corruption involving public functionaries and elected representatives, finally was formed in March 2019 with the appointment of its Chairperson and members.

5.5.2 The Lokpal and Lokayukatas:

The historic Lokpal and Lokayuktas Act, 2013 was passed by Indian Parliament paving the way for establishment of a Lokpal (Ombudsman) to fight corruption in public offices and ensure accountability on the part of public officials, including the Prime Minister, but with some safeguards.

Lokpal will consist of a chairperson and a maximum of eight members,[15] of which 50% will be judicial members 50% members of Lokpal shall be from SC/ST/OBCs, minorities and women.[16] Selection of chairperson and members of Lokpal through a selection committee consisting of PM, Speaker of Lok Sabha, leader of opposition in Lok Sabha, Chief Justice of India or a sitting Supreme Court judge nominated by CJI.[17] Eminent jurist to be nominated by President of India on basis of recommendations of the first four members of the selection committee "through consensus". Lokpal's jurisdiction will cover all categories of public servants. All entities (NGOs) receiving donations from foreign source in the context of the Foreign Contribution Regulation Act (FCRA) in excess of Rs 10 lakh per year are under the jurisdiction of Lokpal. Centre will send Lokpal bill to states as a model bill. States have to set up Lokayuktas through a state law within 365 days.

- Lokpal will have power of superintendence and direction over any central investigation agency including CBI for cases referred to them by the ombudsman.
- A high-powered committee chaired by the PM will recommend selection of CBI director. The collegium will comprise PM, leader of opposition in Lok Sabha and Chief Justice of India PM has been brought under purview of the Lokpal, so also central ministers and senior officials.
- Directorate of prosecution will be under overall control of CBI director. At present, it comes under the law ministry.
- Appointment of director of prosecution to be based on recommendation of the Central Vigilance Commission.

- Director of prosecution will also have a fixed tenure of two years like CBI chief.
- Transfer of CBI officers investigating cases referred by Lokpal with the approval of watchdog.
- Bill incorporates provisions for attachment and confiscation of property acquired by corrupt means, even while prosecution is pending.
- Bill lays down clear timelines for preliminary enquiry and investigation and trial. Provides for special courts Public servants will not present their view before preliminary enquiry if the case requires 'element of surprise' like raids and searches.
- Bill grants powers to Lokpal to sanction prosecution against public servants.
- CBI may appoint a panel of advocates with approval of Lokpal, CBI will not have to depend on govt advocates.

On 15 May 2018, Mukul Rohtagi (Former Attorney General of India) has been appointed as an eminent jurist in the selection panel of Lokpal.

5.6.1. Administrative Reforms in India:

Since Independence, there have been about fifty Commissions and Committees at the Union Government level to look into what can be broadly characterized as administrative reforms. The First Administrative Reforms Commission set up in January 1966 was asked, in particular, to consider all aspects relating to the following subjects –

- The machinery of the Government of India and its procedures of work;
- The machinery for planning at all levels;
- Center-state relationship;
- Financial administration;
- Personnel administration;
- Economic administration;
- Administration at the state level;
- District administration;
- Agricultural administration; and
- Problems of redress of citizens grievances.

The Commission submitted 20 Reports in all, These 20 Reports contained 537 major recommendations. Based on the inputs received from various administrative Ministries a report indicating the implementation position was placed in Parliament in November 1977. A-List of the recommendations of the first ARC that are relevant to this Report are outlined below:

1. **Need for specialization:** The first ARC recognized the need for specialization as the functions of Government had become diversified. A method of selection for senior management posts in functional areas and outside functional areas was laid down.
2. **Unified Grading structure:** A unified grading structure based on qualifications and the nature of duties and responsibilities was suggested.
3. **Recruitment:** On this subject, the ARC recommended:
    - A single competitive examination for the Class I services, with the age limit, raised to 26 years.
    - Lateral entry to technical posts at senior levels.
    - Direct recruitment to Class II services to be discontinued.
    - A simple objective type test to be conducted for the recruitment of clerical staff.
    - Recruitment to Central Government posts in certain sectors to be made from among the State Government employees.

