



# ***PUBADPEDIA***

***Public Administration  
Current Affairs  
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***An initiative by  
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# 1. INTRODUCTION

## PRIVATISATION

### 1. Indian Railways opens operations for Private players.

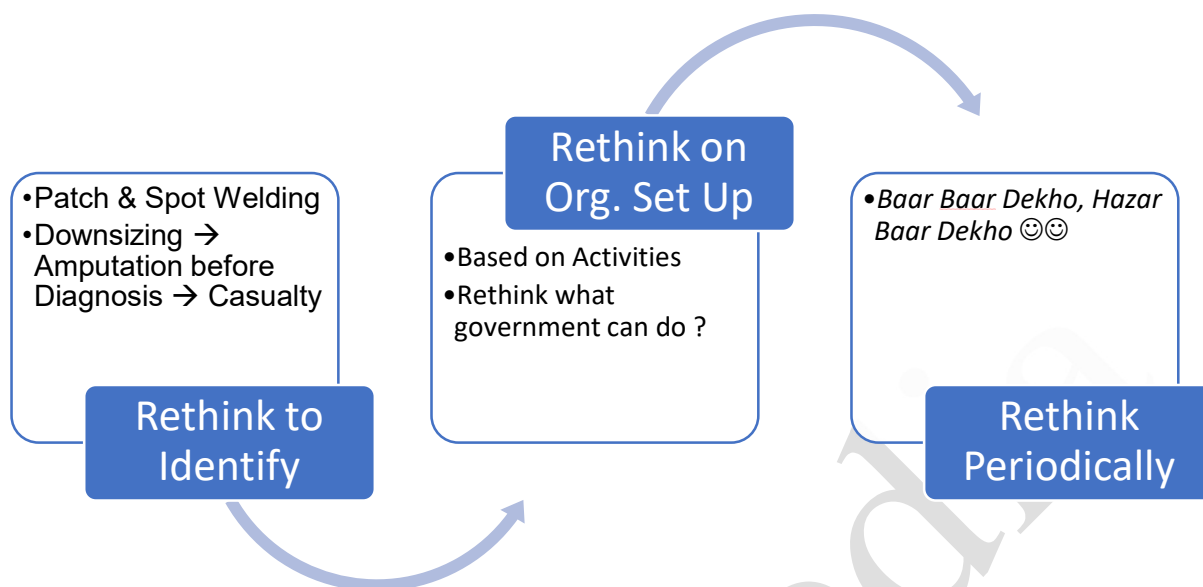
- *Wilson : 3Es = Public/Private*
- *Taylor, Fayol & Barnard : Didn't differentiate public and private*
- *Peter Drucker:*
  - Reform which is malfunctioning.
  - Management by Objective: Domination must be absent & Self-control be present.
  - Generic Management - 90% Public = Private. Only 10% varies.
  - 6 Sins of Public Organisations

<b>Simultaneous Multiplicity</b>	overburdened with different functions (Jurgen Habermas - Downfall of Legitimacy of state in backdrop of PCA)
<b>Dogmatism of Work</b>	reluctance to experiments
<b>Fat is Beautiful</b>	Over staffing, Parkinson Law (Criticism of Weberian Bureaucracy)
<b>Failure to learn from experience</b>	Single loop & Double loop learning absent in Public sector
<b>Lofty Objective</b>	Best Medical Care - Vague
<b>Belief in Immortality</b>	No hiring & firing - Perform or Perish

- **PCA:** Anthony Downs, Gordon Tullock, William Niskanen, Vincent Ostrom & Principal Agent Theory.
- **NPM:** Neo Taylorism, OECD Managerialism, Pollitt's Characterisation, Entrepreneurial Government.
- **Post NPM:** New Weberian State.

#### Arguments Against

- **Gulick & Urwick;** They propounded the idea of Single Executive because they were against committees which they believe, are like body which cannot be hurt and soul that cannot be destroyed → Fixing Responsibility is not possible. Railways Vs Private player <in case of unfortunate incident. Who will be responsible>
- Privatisation may not be the solution to increase efficiency as many other issues related to infrastructure are not dealt like curves in tracks.
- IRCTC can be an option also **Unity of Command (Fayol)** is possible.
- Drucker: Amputation without diagnosis is dangerous



## THINKERS

### 1) Gulick

- Revival of SAARC to deal with China: **Conflict Resolution by Co-Ordination**
- SAARC is a Regional grouping. So as per Gulick it is *Co-Ordination by committee*.
- Co-Ordination by Committee, Hierarchy, Idea.

### 2) Departmentalisation - Gulick:

- Departmentalisation led to **Ring Fencing**.
- Overall approach of the government on jurisdictions is missing.
- 2nd ARC - Similar organisations must be combined.
- Taylor - Division leads to Law of Diminishing.
- Riggs - Integration
- Delhi: Different agencies for different activities

### 3) CBSE Revised curriculum

MP Follett	Situational Leadership - Law of Situation
Leadership	Incrementalism
Simon	Non-Programmed decisions - extraordinary decisions
Mc Gregor	Theory X
Likert	System 2 - Benevolent Authority

