

## 9. 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 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 the British 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 of the 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.

The important features of the British administrative system were :

- The Executive was not subordinate and responsible to the Legislatures.
- 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.

#### **Impact of the Second World War on administration:**

1. There was inflation and an uncertainty in supply of essential goods like food-grains. Thus, rationing was introduced in the country to regulate the supply and distribution of food-grains by the administration.
2. For carrying out the additional work it was necessary to expand the administrative

- machinery.
3. Recruitment of the personnel necessary for new tasks had to be undertaken at a short notice.
  4. No adequate training could be provided to the personnel under the prevailing circumstances.
  5. There was a downfall in the quality of the personnel.
  6. An economy of shortages inevitably bred corruption in Public administration.

For all the above mentioned reasons, the machinery of public administration was in a poor health at the time of India's independence. The advent of independence, agony of partition and adoption of parliamentary democracy, all called for additional work to be performed by Public administration in India. The challenge was undoubtedly a formidable one.

This was the testing time for Public administration. But this was also the time when the cadres of Public administration were getting depleted as most Muslim and European civil servants were resigning and leaving en bloc. The strength of the Indian Civil Service which stood at 1064 in 1945, 932 in early 1947, was reduced to 422 after the attainment of independence.

The Constitution of India which came into force on January 26, 1950 incorporates not only the goals and objectives of administration in India but also incorporates provisions relating to the administrative set-up both at the union level and at the state level. This was done with a view to having a uniform administrative set-up for the entire country.

The Indian Constitution creates the offices of the President, the Vice-President, the Prime Minister, the Council of Ministers, and the Comptroller and Auditor-General of India. There are also provisions relating to the administration of Union and acquired Territories, the administration of Scheduled and Tribal Areas, distribution of legislative, executive and financial powers through the three lists — Union, State, and Concurrent — in Schedule VII, rights and liabilities of the Government and public servants, and for creation of Public Service Commissions.

The makers of the Indian Constitution followed and reproduced the Government of India Act, 1935, in providing matters of administrative detail. This was done not only because the people were accustomed to the detailed provisions of that Act, but also because the makers had the apprehension that in the present conditions of the country, the Constitution might be perverted unless the form of administration was also included in it. In the words of Dr. B.R. Ambedkar, "...It is perfectly possible to pervert the Constitution without changing the form of administration."

Any such surreptitious subversion of the Constitution was sought to be prevented by putting detailed provisions in the Constitution itself, so that they might not be encroached upon without amending the Constitution.

**Administrative Framework:** The basic framework of the administration is based on the theory of decentralisation of structures and functions' under which autonomy and initiative are vested in the states and local units of Government. But, it, at the same time, accepts central planning and direction, articulated both through the Governmental machinery and the ruling political party which has enjoyed dominance almost continuously since independence — a dominance both at the centre as well as in most of the States.

Leadership is committed to the welfare state concept, and integration of the people into a nation. Emphasis is laid on participant administration, and on broadening the base of administration and penetrating it further into the remote sectors of the community. It is vital that the officials are committed to innovations and democracy, and can facilitate the involvement of the citizen.

## **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).

**Qualifications :** In order to be qualified for election as 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 the House of the People; and
- (d) must not hold any office of profit under the Government of India or the Government of any State or under any local or any other authority, subject to the control of any of the said Governments (Article. 58).

**Election of the President:** The President of India is indirectly elected through an electoral college consisting of

- (a) the elected members of both the Houses of Parliament; and
- (b) 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. The voting is done by secret ballot. For ensuring uniformity in the scale of representation of different States at the election of the President the formula used is as follows :

$$\frac{\text{Population of State}}{\text{Elected Members of the State Legislative Assembly}} + 100$$

= No. of votes which each Member of State Legislative Assembly is entitled to cast..

The Constitution also says that parity shall also be maintained between the States as a whole and the Union. This condition is secured by the following formula:

$$\frac{\text{Total number of votes of all the Legislative Assemblies}}{\text{Total number of elected members of both Houses of Parliament}}$$

= No. of votes which each elected member of Parliament is entitled to cast.

**Terms of Office :** The President holds office for a term of five years from the date on which he enters 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 assume office.

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.

**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 only on 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 be preferred by a House unless —

- (a) a resolution containing the proposal is moved after a 14 days' notice in writing signed by not less than one-fourth of the total number of members of that House; and
- (b) the resolution is then passed by a majority of not less than two-thirds of the total membership of the House.

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.

**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 for the 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 System of 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, headed by 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 :

**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)).

**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 regulated by law.

**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.

**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, includes —

- (i) Summoning, prorogation of both Houses of Parliament, and dissolution of the lower House.
- (ii) The right to address and to send messages to either House of Parliament either in regard to any pending Bill or to any other matter.
- (iii) Nomination of members to the Houses. The President nominates 12 members to the Council of States from persons having special knowledge or practical experience in the fields of literature, science, art and social service. He is also empowered to nominate not more than two members to the House of People from the Anglo-Indian community, if he is of opinion that the Anglo-Indian community is not adequately represented in that House.
- (iv) Laying reports, etc. before Parliament like the budget, report of the Auditor-General relating to the accounts of the Government of India, recommendations of the Finance Commission, reports of the UPSC, the Special Officer for SCs and STs, Commission on backward classes, the Special Officer for linguistic minorities etc.
- (v) Previous sanction of legislation relating to formation of new States or the alteration of boundaries, a Money Bill, a bill involving expenditure from the Consolidated Fund of India, a bill affecting taxation in which States are interested or affecting the principles laid down for distributing moneys to the States and so on.
- (vi) Assent to legislation and veto.
- (vii) Disallowance of State legislation : There is no provision in the Constitution of India for a direct disallowance of State legislation by the President, but there is provision for disallowance of such bills as are reserved by the State Governor for the assent of the President. The President may also direct the Governor to return the Bill to the State Legislature for reconsideration; if the Legislature again passes the Bill by an ordinary majority, the Bill shall be presented again to the President for his reconsideration. But if he refuses his assent again, the Bill fails.
- (viii) **Ordinance-making power :** The President enjoys the power to legislate by ordinance when Parliamentary enactment on the subject is not possible. An ordinance may relate to any subject in respect of which Parliament has the right to legislate and is subject to the same limitations as legislation by Parliament. Thus, an ordinance cannot contravene the Fundamental Rights any more than an Act of Parliament.