Recruitment Agencies: A new procedure for the appointment of members of the UPSC and the State Public Service Commission was suggested. ii. Setting up of Recruitment Boards for selection of clerical staff was recommended

Training: a national policy on Civil Service Training to be devised.

Promotions: Detailed guidelines for promotion were outlined.

Conduct and Discipline: Reforms in disciplinary inquiry proceedings and the setting up of Civil Service Tribunals were suggested.

Service Conditions: The Commission also gave recommendations on matters related to overtime allowances, voluntary retirement, exit mechanism, the quantum of pension, government holidays, incentives and awards to be given on timely completion of projects, and establishing work norms for various posts that may be reviewed by the Staff Inspection Unit.

5.6.2. First Administrative Reforms Commission – 5 January 1996:

The first ARC was constituted by the Ministry of Home Affairs under Government of India by resolution no. 40/3/65-AR(P) dated 5 January 1966. In the resolution, the composition of the ARC, the mandate of the commission and the procedures to be followed were described.

5.6.3. Mandate

The Commission was mandated to give consideration to the need for ensuring the highest standards of efficiency and integrity in the public services, and for making public administration a fit instrument for carrying out the social and economic policies of the Government and achieving social and economic goals of development, as also one which is responsive to the people. In particular, the Commission is to consider the following:

1. The machinery of the Government of India and its procedures of work;
2. The machinery for planning at all levels;
3. Center-State relationships;
4. Financial administration;
5. Personnel administration;
6. Economic administration;
7. Administration at the State level;
8. District administration;
9. Agricultural administration; and
10. Problems of redress of citizen's grievances.

5.6.4. Exclusions

The Commissions may exclude from its purview the detailed examination of administration of defence, railways, external affairs, security and intelligence work, as also subjects such as educational administration already being examined by a separate commission. The Commission will, however, be free to take the problems of these sectors into account in recommending reorganization of the machinery of the Government as a whole or of any of its common service agencies.[3]

5.6.5. Recommendation Reports

The Commission submitted the following 20 reports before winding up in mid-1970s:[1]

1. Problems of Redress of Citizens Grievances (Interim)
2. Machinery for Planning
3. Public Sector Undertakings
4. Finance, Accounts & Audit
5. Machinery for Planning (Final)
6. Economic Administration
7. The Machinery of GOI and its procedures of work
8. Life Insurance Administration
9. Central Direct Taxes Administration
10. Administration of UTs & NEFA
11. Personnel Administration
12. Delegation of Financial & Administrative Powers
13. Center-State Relationships
14. State Administration
15. Small Scale Sector
16. Railways
17. Treasuries
18. Reserve Bank of India
19. Posts and Telegraphs
20. Scientific Departments

The above 20 reports contained 537 major recommendations. Based on inputs received from various administrative Ministries, a report indicating implementation position was placed before the Parliament in November, 1977.

5.6.5. Second Administrative Reforms Commission 31, August 2005:

The Second ARC was set up with a resolution no. K-11022/9/2004-RC of the Government of India as a committee of inquiry to prepare a detailed blueprint for revamping the public administration system.

5.5.6. Composition of the Second ARC

- Veerappa Moily - Chairperson
- V. Ramachandran - Member
- Dr. A.P. Mukherjee - Member
- Dr. A.H. Kalro - Member
- Jayaprakash Narayan - Member
- Vineeta Rai - Member-Secretary

Veerappa Moily resigned with effect from 1 April 2009. V. Ramachandran was appointed chairman. Jayaprakash Narayan resigned with effect from 1 September 2007.