## 2. ADMINISTRATIVE THOUGHT

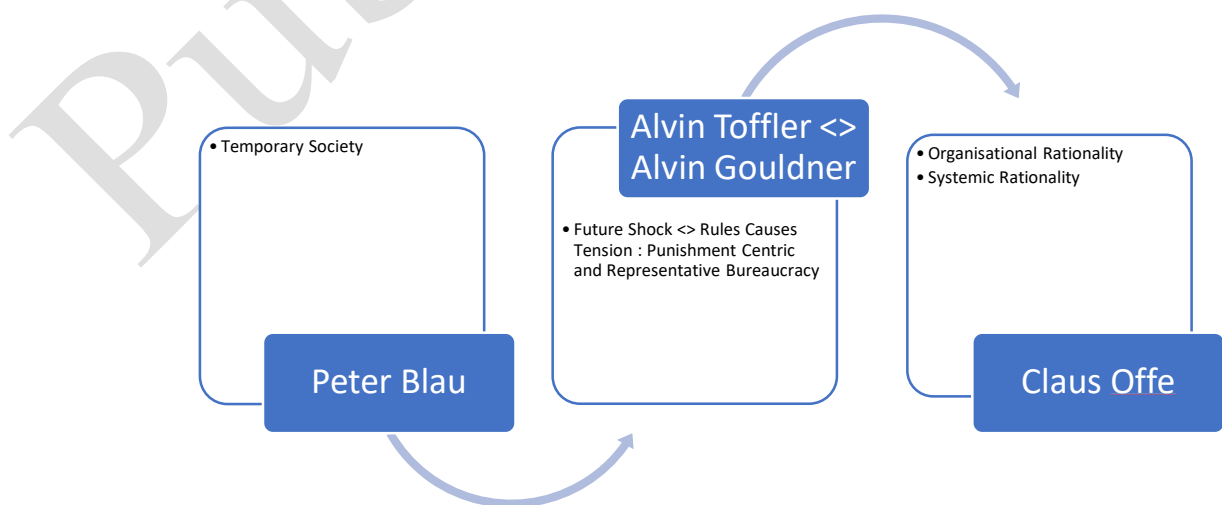
### 1. Vaccine deadline to cut RED TAPISM - ICMR

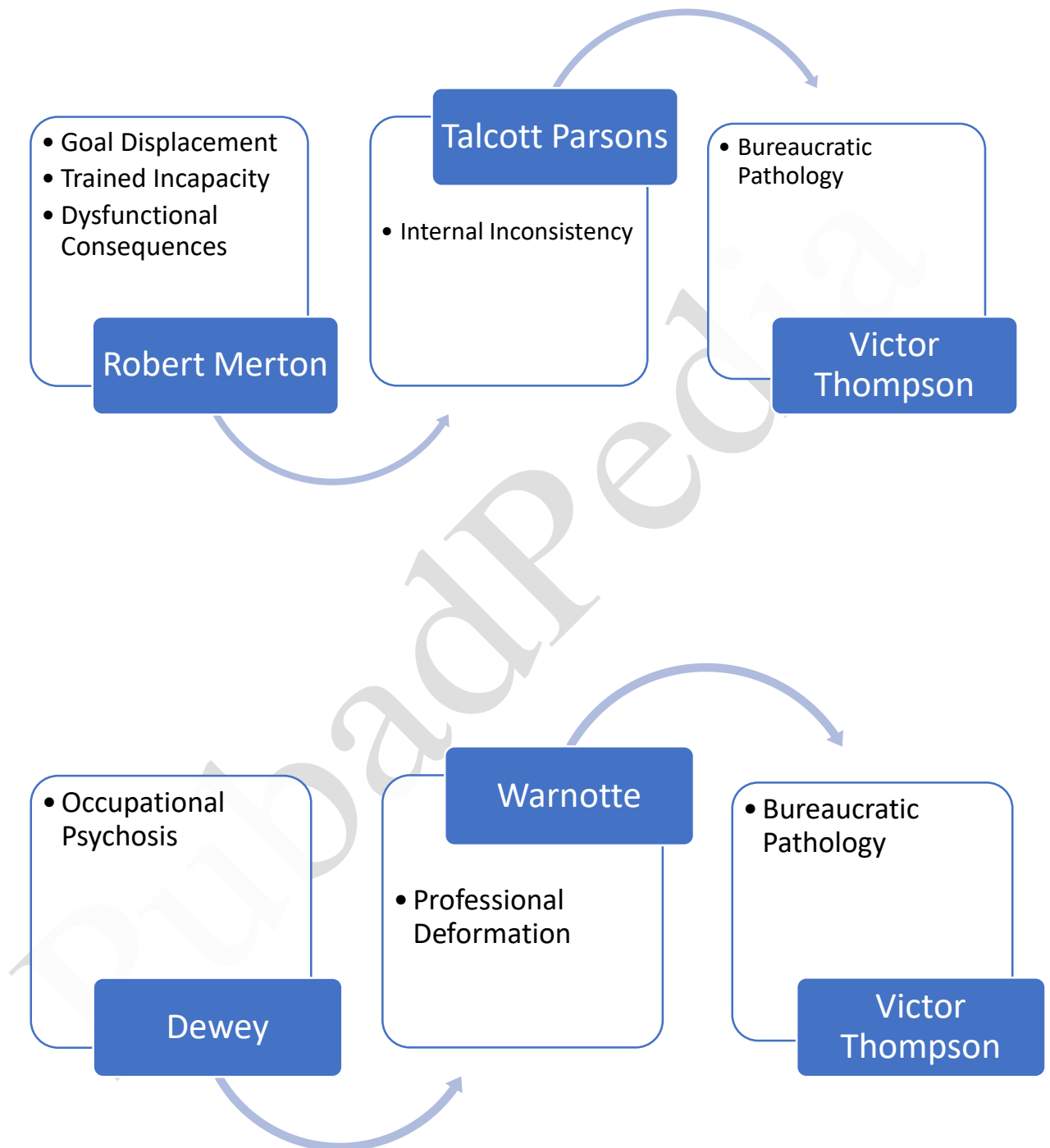
- Importance of TIME in administration.
  - Doubling of Farmers income by 2022.
  - Target of \$5 Trillion Indian Economy by 2025.
  - Piped Drinking water to all rural households by 2024 - Jal Shakthi Abhiyan.