The ordinance must be laid before Parliament when it reassembles, and shall automatically cease to have effect at the expiration of six weeks from the date of re-assembly unless disapproved earlier by Parliament.

**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.

**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).

**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.

## **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.

#### **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 :

**(a) 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.

**(b) 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.

**(c) 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-charge may delegate to them.

**(d) 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.

### **Functions of the Cabinet**

**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.

**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 spontaneously 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 Professional Standards
5. Leadership

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

**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.

**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 Cabinet cannot 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.

**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”.

**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 of town 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.

### Cabinet Committees

To relieve the Cabinet of some burden of work, Cabinet committees have been set up. N. opalaswamy 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.

Its main function is to take decisions in respect of

- Secretariat appointments of the rank of Deputy Secretary and above;
- Chairman, Managing Directors and General Managers and state-owned public corporations, companies and enterprises including Governor of Reserve Bank;
- Other appointments which are made by the Government or which require the approval of the Government of India, and which carry a salary;
- To decide all cases of disagreement between the Union Public Service Commission and the Department concerned in regard to any appointment.

Five other ad hoc committees have also been set up out of which two deal with the problem of prices. The Third Cabinet Committee reviews the performance of the public undertakings including export promotion and import substitution and also covers denudation of forests and trees. The fifth one deals with the question of rise in aluminium prices in view of the increased power rates.

### **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 advise the President in the exercise of his functions."

**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, the powers 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.

## **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.

**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 Secretariat 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 also evaluating their work.

### 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 the results;
- Assisting the Minister in the discharge of his Parliamentary responsibilities;
- Initiating measures to develop greater personnel and organisational competence both 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.

**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.

### Characteristics of CSS :

- (1) The CSS provides staff for the Central Secretariat and for most of the attached and subordinate offices.
- (2) All posts from the level of Assistants upto the Under Secretaries are included in this service.
- (3) The former departmentalisation of the Imperial Secretariat Service was given up and the new service was made a common service for all the Ministries. This improved the opportunities for promotion of all the employees of the service.

However, it was decided to introduce some element of decentralisation in the service. The assistants and section officers are now divided into Ministry-wise cadres which means that the control over these levels now rests in the hands of the administrative Ministries concerned. But for purpose of promotion to Grade-I, the field of choice consists of all the officers in the section officers grade in all the cadres. The control over Grade-I and selected posts vested in the Department of Personnel.

- (4) The scheme visualised a deputation reserve in order to enable officers of the service to be appointed to the outside executive posts in attached and subordinate offices. The merit of this provision is that it widens the outlook of the service and strengthens the outside agencies.
- (5) A Secretariat training school was established in 1948 to provide systematic pre-entry training to the new entrants. It has now been upgraded to the status of the Institute of Secretariat Training and Management (ISTM).
- (6) Posts in selection grade are filled by promotion on the basis of merit from officers of Grade-I having five years service in that grade.
- (7) Recruitment to the vacancies in the grade of Section Officers is made in a number of ways. One-sixth of the posts are filled through UPSC on the basis of the results of the IAS examination. The remaining vacancies and also the temporary vacancies are filled by promotions of Assistants to the extent of two-third of the vacancies and through a departmental examination conducted by UPSC for the remaining one-third.

For the grade of Assistants the original scheme envisaged a reservation of seventy-five per cent of vacancies to be filled by direct recruitment on the basis of open competitive examination conducted by the UPSC. However, to take care of the promotional opportunities of the UDCs, the quota of direct recruitment has been reduced to fifty per cent. The open competitive examination for the grade of Assistants is now conducted by the Staff Selection Commission. The qualifications prescribed for the direct recruitment is a University degree. The remaining fifty per cent vacancies are filled by the promotion of meritorious UDCs of the Central Secretariat Services.

**Criticism of the Secretariat:** The fault lies not with the concept of Secretariat, but with the manner in which it has been functioning, the attitude it has brought to bear on its task, its size and the style of its staffing.

The principal criticisms levelled against it are :

1. The Secretariat is a policy-making body but of late it is also doing the work which belongs to the executive agencies. This not only prevents the Secretariat from concentrating on policy-making, but also results in weakening the power and authority of executive agencies.
2. It is an over grown institution. Critics describe it as 'a typically pampered child'. The Secretariat has too many persons in terms of the amount of work (both essential and non-essential) done.
3. The personnel in the Secretariat either engage in unnecessary work which leads to the hiring of additional staff, or remain under-worked, chanting grievances, which is fatal to morale.
4. The personnel in the Secretariat suffer from a certain amount of superiority, even arrogance and vanity visavis the executive agencies.
5. Instead of assisting and encouraging the executive agencies in the carrying out of their responsibilities, the Secretariat today acts as an inhibiting factor.