5.6.7. Mandate

The Commission was given the mandate to suggest measures to achieve a proactive, responsive, accountable, sustainable and efficient administration for the country at all levels of the government.[4] The Commission was asked to, inter alia, consider the following :

(i) Organisational structure of the Government of India (ii) Ethics in governance (iii) Refurbishing of Personnel Administration (iv) Strengthening of Financial Management Systems (v) Steps to ensure effective administration at the State level (vi) Steps to ensure effective District Administration (vii) Local Self-Government/Panchayati Raj Institutions (viii) Social Capital, Trust and Participative public service delivery (ix) Citizen-centric administration (x) Promoting e-governance (xi) Issues of Federal Polity (xii) Crisis Management (xiii) Public Order

5.6.8. Exclusions

The Commission was to exclude from its purview the detailed examination of administration of Military defence, railways, external affairs, security and intelligence, as also subjects such as Centre-state relations, judicial reforms etc. which were already being examined by other bodies. The Commission, however, be free to take the problems of these sectors into account in recommending re-organisation of the machinery of the Government or of any of its service agencies.[4]

5.6.9. Working of Second ARC

The Commission will devise procedures (including for consultations with Indian foreign services), and may appoint committees, consultants/advisers to assist it. The Commission may take into account the existing material and reports available on the subject and consider building upon them. The Ministries and Departments of the Government of India will furnish information and documents and provide other assistance as may be required to the Commission. The Government of India in allegory to the State Governments and only other concerned to extend their solidarity and assistance to A Commission.

5.6.10. Recommendation reports

The commission has presented the following 15 Reports to the A Commission for consideration:

1. Right to Information - Master Key to Good Governance (09.06.2006)
2. Unlocking Human Capital - Entitlements and Governance-a Case Study (31.07.2006)
3. Crisis management - From Despair to Hope (31.10.2006)
4. Ethics in Governance (12.02.2007)
5. Public Law and Order - Justice for each..... peace for all. (25.06.2007)
6. Local Governance | (27.11.2007)
7. Capacity Building for PEACE Resolution - Friction to Fusion (17.3.2008)
8. Combating Terrorism
9. Social Capital - A Shared Destiny

10. Refurbishing of Personnel Administration - Scaling New Heights
11. Promoting e-Governance - The Smart Way Forward (A. 20.01.2009)
12. Citizen Centric Administration - The Heart of Governance
13. Organisational Structure of Government of India
14. Strengthening Financial Management Systems
15. State and District Administration

5.6.11. Implementation of recommendations

The Government constituted a Group of Ministers (GoM) on 30 March 2007 under the Chairmanship of the then External Affairs Minister to consider the recommendations of the Second ARC and to review the pace of implementation of the recommendations as well as to provide guidance to the concerned Ministries/Departments in implementation. It has since been reconstituted under the Chairmanship of Union Finance Minister on 21 August 2009. Core Group on Administrative Reforms under the Chairmanship of Cabinet Secretary has finished examination of all the 15 reports. This **Group of Ministers has so far considered fifteen reports:**

1. Right to Information: Master Key to Good Governance (First report)
2. Unlocking human capital: Entitlements and Governance – a Case Study relating to NREGA (Second Report)
3. Crisis Management From Despair to Hope (Third report)
4. Ethics in Governance (Fourth Report)
5. Public order (Fifth Report)
6. Local Governance (Sixth Report)
7. Capacity Building for Conflict Resolution (Seventh Report)
8. Combating Terrorism Protecting by Righteousness (Eight Report)
9. Social Capital-A Shared Destiny (Ninth Report)
10. Refurbishing of Personnel Administration- Scaling new Heights (Tenth Report)
11. Promoting e-governance: The smart way Forward (Eleventh Report)
12. Citizen Centric Administration – The Heart of Governance (Twelfth Report)
13. Organisational Structure of Government of India (Thirteenth Report)
14. Strengthening Financial management System (Fourteenth Report)
15. State and District Administration (Fifteenth Report)

The decisions of GoM on these reports are at various stages of implementation. The report on "Combating Terrorism (Eighth Report)" has been handled by the Ministry of Home Affairs and it is understood that necessary action has already been taken on this report. Thus, in all 12 Reports have been considered, so far. Remaining three reports (Report No.V, X, and XIV) are also shortly being put up for consideration of GoM. The Cabinet in its meeting held on 3 December 2009 had taken note of the progress of action taken in respect of second report (Unlocking human capital) relating to NREGA and in its meeting held on 29 December 2009 has taken note of the progress of action taken in respect of the first report (Right to Information) and third report (Crisis Management).