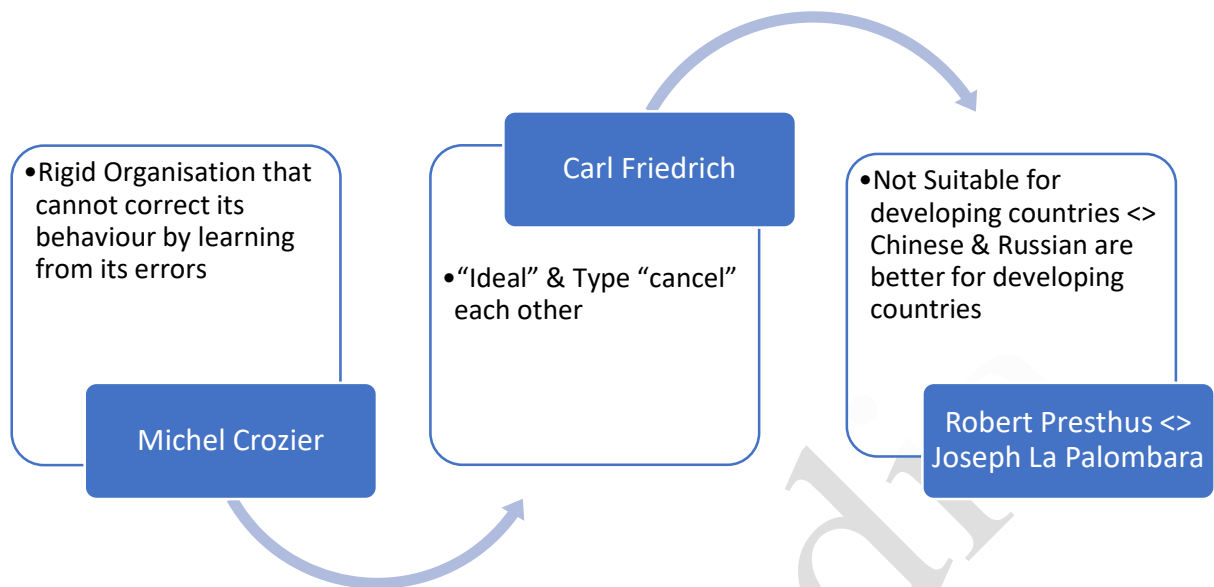
<b>Taylor</b>	<b>Time Study</b> as part of Scientific Management Principle - Efficiency
<b>Fayol</b>	<b>POCCC: Control</b> is effective if done with reasonable time followed by Sanction
<b>Neo Taylorism</b>	Set Target & give reward or punishment based on their work.
<b>Gulick</b>	<b>Time Factor</b> - Hall mark of State Craft. Time as Input, Output, Flow of event, Gap between Event & Management Policy.
<b>Barnard</b>	<b>Common Purpose</b> defined in terms of time & result.

- Major Criticisms of Bureaucracy:

Red Tapism	Trained Incapacity	Strataraison	Internal Inconsistency	New Despotism
Goal Displacement	Bureaucratic Pathology	Dysfunctional Consequences	Rigid Organisation	Temporary Society







## 2. Authority

- Context: **69 Chinese apps banned by Government.**
- Organisational Objective: Sovereignty, Security & Integrity of nation.
- Weber** - Power is enforcing will despite resistance. **Authority** is people accepting power as it has legitimacy.
- Follett & Elton Mayo - **Cumulative Authority** - MP: Sub ordinates should accept your authority.
- Simon - Authority is one of the means through which organisation man is made to conform to the organisational demands.
- Barnard- **Acceptance theory of authority.**

Barnard	Simon
“Zone of Indifference”	“Zone of Acceptance”
Magnitude depend on Contribution-Satisfaction Equilibrium	Magnitude depend on Sanction available to enforce the authority



### 3. ADMINISTRATIVE BEHAVIOUR

#### 1. Morale & Motivation

- **Context:** PM Narendra Modi visits Ladakh & met soldiers
- **Morale:**
  - Espirit De Corpse (Fayol - One of 14 principles)
  - Alexander H Leighton: Capacity of group of people to pull together persistently & consistently in pursuit of common goal.
  - It creates tone, climate & atmosphere of work.
  - Mental condition, attitude of individual/group.
- **Morale & Motivation**

Morale	Motivation
Group Concept	Individual Concept
Relation to Productivity varies	Relation to Productivity is Direct
Relation with motivation varies	Relation with morale is direct

- **Morale & Productivity**

Low Morale High Productivity Strict Rules, Regulation etc	High Morale High Productivity Employee Satisfied with Work/Environment
Low Morale Low Productivity No Rules, Regulation etc	High Morale Low Productivity Incompetent Leadership, Inadequate facilities, Ambiguity in Goals

- Morale & Efficiency:

Builds Pluralistic, Cumulative & Functional Aspects of Responsibility & Authority

Fusion  
Process  
Theory

Theory Y

Interaction  
Influence  
System  
(System 4)

Transactional  
Influence

## **4.ORGANISATIONS**

### **REGULATORY BODIES**

#### **1. One Nation One Voter Card**

- a. Law Ministry - Conduction of Election Rules
  - i. People 65 & above can also opt for Postal Ballots.
  - ii. **MP Follet - Situational Leadership - Law of Situation.**

#### **2. Delhi government to hire private firm to monitor news - REGULATION**

- a. There is **no regulator for Electronic media**.
- b. Task: To track & monitor news, fact checking & content creation.
- c. Need: Menace of Fake news on Social Media.