6. The Secretariat can be efficient if it projects, effectively, the experience gathered in the field. This calls for a systematic transfer of personnel between the Secretariat and the field. This is largely lacking in the Secretariat.

7. Lack of adequate delegation of work to executive agencies, cumbersome procedures of doing work, widespread desire to postpone decision, to over-consult, to over-co-ordinate, etc., all lead to delay in the work of the Secretariat.

8. The Secretariat is accused of being unfair. For instance, it is said that the Secretariat has concentrated under its roof the best personnel available within the Government. As a result, the executive agencies are suffering from some kind of anaemia in terms of both power and qualified manpower.

## **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 for its 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 consultation and 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.

**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.

**Department of Cabinet Affairs :** The Department of Cabinet Affairs is divided into four wings

- (a) 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

(b) 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.

The work of O and M Division is carried on through the O and M units set up in each Ministry, each unit being under the charge of a Deputy Secretary functioning as an O and M officer in addition to his own duties. The Director, O and M Division exchanges ideas and experiences with the O and M officers of various Ministries from time to time by holding joint meetings. The Deputy Director, O and M Division, pays informal visits to the various Ministries to see whether the prescribed procedures are being followed or not. He also tenders advice on various problems of O & M work.

(c) Military Wing : The function of the Military wing is to provide secretarial service to the Defence Committee of the Cabinet, National Defence Council, Military Affairs Committee, the Defence Minister's Committee, the Defence Minister's Production Committee and a host of other committees dealing with matters relating to defence.

(d) Economic Wing : The Economic wing is responsible for all secretariat work connected with the Economic Committee of the Cabinet, the Committee of Economic Secretaries and the Supply Committee.

**Department of Statistics :** The Department of Statistics was created in April, 1961 as a central statistical body.

- It considers statistical methods;
- It advises and issue general directions regarding the setting up of standards, norms, and method of collection to all the central and State agencies and to deal with references from them on such questions;
- It co-ordinates the activities of various statistical agencies; and
- It promotes, in general, the collection and compilation of statistics on scientific lines.

Besides, the Department also provides administrative support to the Central Statistical Organisation (C.S.O.), National Sample Survey (N.S.S.) and the Indian Statistical Institute (I.S.I.). Whereas C.S.O and I.S.I., are attached offices, the N.S.S. is a subordinate office of the Cabinet Secretariat.

**The Cabinet Secretary :** In the official Warrant of Precedence, the Cabinet Secretary has been given the highest place among the civil servants. He sits near the Prime Minister in the Cabinet meetings and briefs him on various points on the agenda. He is the chairman of the Senior Selection Board and, also, of the Committee of Secretaries on Administration. Again, it is the Cabinet Secretary who presides over the Chief Secretaries' Conference.

The Ayyangar Report described the Cabinet Secretary as an administrative officer of the highest rank selected for the office for his special qualities of tact, energy, initiative and efficiency, and recommended that he should be entrusted, as head of the Cabinet Secretariat,

with the positive function of securing co-ordination as well as timely and effective action by all departments of the Government of India in all matters in which the Cabinet as a whole or the Prime Minister is interested. He should be a person commanding the respect and confidence of all ranks of the permanent services there is need for a senior officer of ripe experience to be placed at the head of the Cabinet Secretariat.

In U.K. it is said that "The Cabinet Secretariat is under a Cabinet Secretary. He is a very senior civil servant. He is almost the pivot of the Cabinet system. From the account of his relationship with permanent officials it would appear that he is a sort of adviser and conscience-keeper to all the permanent officials. They come for advice and guidance whenever there are inter-departmental difficulties. He seems to be a man in whom all permanent officials have great confidence..."

## **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 Lal 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 tenure 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.

## **THE PLANNING COMMISSION**

The Planning Commission is the supreme organ of planning in India. It is an extra-statutory body, set up by a resolution passed by the Central Government in March 1950. The main function of the Planning Commission is to prepare a National Plan, which means the five-year plan broken down into annual plans.

The 1950 Resolution described the functions of Planning Commission as follows :

1. Formulation of five-year plans for the most effective and balanced utilisation of the country's resources.
2. Working out of priorities in the plan.
3. Assessment of national resources and devising ways and means of augmenting them.
4. Determination of the best machinery to secure the successful implementation of the plan.
5. Periodic evaluation of the progress of the plan with a view to suggesting adjustments, if necessary.

**Organisation and Composition :** The organization of the Planning Commission is different from that in normal Government Ministries or departments. Though there are Under Secretaries in charge of the Administration and Co-ordination Branches, which carry out the house-keeping functions of the Planning Commission, its main work is carried out by the following Divisions:

**General Planning Division** — Its concern is to make a comprehensive study of the country as a whole. The conclusions of this comprehensive study form the basis of studies relating to industrial sectors.

**Special Planning Divisions** — The units which are concerned with the study of particular sectors of social and economic development.

**Programme Administration Divisions** — The units which are concerned with the formulation and watching of the implementation of detailed programmes, specially in the States.

In short, the Planning Commission has adopted an organisation which plays the role of an expert character. Its internal organisation is built around two hierarchies, which may be called administrative and technical.

The administrative hierarchy is headed by the Secretary of the Planning Commission having under him Joint Secretaries, Deputy Secretaries, Under Secretaries and other staff.

The technical hierarchy begins with advisers who report directly to their respective members depending upon the allocation of work among them, i.e., the Adviser for Perspective Planning will be working directly under the Member dealing with this subject.