## 5. ACCOUNTABILITY AND CONTROL

- Linkage: MGNREGA - Social Audit - Accountability & Control
- **CIVIL SOCIETY:**
  - Jeffry Alexander: Civil Society is an inclusive umbrella structure referring to plethora of institutions outside state. (Community development model)

Taylor	<b>Management by exception</b> - state should intervene in developmental task only in exceptional cases. Let people govern themselves.
MP Follett	Participate democracy is superior to Representative democracy.
Mc Gregor	Theory Y & Transactional Influence - Cosmology - state should consider civil society's role in developmental process.
Likert	System 4 - Participate Management
Chris Argyris	<ul style="list-style-type: none"> <li>• Organisational learning</li> <li>• Double loop learning</li> <li>• Learning by experience</li> </ul>

- Public Policy perspective: How Civil Society is important?
  - Formulation:
    - Group Model
    - Plurality Model
  - Implementation:
    - Top Down Model
    - Bottom Up Model
    - Managerial Model
    - Inter Organisational Model
    - Policy action Model (Civil Society)
      - Action by Actor model - By Lewis & Flynn: Actors are made up of government & non-government entities.
      - Policy Action Continuum.
  - Monitoring:
    - Social Audit - Process of measurement, understanding, responding & improving.
- Development Administration:
  - Community Led development, Bottom Up development, Swaraj Model of Mahatma Gandhi

- Good Governance:
  - Context:
    - Aid conditionality - structural adjustment program of world bank.
    - Widening of Public Administration - Earlier limited only to Legislature, Executive, Judiciary. But now civil society is playing major role in widening public administration & implementing policies - Akshaya Patra.
    - Intensification of Democracy
- Functions of Civil Society: **M-SEWAA**
  - Mobiliser - Help to mobilise people towards any scheme (India against Corruption)
  - Service Provider
  - Educator - Educate people regarding rights, democracy etc.,
  - Watch Dog - Monitoring - Social Audit
  - Advocacy - for different policies - advocating institution of Lok Pal
  - Agitator - NGO's for environment - Aarey Forests
- Challenges:
  - Short circuiting of established procedures.
  - Power influence - sometimes even powerful than government.
  - Power imbalance
  - Dichotomy between Word of Volunteerism & Social Activism (Structural reforms like Association for Democratic Reforms).
  - Legitimacy challenges of some NGO's.
  - NGO Politics
  - NGO Funding - FEMA & FRCA Acts, Prevention of Money Laundering act
    - **Peter Drucker: Periodic revising of licence of NGO.**
  - Articulate a coherent vision for a just & equal coherent system.

## **6. PUBLIC POLICY**

### **1. India's Digital Policy**

- a. UNCTAD: World Investment Report - FDI to Asian Economies could drop by 45%.
- b. **What are the challenges in India that prevent full exploitation of its potential in digital services?**

#### **1. Three pending measures in digital services**

- i. Personal Data Protection Bill
- ii. E Commerce Bill
- iii. IT Act Amendments

#### **2. Contesting approaches & goals → FDI vs Domestic Markets**

#### **3. Challenges in Indo-US bilateral relationship → On Equalization levy**

## 7. DEVELOPMENT DYNAMICS

### 1. Enabling People to govern themselves:

- Systems theory: System is a combination of different sub systems like Economic, Social, Environmental, Health, Education.
- Global Governance of SDG's - One size fits all approach won't work similarly for all countries. What works for Tokyo may not work for Delhi.
- **Simon's Fact Value Premise:** Fact for decision making. Value for Goal setting.
- Vocal towards Local: Local Governance
  - Policy Implementation: **Street Level Bureaucracy Model** - Bureaucracy should be given proper flexibility. Participative Management.
- E F Schumacher in **Small is Beautiful: 1970's**
  - Component of Anti-Development Thesis to empower people.
  - Small appropriate technologies & polities is better than bigger.
  - Schumacher argues that modern economy is unsustainable. Natural resources are treated as expendable income which in fact should be treated as capital.
  - **Buddhist Economics:** Spiritual & Philosophical approach to the study of economics. It examines the psychology of the human mind and the emotions that direct economic activity, in particular concepts such as anxiety, aspirations and self-actualization principles.
  - **Gandhian Economics:**
    - It is synonymous with EF Schumacher's *Small is beautiful* & JC Kumarappa's *Gandhi's Planning Commission*.
    - **4 Pillars:**
      - **Means and Ends** - Human & local communities must be the means & ends also for human progress - Labour Laws.
      - **Local Governance**
      - **Trusteeship** - wealthy people would be the trustees of trusts that looked after the welfare of the people in general. CSR, Compassionate & Stakeholder capitalism
      - **Cooperative Capitalist Enterprise** - alienation of workers should be reduced.
  - Elinor Ostrom - Principle of Self-Governing Communities.
  - *District Collector* should not work like **Deliverer** but as an **enabler**. Government should be as Paternalistic - Benevolent Authority - System 2 of Likert.

## **8. E - GOVERNANCE INITIATIVES**

1. Maharashtra - Maha Jobs portal for unemployed local youth.
2. Recently, the Ministry of Human Resource Development (MHRD) has launched **India Report on Digital Education, 2020**.
  - i. **DIKSHA Platform**
  - ii. **SWAYAM Portal** – Classes for students from class 9 till post-graduation free of cost.
  - iii. **Swayam Prabha TV Channel**
  - iv. **NPTEL** - National Programme on Technology Enhanced Learning (NPTEL) is a project of MHRD initiated by seven Indian Institutes of Technology (Bombay, Delhi, Kanpur, Kharagpur, Madras, Guwahati and Roorkee) along with the Indian Institute of Science, Bangalore in 2003, to provide quality education to anyone interested in learning from the IITs.
  - v. **Social Media Interface for Learning Engagement (SMILE)** in Rajasthan.
  - vi. **Project Home Classes** in Jammu.
  - vii. **Padhai Tunhar Duvaar** (Education at your doorstep) in Chhattisgarh.
  - viii. **Unnayan Initiatives** in Bihar.
  - ix. **Mission Buniyaad** in NCT of Delhi.
  - x. **Kerala's own educational TV channel (KITE VICTERS)**.
  - xi. **E-scholar portal** as well as free online courses for teachers in Meghalaya
  - xii. **MOOCS** – Massive Open Online Courses



## 9. FINANCIAL ADMINISTRATION

- GST Revenues plunge 41% in first quarter & stood at just above 90,000 crores.
- **Fiscal Council:**
  - Problems with existing system of Financial Management:
    - i. Fiscal Consolidation - Fiscal Deficit targets under FRBM "Escape clause." {Targets are not realistic}
    - ii. Parliamentarians lack technical expertise & secretarial assistance resulting in lack of financial accountability of executive.
    - iii. CAG role is of Ex post analysis.
    - iv. Article 293(3) regulates borrowing of state government & no such regulation on central government.
    - v. Lack of coordination between GST council & Finance Commission {Gulick, Barnard}
    - vi. Lack of Independence & nonpartisan analysis.
  - Solutions:
    - i. D K Srivastava Committee recommended formation of Fiscal Council.
    - ii. FRBM Review Committee under supervision of N. K. Singh also recommended.
    - iii. 13th & 14th Finance Commissions also endorsed setting up of finance commission.
    - vii. Fiscal Council with a chairman & 2 members must be an autonomous body under Ministry of Finance.
    - viii. Should be an independent body.
    - ix. Work as ex ante body & analyse fiscal performance.
    - x. Independent forecast - budget estimates so that conflict of interest can be avoided.
    - xi. Analysis of sustainability of finances.
    - xii. Check on government borrowing.
    - xiii. **International Experience:** UK - Office of Budget Responsibility.  
USA - Congressional Budget Office.
  - Critical Analysis:

Favour:

    - i. Parliamentary expertise for accountability
    - ii. Co ordination
    - iii. Borrowing check
    - iv. EX ante analysis
    - v. Strengthens fiscal policy of government by providing real data

Against:

- i. We already have FRBM Act - problem lies in parliamentarians who lack demand of accountability.
- ii. We have bodies like RBI & NSO for forecasting.
- iii. Dilution of accountability of finance ministry.

➤ Way Forward:

Strengthen CAG with Ex ante power in its working as independent & constitutional body.

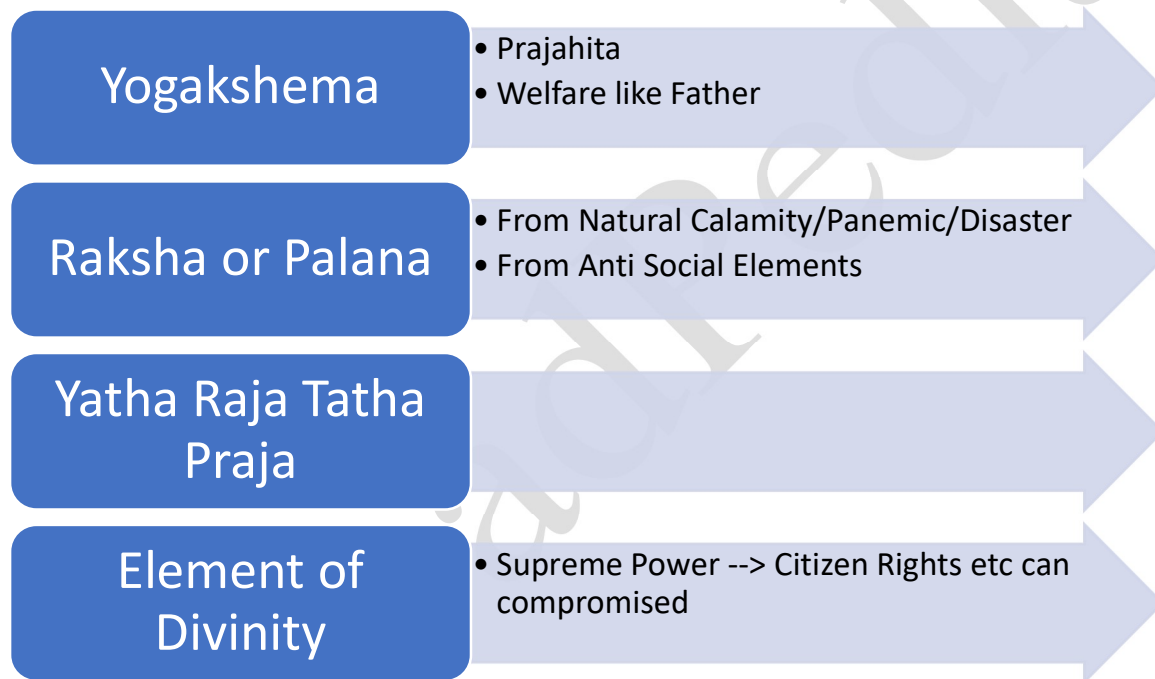
## 10. EVOLUTION OF INDIAN ADMINISTRATION

### 1. Telangana Secretariat Demolition

IOT usage in new secretariat being constructed in Telangana.