The Adviser, who is of the rank of either Additional Secretary or Joint Secretary, is essentially a group coordinating functionary, coordinating the work relating to the subjects which have been

assigned to him. Below the Adviser is the ‘Chief whose task is to undertake a detailed technical examination and analysis of programmes and schemes falling within his sphere of work.

The Chief is assisted by Directors, Joint Directors and other staff. The organisational structure is characterised by flexibility. Thus, an Adviser may have directly under him a Joint Director. The technical hierarchy is manned by experts, such as engineers, statisticians, etc., with a majority of them being economists.

The major functional unit of the Planning Commission is the Division, each dealing with an important segment of planning. These Divisions cover Commission and is answerable to Parliament about its work. The number of members increased to five in 1966. In 1987, the Ministers of Home, Finance, Defence and Human Resource Development were made (part-time) members of the Commission. between them all the major components which make up the Five Year Plan. A Division is generally headed by an Adviser or a Chief. It maintains close contacts with the corresponding departments in the Central Government as well as the States.

**Programme Evaluation Organisation :** In addition, the Planning Commission has within it the Programme Evaluation Organisation (PEO) and the Computer Services Division. The PEO was set up in 1952 when the Community Development Programme was inaugurated.

Over the years the Programme Evaluation Organisation’s functions have undergone a change and at present its functions are :

- (a) to carry out evaluation of programmes and plans as contained in the five-year plan;
- (b) to organise training courses in evaluation methodology;
- (c) to undertake documentation of work done by the Central as well as the State evaluation agencies;
- (d) to maintain liaison between the Centre and the States in the field of evaluation of programmes;
- (e) to participate in the annual plan discussions pertaining to evaluation of programmes;
- (f) to render advice to the States in regard to evaluation of programmes.

The PEO has, since its inception, functioned as an independent unit but within the framework and general guidance of the Planning Commission. It is headed by a Chief who is assisted by Joint Directors, Deputy Directors, Assistant Directors and other subordinate staff. The Joint Directors are specialists in statistics, sociology, agricultural economics and institutional economics.

**PEO Network:** It maintains seven regional evaluation offices at Kolkata, Mumbai, Chennai, Hyderabad, Lucknow, Jaipur and Chandigarh. A regional evaluation office is headed by a Deputy Director and has under it a number of project evaluation offices. In all, there are at present 27 project evaluation offices located at various places in the country.

**Membership of Planning Commission :** Since its inception, the Prime Minister has been the Chairman of the Planning Commission. The total number of Ministers who were ex-officio members of the Commission was three from 1951 to 1956 which included the Minister of Finance, Minister of Irrigation and Power, and the Minister of Planning. The Minister of Planning mainly acts as a spokesman of the Planning Commission and is answerable to Parliament about its work. The number of members increased to five in 1966. In 1987, the Ministers of Home, Finance, Defence and Human Resource Development were made (part-time) members of the Commission.

The number of full-time members has normally varied between 3 and 7 who are experts in the areas of industry, economics, science and technology. The Commission's full-time membership consists of a Deputy Chairman and five members. The Deputy Chairman, who is an economist, enjoys the status of a Cabinet Minister while the other members rank with Ministers of State.

The work of the Commission has been divided among the full-time members. One member looks after agriculture, rural development, irrigation, village industries, multi-level planning, etc. The second member is incharge of finance and economics. The third member deals with science, education, social welfare, environment, etc. The remaining two members attend to matters relating to industry. The full-time members remain in close touch with the concerned Ministers at the Centre. The Deputy Chairman is invited to attend all Cabinet meetings and when necessary, other members also attend the meetings of the Cabinet or list committees.

**Criticism :** I. Taking advantage of the Prime Minister's chairmanship, the Planning Commission has steadily added to, its functions and personnel and has stepped into areas of executive authority of the Central and State Governments.

2. It has been sometimes called a parallel Cabinet and sometimes a super Cabinet.
3. It has proved to be another level in the making of executive decisions and consequently, is responsible for the extension of red-tape methods.
4. Economic planning visualises a significant State role in the implementation of the plans.
5. Its existence has, in practice, restricted the operational manoeuverability of the Finance Commission.
6. It is, according to many, a starry-eyed organisation manned by persons who are fanatically applying textbook maxims.
7. Flexibility in regard to organisational develop-ment has been abused in practice.
8. There is excessive centralisation of functions vis-a-vis Central Ministries and State Governments. In addition to causing delay it undermines the sense of responsibility of the latter.
9. It has not manifested the quality or vigour of a truly brains-trust organisation.
10. The inter-relationship between planning and economic welfare has made the Planning Commission also an agency of economic co-ordination. But policy-making in economic affairs is the primary responsibility of the Ministry of Finance (Department of Economic Affairs).
11. Due to the down-grading of the Planning Commission, the growth rate has been less than what has been aimed at in the plans.

## **THE FINANCE COMMISSION**

Despite the elaborate and detailed division of financial resources between the Union and the States laid down in the Constitution of India, the framers realised that no distribution, no matter how carefully made, could be satisfactory for all times and under all circumstances and that the adjustment of federal-state financial relations would be a recurring problem. The Constitution-makers accordingly laid down provisions for the devolution of revenues through the transfer of a part of the proceeds of certain Union taxes to the States and through Union grants-in-aid of the revenue of States. In order to ensure that Union assistance to the States does not lead to the erosion of the States' autonomy, the Constitution has provided that the devolution of revenues and grants-in-aid shall be made on the basis of the recommendations of an independent agency — the Finance Commission. The constitution of Finance Commission is

laid down in Article 280, which has to be read with the Finance Commission (Miscellaneous Provisions) Act of 1951, which has supplemented the provisions of the Constitution. Briefly speaking, the Commission has to be constituted by the President, every five years. The Chairman must be a person having experience in public affairs; and the other four members must be appointed from amongst the following :

- (a) A High Court Judge or one qualified to be appointed as such;
- (b) A person having special knowledge of the finances and accounts of the Government;
- (c) A person having wide experience in financial matters and administration;
- (d) A person having special knowledge of economics.