**Kautilya: Yogakshema** -Welfare of Citizens Vs Developmental activity in times like COVID, it is welfare of citizens that must be the priority. Welfare of leader is only after welfare of people.

### 2. Relevance of Kautilya Arthsashtra during COVID19 pandemic



## **11. PHILOSOPHICAL & CONSTITUTIONAL FRAMEWORK OF GOVERNMENT**

### **1. Punitive Constitutionalism**

Punitive constitutionalism seeks to submerge individual rights to a grand yet often undefined national project by holding that an individual may be stripped of their rights if they do not do their bit to contribute to this project.

Recent cases of **Punitive Constitutionalism**

- ➔ Criminalising begging
- ➔ Laws barring political participation to those who have more than two children barring those people from election who lack formal education
- ➔ Penalising Women for third children

### **2. Rights perspective of Tik Tok Ban**

- a. Under Section 69A of Information Technology Act 2000, government can ban people from using Applications which are threat to privacy & security, integrity of nation.
- b. Anuradha Bhasin Vs UOI, 2020: Freedom of trade & Freedom of speech and expression both are linked to internet as it acts as a medium.
- c. Shreya Singhal Case : Supreme court upheld validity of 69A but not 66A section of IT Act 2000.

## **12. PUBLIC SECTOR UNDERTAKINGS**

### **1. Government nod for urgent defence procurements**

- a. Enhancing **Efficiency** by reducing **Red Tapism** through cut shorting procurement cycle.
- b. Defence Acquisition Council gave permission to Army to procure weapon systems worth 300 crore without any further clearances.

The Defence Acquisition Council is the **highest decision-making body** in the Defence Ministry for deciding on new policies and capital acquisitions for the three services (Army, Navy and Air Force) and the Indian Coast Guard.

The **Minister of Defence** is the **Chairman** of the Council.

It was formed, after the Group of Ministers recommendations on 'Reforming the National Security System', in **2001, post Kargil War (1999)**.

### **PubAdPedia Input → DEFENCE PUBLIC SECTOR UNDERTAKINGS:**

There are nine Central Public Sector Undertakings under the administrative control of the Department of Defence Production, Ministry of Defence.

- Hindustan Aeronautics Limited (HAL)...
- Bharat Electronics Limited (BEL)
- Bharat Dynamics Limited (BDL)
- Bharat Earth Movers Limited (BEML)...
- Mishra Dhatu Nigam Limited (MIDHANI)
- **Mazagon Dock Shipbuilders Limited (MDL)**
- Garden Reach Shipbuilders and Engineers Limited (GRSE)
- Goa Shipyard Limited (GSL)
- Hindustan Shipyard Limited (HS)

## 13. UNION GOVERNMENT & ADMINISTRATION

### 1. Plea Bargaining

- a. Plea bargaining refers to a person charged with a criminal offence negotiating with the prosecution for a lesser punishment than what is provided in law by pleading guilty to a less serious offence.
- b. It is present in **Pre-Trial stage**. Accuse will plead guilty and thus agreement between Accused and Prosecutor.
- c. It is introduced in 2006.
- d. 142nd Law Commission talks indirectly about it & 154th Law Commission recommended it.
- e. CrPC: Section 265A to 265L are added through amendment in 2005.
- f.

Advantages	Disadvantages
Remove uncertainty of legal process	Violates <b>Article 20: No self-incrimination</b> - Marginalised people might turn to accused & then convicted.
Reduce number of Under trials as occupancy rate is 69% as per Prison statistics report of NCRB.	Appeal mechanism is absent.
Provides benefit to both parties.	Lack of Awareness, This is only for Criminal cases as state is the party.

### 2. Evolution of Indian Judiciary

- i. The Constitution of India came into force 70 years ago, on January 26, 1950. Its enactment was an ambitious political experiment as it sought to implement universal adult franchise, **federalism** in a region consisting of over 550 princely states, and social revolution in a society that was divided on the lines of caste, religion, etc.
- ii. However, it was equally a unique achievement in terms of constitutional design which has been under the guardianship of Indian Judiciary. Evolution of Judiciary and how it interpreted the Constitution can be understood in the following phases:
  - **Phase One: Textualist Approach**
    - In its early years, the Supreme Court adopted a textualist approach. It focused on the **literal meaning of the words** as mentioned in the Constitution.
    - For example, in **A.K. Gopalan v. State of Madras (1950)** case, the Supreme Court interpreted the Fundamental Rights under Part III.