**Appointment :** The Finance Commission is appointed by an announcement of the Presidential order by the Finance Ministry. It comes into existence from the date of assuming charge by its Chairman and the members specified in the notification and ceases to exist as soon as it submits its report. A Finance Commission is to be constituted every fifth year or at such earlier time as the President considers necessary.

#### **Article 280(3) of the Constitution of India lays down:**

“It shall be the duty of the Finance Commission to make recommendations to the President, as to :

- (a) the distribution between the Union and the States of the net proceeds of taxes which are to be or may be divided between them under this chapter and the allocation between the States of the respective shares of such proceeds;
- (b) the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India;
- (c) the continuance or modification of the terms of any agreement entered into by the Government of India with the Government of any State specified in Part ‘B’ of the First Schedule under clause (i) of Article 278 or under Article 306; and
- (d) any other matter referred to the Commission by the President in the interest of sound finance.

**Procedure of working :** The work of the Finance Commission can be broadly divided into three phases, which starts soon after the Government has announced its composition and terms of reference.

In the first phase of its work, the Commission addresses letters to the State Governments asking them to submit estimates of their normal expenditure and amounts of revenue over the next five years. After receiving such estimates, the Commission scrutinises the reliability of these estimates and summons the concerned officers from the States to Delhi for seeking clarifications. The estimates of different States are reduced to a comparable basis by eliminating abnormal and unusual items.

In the second phase, the Commission tours all the States, visiting mostly the State capitals. These visits are devoted to hearing the case of each State for financial assistance. Normally, the Commission hears the Chief Minister and the Finance Minister of each State along with their aides. Each State submits a memorandum stating its case for increased assistance.

The Commission also receives and hears memoranda from individuals and associations.

In the final phase, the Commission meets in Delhi to finalise its report, which is submitted to the President a few months earlier than the presentation of the Central budget to Parliament. The President recommends its consideration for implementation by the Central Cabinet.

#### **Finance Commission Vs. Planning Commission :**

The emergence of economic planning in India has a great impact on the inter-governmental relations. One of the striking features of the planning process has been that the Planning Commission which was initially conceived as an advisory body of specialists working as a staff agency without any statutory backing, gradually grew into a parallel Cabinet, taking decisions on crucial matters. It looks upon itself the functions that tended to overlap those of the Finance Commission.

The distinction between the Plan and Non-plan expenditure has eroded the powers of the Finance Commission and its role is limited to the non-plan revenue account, though there is nothing in the Constitution to place such a restriction on its functions. Plan expenditure, which is controlled by the Planning Commission, later becomes non-plan committed expenditure and has to be taken care of by the Finance Commission. Such a distinction is futile from the point of view of broader national interest and the balanced development of the federation.

The Sixth Finance Commission accepted the Planning Commission ‘As a major agency for channelisation of resources for the financing of State plans’. Thus, so long as the existing arrangement continues the two bodies must work together rather than try to find fault with each other.

In fact, the Planning Commission relies heavily on the exercises done by the Finance Commission in regard to the States, non-plan expenditures, growth of revenues and the revenue surplus available to the States for plan, etc. Thus, the Planning Commission begins from where the Finance Commission concludes but follows a different procedure for formulation and financing of States’ plans. For instance, the Planning Commission induces the States to accept its advice even in matters in which the States are expected to have full initiative and freedom.

## **THE ELECTION COMMISSION**

The Constitution of India has adopted a democratic system of Government based on the principle of universal adult franchise. For the successful operation of the democratic system, the Constitution under Article 324 provides for an independent Election Commission to ensure free and fair elections. The Election Commission consists of a Chief Election Commissioner and such Commissioners as the President may from time to time appoint. At present, Election Commission is a multi-member body consisting of a Chief Election Commissioner and two other Election Commissioners who enjoy equal status and have equal power.

The Chief Election Commissioner and other Election Commissioners are appointed by the President for a term of six years or upto the age of 65 years. They can be removed by the President on grounds of proved misbehaviour or incapacity in the like manner and on the like grounds as a Judge of the Supreme Court.

The Election Commission shall have the power of superintendence, direction and conduct of all elections to Parliament and the State Legislatures and of elections to the offices of the President and Vice-President. In this regards its main functions are as follows :

- (i) The preparation of electoral rolls before each general election and registration of all eligible voters.
- (ii) The delimitation of constituencies.
- (iii) The recognition of various political parties and allotment of election symbols to these parties.
- (iv) Preparation of code of conduct for the political parties.
- (v) Keeping voters list up-to-date at all times.
- (vi) The preparation of roster for central broad-casts and telecasts by various political parties, etc.
- (vii) The conduct of polls.
- (viii) The Election Commissioner has not only the power of holding elections but also to cancel it and order repoll of it if rigged. It is also the responsibility of the Election Commission to hold by-elections.
- (ix) To notify the dates and schedules of elections so that nomination papers are filled and properly scrutinised before the elections.
- (x) To request the President of India or the Governors of the States for requisitioning as much staff as necessary for conducting elections.
- (xi) Under the Peoples Representation Act, the Election Commission also has the power to disqualify a candidature.