- In this case, the leaders of the Communist Party of India claimed that preventive detention legislation was inconsistent with Articles 19 (the right to freedom), 21 (the right to life) and 22 (the protection against arbitrary arrest and detention).
- The Supreme Court upheld the validity of preventive detention and decided that each of those articles covered entirely different subject matter and were to be read as separate codes rather than being read together.
- At that time, the most controversial questions pertaining to Indian Constitution had been whether there are any limitations on Parliament's power to amend the Constitution, especially Fundamental Rights.

However, the Court in its early years read the Constitution literally, concluding that there were no such limitations.

➤ **Phase Two: The Structuralist Approach**

- The Supreme Court began exploring other methods of interpretation. Appeals to the text of the Constitution were gradually overtaken by appeals to the Constitution's overall structure and coherence.
- In the leading case of **Kesavananda Bharati v. State of Kerala (1973)**, the Supreme Court concluded that Parliament's power to amend the Constitution did not extend to altering its **Basic Structure**.
- The Supreme Court in **Maneka Gandhi v. Union of India (1978)** case reversed its earlier stand that it took in A K Gopalan case.
- In this case, the Court conceived of the Fundamental Rights as a cohesive bill of rights rather than a miscellaneous grouping of constitutional guarantees.
- The **Right to Life** was incrementally interpreted to include a wide range of rights such as clean air, speedy trial, and free legal aid. This paved the way for the Supreme Court to play an unprecedented role in the **governance of the nation**.
- In order to implement this, the Supreme Court of India, pioneered the **Public Interest Litigation (PIL)** thereby throwing upon the portals of Courts to the common man.
- PIL has today acquired unprecedented legitimacy and binding power and is acknowledged as a powerful weapon to combat governmental lawlessness and social oppression.

➤ **Phase Three: Challenge of Heterogeneity**

- The Supreme Court's interpretive philosophy turned far more **result-oriented**, but it lacked thorough reasoning of the issues. Reasons for this:
  - The Supreme Court which at its inception began with **eight judges** grew to a sanctioned strength of **34 judges**.
  - However, with the increasing burden of cases, it began to sit in panels of two or three judges, effectively transforming it into a **"polyvocal" group**.
- Further, **Judicial Activism** helped Indian Judiciary to become one of the most powerful judiciaries in the world. However, the **Indian Judiciary has been alleged of Judicial Overreach** (interfering in the domain of executive and

legislature), nepotism and protecting itself of any reform under the guise of independence of the Judiciary.

- This can be reflected in cases like rendering the **National Judicial Appointment Commission** (99<sup>th</sup> Constitutional Amendment) as ultra vires or **Master of the Roster controversy**.

➤ **Phase Four: Social Revolution and Transformation**

- Recently, the Supreme Court has passed many judgments recognising the individual's rights and thereby ushering an era of social transformation. For example:
  - **Lifting the ban on entry of women (aged 10-50) inside Sabarimala Temple:** The Supreme Court held that "Devotion cannot be subjected to gender discrimination" and removed a ban that prevented women between 10 and 50 years of age from entering Kerala's Sabarimala temple.
  - **Decriminalisation of Homosexuality:** Supreme Court in 2018 decriminalized homosexuality stated under **Section 377 of the Indian Penal Code**.
  - **Adultery Not A Crime:** The Supreme Court unanimously struck down a 150-year-old law that considered adultery to be an offence committed against a married woman by another man. Defined under **Section 497 of the IPC**, adultery law came under sharp criticism for treating women as possessions rather than human beings.
- The **Supreme Court declared Section 497 as unconstitutional**. Adultery is no longer a crime but if it leads to someone committing suicide, the act will be treated as a crime - abetment to suicide.

Apart from these, Indian Judiciary has also taken reforms that sought to instil transparency in Indian judicial system like **live streaming of Supreme Court** and **bringing of CJI under RTI**. However, Indian Judiciary should strive to strike a balance between transparency & accountability and maintaining the independence of the Judiciary.



### 3. Contempt of Court

**Context:** Recently, the Supreme Court of India Suo Motu initiated the proceedings for criminal contempt of court against lawyer-activist Prashant Bhushan for his tweet criticising the current Chief Justice of India and the role of some Chief Justices of India in the last six years.

- **Constitutional Provisions:**

<b>Article 129:</b>	Grants Supreme Court the power to punish for contempt of itself.
<b>Article 142(2):</b>	Enables the Supreme Court to investigate and punish any person for its contempt.
<b>Article 215:</b>	Grants every High Court the power to punish for contempt of itself.

- However, the expression '**contempt of court**' *has not been defined by the Constitution*.
- **Contempt of Courts:**
  - As per the Contempt of Courts Act 1971, contempt refers to the offence of showing disrespect to the dignity or authority of a court. The Act divides contempt into civil and criminal contempt.
    - **Civil contempt:** It is wilful disobedience to any judgment, decree, direction, order, writ or other processes of a court or wilful breach of an undertaking given to the court.
    - **Criminal contempt:** It is any act which may result in:
      - Scandalising the court by lowering its authority.
      - Interference in the due course of a judicial proceeding.
      - An obstruction in the administration of justice.
  - The Contempt of Courts Act 1971 was amended in 2006 to include the defence of truth under Section 13 of the original legislation. Implying that the court must permit justification by truth as a valid defence if it is satisfied that it is in the public interest.
  - Further, innocent publication and distribution of some matter, fair and reasonable criticism of judicial acts and comment on the administrative side of the judiciary do not amount to contempt of court.