The independence of the Election Commission and its insulation from executive interference is ensured by a specific provision in Article 324(5) of the Constitution to the effect that the Chief Election Commissioner shall not be removed from his office except in like manner and on like grounds as a judge of the Supreme Court and that the conditions of his service shall not be varied to his disadvantage after his appointment. The other Election Commissioners cannot be removed from office except on recommendation made by the Chief Election Commissioner. All Election Commissioners have equal say in the decision making of the Commission.

The Election Commission of India is a permanent body, established in accordance with the Constitution in January, 1950. The Commission has a separate secretariat at New Delhi. There is a functional and territorial distribution of work in the Election Commission. At the State level, the election work is supervised, subject to overall superintendence, direction and control of the Commission, by the Chief Electoral Officer of the State. Political parties are registered with the Election Commission under the law. Political parties so registered with it are granted recognition at the national and State levels by the Election Commission on the basis of their poll performance at general elections according to criteria prescribed by it.

Under the Constitution, the Commission has advisory jurisdiction in the matter of post-election, disqualification of sitting members of the Parliament and State Legislatures. In the recent past, the Election Commission has taken several new initiatives. Important among them are — checking criminalisation of politics, providing electors with photoidentity cards, restrictions on opinion and exit polls, use of State-owned electronic media for broadcast or telecast by political parties, computerisation of electoral rolls, measures for strict compliance with the Model code of conduct and simplifying the procedure for maintenance of accounts and filing of the same by candidates. The Election Commission has expanded international co-operation by way of sharing experience and expertise in the areas of electoral management and administration, electoral laws and reforms.

## **THE COMPTROLLER AND AUDITOR- GENERAL OF INDIA**

Article 148(1) of the Constitution states that 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 ground as a Judge of the Supreme Court.

**Importance of the Office :** In the Cabinet form of Government like ours, parliamentary control of the public purse is the most powerful guarantee of Ministerial responsibility. However, since few (if any) members of Parliament possess the requisite competence to exercise effective control over the financial transactions of the Government, the need was felt by the framers of our Constitution for the creation of an expert and independent agency — the Comptroller and Auditor-General of India (C.A.G). Pattabhi Sitaramayya described C.A.G. as “the supreme arbitrator of India’s finances.”

**Qualifications :** The Constitution does not lay down specific qualifications for the appointment of the Comptroller and Auditor- General as it does in the case of judges of the Supreme Court. It is the Parliament which prescribes the duties and powers of the Comptroller and Auditor-General (Article 149).

**Powers & Duties :** In exercise of its power under Article 149, Parliament has enacted the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971.

It is the duty of the Comptroller and Auditor-General to audit and report.

- (a) on all expenditure from the Consolidated Fund of India and of each State and each Union Territory having a Legislative Assembly as to whether such expenditure has been made in accordance with the law;
- (b) on all expenditure from the Contingency Funds and Public Accounts of the Union and of the States;
- (c) on all trading, manufacturing, profit and loss accounts, etc., kept by any Department of the Union or a State;
- (d) the receipts and expenditure of the Union and of each State to satisfy himself that the rules and procedure in that behalf are designed to secure an effective check on the assessment, collection and proper allocation of revenue;
- (e) on the receipts and expenditure of
  - (i) all bodies and authorities ‘substantially financed’ from the Union or State revenues;
  - (ii) Government companies;
  - (iii) other corporations or bodies when so required by the laws relating to such corporations or bodies.

### ***Comparison with his British Counterpart***

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Comptroller and Auditor-General of India	Comptroller and Auditor-General of Great Britain
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|----------------------------------------|----------------------------------------------------------|
| 1. The accounts are prepared by C.A.G. | The accounts are prepared by the respective departments. |
|----------------------------------------|----------------------------------------------------------|

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>2. The Indian C.A.G. functions only as an Auditor. He has no control over the issue of money from the Consolidated Fund.</p>                                     | <p>The British C.A.G. controls the issue of public money and makes sure that nothing is paid out of the Exchequer at the Bank of England without legal authority.</p> |
| <p>3. Many Departments are authorised to draw money by issuing cheques without specific authority from the C.A.G.</p>                                               | <p>The Treasury cannot obtain any money from the public Exchequer without a specific authority from the Comptroller.</p>                                              |
| <p>4. The designation ‘Comptroller’ is meaningless since the Indian C.A.G. enters the picture only at the audit stage when expenditure has already taken place.</p> | <p>The designation ‘Comptroller’ is meaningful since the British C.A.G. exercises control both on receipt and issue of public money.</p>                              |

## **PUBLIC ENTERPRISES**

With the steady increase in State functions corresponding to the change in the philosophy of State activity from laissezfaire to social welfare, it is generally an accepted notion in modern States, especially in the developing countries, that ownership of most of the natural resources and capital heavy industries should increasingly rest in the State. In developing countries, State intervention in economic and industrial enterprises has become almost compulsory for various reasons.

The major reasons for State intervention in economic activity are :

- (a) to build up an industrial infrastructure and raise productivity;
- (b) to increase employment and general standard of living by accelerating national growth and development;
- (c) to render needed services and to cater to public utilities like power, transportation and communication which are capital heavy investments and strictly unprofitable under private enterprises;
- (d) to provide sources of credit to finance agricultural and industrial production and trade; and
- (e) to reduce dependence on foreign capital and aid in the long run.

**Legal and Constitutional Basis of Public Enterprises :** In India, the Industrial Policy Resolution of 1956 has laid down the basic principles that govern the state's approach towards industrial development. The approach derives its base from the Directive Principles of State Policy contained in Part IV of the Constitution and from the adoption by Parliament in December 1954 of the socialist pattern of society as the objective of our social and economic

goals and laws. The Industrial Policy Resolution of 1956 stated that the need for rapid planned development required that all industries of basic and strategic importance, or in the nature of public utility services, should be in the public sector. Consequently, their number has steadily increased with every plan.

**Various Activities of Public Enterprises :** Public enterprises in India cover a wide range of activities. They are engaged in

- directly or indirectly advancing loans;
- regulating trade; organising promotional and development activities;
- manufacturing heavy machinery, machine tools, instruments, electrical equipment, chemicals, drugs and fertilisers; prospecting and drilling for oil and refining crude oil;
- operating air, sea and road transport; mining of coal and mineral ores;
- smelting and casting of steel and other metals; production and distribution of milk, trading, markets, hotels, etc.

**Organisation of Public Undertakings :** There is no one ideal form of organising public enterprises. In general, three main forms of organisation, each with significant variations, are now utilised for the administration of public enterprises—Departmental concerns, Government companies and Public corporations. Let us now briefly outline the characteristics, strong and weak points, of each of these types.

**Departmental Concerns** — Initially, no distinction was made between public enterprises and traditional Government functions. Thus, the oldest State enterprises, such as, the postal, telegraph and telephone services, and railways were organised, financed and controlled as any other Government department. This form of organisation is still commonly employed when the main purpose of the enterprise is to provide revenue.

#### **Strong points :**

- (i) The departmental form is a well-known form of organisation with set structural pattern and fixed procedure.
- (ii) Staffing also poses no serious problem.
- (iii) It assures the maximum degree of control by politically responsible officials.

#### **Weak points :**

- (i) The departmental form lacks managerial flexibility, which is very essential for effective operation.
- (ii) Permanent staff is subject to rules and regulations applicable to civil servants, thereby preventing both promotion on merit and prompt disciplinary action, where necessary.
- (iii) Tardy procedures for arranging funds, e.g., the necessity of getting sanction for expenditure and other matters in every single case.
- (iv) Cash receipts have to be put into Government account and cannot be taken out without special sanction.
- (v) The system of accounting and audit is of a complicated nature.
- (vi) The departmental method of purchase of raw materials and sale of products, etc. leads to delays.

**Conclusion :** In spite of all these weaknesses, Railways and Posts and Telegraphs continue to be organized in the departmental form. Many Governments have attempted to alleviate these

weaknesses by introducing new forms of structure and more flexible procedures with a view to giving autonomy to management, e.g. the setting up of the Railways and the Posts and Telegraphs Board for managing the posts and telegraphs in India.

**Government Companies** — Government companies are also known as Joint-Stock Companies or mixed ownership companies. This form has been used extensively in recent years in respect of manufacturing activities in the public sector. Both the Central and the State Governments seem to favour it.

The Joint Stock Company form does not describe a legal or organisational pattern. It is an economic concept and includes various forms of joint enterprises shared between the State and private enterprises. The private enterprises may be either national or foreign. They may represent the shares of individual firms participating in the venture or the subscriptions of members of the public at large.

According to the Report of the Study Team on Public Sector Undertakings (of the Administrative Reforms Commission) central and provincial characteristics of this form are as follows :

- (a) It has most of the features of a private limited company;
- (b) The whole of the capital stock or 51 per cent or above of it, is owned by the Government;
- (c) All the directors, or a majority of them, are appointed by the Government depending upon the extent to which private capital is participating in the enterprises;
- (d) It is a body corporate, created under a general law, viz., the Companies Act;
- (e) It can sue and be sued, enter into contract, and acquire property in its own name;
- (f) Unlike the public corporation, it is created by an executive decision of the Government without Parliament's specific approval having been obtained, and its Articles of Association though conforming to an Act are drawn up and are revisable by the Government;
- (g) Its funds are obtained from the Government and, in some cases, from private shareholders, and through revenues derived from the sale of its goods and services;
- (h) It is generally exempt from the personnel, budget, accounting and audit laws and procedures applicable to Government departments' and
- (i) Its employees, excluding the deputationists, are not civil servants.

#### **Strong points :**

- The Government may have to acquire shares of an existing enterprise in an emergency, in response to a financial or employment crises, or in order to maintain a nationally important production or service which has become unprofitable or insolvent under private enterprise.
- The State may wish to launch an enterprise in association with certain other interests, national or foreign, e.g. Hindustan Steel Limited, Hindustan Shipyard Limited, etc. Hindustan Shipyard Limited is a joint venture of the Indian Government and private interests in India in which the Government holds two-thirds of the paid-up capital.
- The Government may wish to start an enterprise entirely as a public venture in order to put it on its feet with the intention of disposing of all or part of it to the public, or to specific private interests as soon as possible.

#### **Weak points:**

- (i) It evades the Constitutional responsibilities which a State controlled enterprise has, in a democratic society, to the Government and to Parliament.

- (ii) The use of the Company form and of the law regulating commercial companies usually becomes a mere fiction because all or most of the functions normally vested in the shareholders and in the management, are reserved to the Government by the statute setting up the company.

A former Comptroller and Auditor-General of India described the Company form as “a fraud on the Company’s Act and on the Constitution.”

**Public Corporations**—Dimock has described public corporations as “a publicly owned enterprise that has been chartered under federal, state or local law for a particular business of financial purpose.” In the words of Ernest Davies, “The public corporation is a corporate body created by public authority, with defined power and functions and financially independent. It is administered by a board appointed by public authority, to which it is answerable. Its capital structure and financial operations are similar to those of the public company.”

#### Strong points :

1. This form of organisation enjoys freedom from unsuitable Government regulations and controls.
2. It also enjoys a high degree of freedom in its operation.
3. There is financial flexibility.
4. In this form, one discerns a balance between the autonomy and flexibility enjoyed by private enterprises and the responsibility of the public as represented by elected members and legislators.

#### Weak points :

1. The corporation form of organisation has given rise to various problems. For example, there is difficulty in reconciling autonomy of the corporation with public accountability.
2. There is a persistent dilemma as to how to bring public corporations under Ministerial control without infringement of their autonomy.

### ***Public Corporations in India***

In India, the corporation form of organisation was tried in the years immediately after independence, with almost religious fervour. This was the golden age of the statutory corporation. The Damodar Valley Corporation (DVC) and the Industrial Finance Corporation (IFC) were set up, and serious talk was going on at the time to convert the Railways, Posts and Telegraphs, All India Radio, etc., into statutory corporations.

India is a developing country and like every other developing country, there is a scarcity of two very important resources, capital and entrepreneurship. In the absence of these resources it is imperative on the part of the Government, both Central and State Governments, to come to the fore. The State has to stand forth as an entrepreneur since much of the borrowing is at a Government-to-Government level and the inflow of institutional aid has to have Government guarantee. Adoption of economic planning and the Industrial Policy Resolutions of 1948, 1956 and 1983 have gone a long way in assigning a key role to the Government in the country’s economic development. It has become the Government’s task to take the country to the commanding heights of the economy.

## Control over Public Corporations

**Parliamentary Control:** Parliamentary control may be exercised in the following ways:

- (i) Parliamentary question
- (ii) Raising half an hour discussion on any enterprise
- (iii) Moving a motion for adjournment on a matter of urgent nature and public importance
- (iv) Raising of two hours' debate on a matter of urgent public importance
- (v) Parliamentary debates about any enterprise or group of enterprises
- (vi) Budget debates.
- (vii) Debates on Bills, Resolutions, Audit reports or on the report of the Enquiry Commission, if any
- (viii) Discussion on annual and periodical reports
- (ix) Parliamentary Committees—Public Accounts Committee, Estimates Committee, and the Committee on Public Undertakings.

Control through parliamentary committees is the most important form of parliamentary control, especially control exercised through the Committee on Public Undertakings. There had been a demand, since 1953, for the creation of such a committee. Ashok Mehta, G.V. Mavalankar, the Krishna Menon Committee, the Planning Commission, all pleaded for the setting up of a committee on public undertakings. Finally, in November 1963, the Lok Sabha formally set up the Committee on Public Undertakings, as per the recommendations of the Krishna Menon Committee.

The Committee on Public Undertakings consists of fifteen members — ten from Lok Sabha and five from Rajya Sabha. The members are elected according to the principle of proportional representation by means of a single transferable vote. The tenure of membership of this Committee is five years. One-fifth of the members, however, retire by rotation. The members to retire every year are those who have been longest in the office since their last election.

The functions of the committee are :

- to examine the reports and accounts of the enumerated public undertakings;
- to examine the reports, if any, of the Comptroller and Auditor-General on the public undertakings;
- to examine, in the context of the autonomy and efficiency of the public undertakings, whether the affairs of the public undertakings are being managed in accordance with sound business principles and prudent commercial practices; and
- such other functions vested in the Public Accounts Committee and the Estimates Committee in relation to the public undertakings as may be allotted to the Committee by the Speaker from time to time.

**Ministerial Control :** Whereas Members of Parliament can express their views and obtain general information relative to the public corporation, Ministers have been given extensive power to direct the public corporation in the public interest. Ministerial control over public corporations is not only necessary but is also desirable. Objectives of the public corporation cannot be separated from national objectives. In the final analysis, the success of any form of organisation is judged by achievement of national objectives. Thus, sound management standards and practices must be established within the context of broader national policy.

### Comparison of the Three Forms of Organisation—

**A.D. Gorwala's View :** Gorwala held the view that the departmental management was in many

ways a direct negation of the requirements of autonomy and militated against flexibility and initiative, that is, sound ‘State enterprise tradition’. It must, therefore, be a rare exception to be resorted to when dictated by the need of secrecy, strategic importance, etc. For discharge of Government functions related to broadcasting, irrigation, etc., Gorwala recommended the use of the corporation form. This form is bestsuited to substantially commercial functions as it has great flexibility.

**Estimates Committee’s View :** In the opinion of the Estimates Committee, the corporate form combined in it the advantages of suitability both for parliamentary control and internal autonomy. The Committee recommended that wholly Government-owned undertakings should ordinarily be organized in the form of statutory corporations. They should be organised in the departmental form only where justified by special reasons, e.g., for defence, strategic or security needs, or for purpose of economic control. The company form should be an exception to be used only for organisations of a specified nature, namely, where the Government had

- to take over an existing enterprise in an emergency,
- to launch an enterprise in association with private capital, or
- to start an enterprise with a view to eventually transfer it to private hands.

**Conclusion :** The supreme consideration underlying the choice of public corporations in preference to other forms of State enterprises, are autonomy and freedom of business management. Though freedom and autonomy are essential for the functioning of a corporation, the corporation cannot be made wholly free from responsibility to Parliament or from Ministerial control. They are accountable to Parliament at least on those matters which lie under the control, whether direct or indirect, of the Minister. Parliament is entitled to discuss not only questions relating to the general policies of the public corporations, but also the economy and efficiency of their administration.

The rationale behind the public corporation’s accountability to Parliament is that the latter is the custodian of the State’s finances and represents the shareholders, that is, the taxpayers.