Favour	Against
<p>Authority &amp; Responsibility must commensurate each other - <b>Fayol</b></p> <p>SC must have power to implement. Authority brings conformity to organisational objective - <b>Barnard</b></p>	<p>Asynchronous with Democracy &amp; Fundamental Right - Article 19(1)(a)</p>
<p>Accountability can be brought from Judiciary.</p> <p>Independence - Lack of independence makes Judiciary to rely on Executive &amp; Legislature - Article 142</p>	<p>Subjectivity is present:</p> <ul style="list-style-type: none"> <li>No Standard Operating Procedure - Absence of <b>Taylorism</b></li> <li>Wide connotation - lack of clarity - <b>Wilson</b></li> <li>Justice V R Krishna Ayer - Contempt of court is vague &amp; wandering Jurisdiction</li> </ul>
<p>UK didn't remove Scandalising phenomenon.</p>	<p>Absent in USA, UK. It is kind of Monarchical Exercise. British Legacy is visible.</p>

- **274th Law Commission Report (Justice B S Chauhan):** Review of Contempt of Court Act 1971
  - No need to remove Contempt of Court.
  - Inbuilt safeguards are present.
  - Subordinate court authority may deteriorate if removed.
  - Pendency of cases relating to contempt of court are still going on.
  - Retrospective effect cannot be possible as per Article 20.
- **Punishment for Contempt of Court:**
  - The Supreme Court and High Courts have the power to punish for contempt of court, either with simple imprisonment for a term up to six months or with fine up to Rs.2,000 or with both.
  - In 1991, the Supreme Court ruled that it has the power to punish for contempt not only of itself but also of high courts, subordinate courts and tribunals functioning in the entire country.
  - On the other hand, High Courts have been given special powers to punish contempt of subordinate courts, as per Section 10 of the Contempt of Courts Act of 1971.

## **14. STATE GOVERNMENT AND ADMINISTRATION**

### **1. High Court for Puducherry**

- a. High financial burden: According to the Constitution, article 229(3), when a common High Court is established for more than one State, administrative expenses have to be paid only from the consolidated fund of the 'State' in which the principal seat of the High Court is situated. However, this provision is breached with respect to Puducherry which shares the disproportionately exorbitant expenses with Tamil Nadu. Administrative expenses of a High Court at the Union Territory shall be drawn from the 'Consolidated fund of India' under the Constitution.
- b. Supreme Court has observed that the Judge strength must be increased from the existing ratio of 13 per 10 lakhs people to 50 Judges for 10 lakh people. However as of 2016, the ratio is only 12 judges for one million population. This ratio at Puducherry can be increased if a separate High Court with four to five judges is established.
- c. The number of cases filed and disposed of at Puducherry in 2010 is four times higher than the numbers at Sikkim, Manipur and Goa (with High Courts) put together.
- d. The presence of the Constitutional Court in the capital city acts as a check on the executive and legislature.
- e. The exercise of safeguarding fundamental rights involves travel, time and expenses.
- f. A High Court for Puducherry will also strengthen voices seeking Statehood. The Constitution enabled establishment of a legislature and Council of Ministers for certain Union Territories with the intent of providing them Statehood gradually.
- g. Out of the seven Union Territories originally placed under Article 239A, all except Puducherry were granted Statehood by 1989. Most Union Territories under 239A at least had Benches of High Courts when they attained Statehood. Constitution permits Puducherry to have its own High Court under Article 241.
- h. However, there is a popular notion that the establishment of a Bench of High Court is easier and economical.

# 15. DISTRICT ADMINISTRATION

## 1. IAS as District Magistrate at Implementation Level

- Ramsay MacDonald - District Collector is like Tortoise on whose back stood the Elephant of Indian Administration.
  - Omnipotent, Omnipresent, Omniscient.
  - Overburdened Bureaucracy.
  - District Collector - Riggs Fused Society: One structure performing multiple functions

### • Functions of DM:

<b>Miscellaneous Functions</b>	<ul style="list-style-type: none"> <li>▪ Election - Returning Officer / District Election Officer</li> <li>▪ Census - District Census Officer</li> <li>▪ Protocol - Chief Protocol Officer</li> <li>▪ Mining Act - Chief Mining Officer</li> <li>▪ Licensing - Arms Act - License to Individual</li> <li>▪ Superintendence over District NIC centre</li> <li>▪ Civil Defence</li> <li>▪ Crisis Administrator:               <ul style="list-style-type: none"> <li>• COVID 19</li> <li>• Under Famine code DM has power</li> <li>• External Aggression - under Defence of India Rules</li> </ul> </li> <li>▪ Co-Ordinator:               <ul style="list-style-type: none"> <li>• Public Work Department</li> </ul> </li> <li>▪ Personnel Management:               <ul style="list-style-type: none"> <li>• Panchayat Human Resources</li> </ul> </li> <li>▪ Public Relation Officer</li> <li>▪ Municipal Administrator</li> <li>▪ Friend, Philosopher, Guide of Local Government</li> </ul>
<b>Development Functions</b>	<ul style="list-style-type: none"> <li>▪ Oversight Functions: Health, Education</li> </ul>
<b>Regulatory Functions (Non-Development)</b>	<ul style="list-style-type: none"> <li>▪ Large in number than development functions - <b>Internal inconsistency</b></li> <li>▪ <u>Law &amp; Order:</u> <ul style="list-style-type: none"> <li>• Criminal Justice System - Police, Judiciary &amp; Jail. (Control of DM - Police act 1861) SP in assistance of DM.</li> <li>• Judicial Functions: CrPC               <ul style="list-style-type: none"> <li>◦ Section 129-132: Prevention of unlawful assembly.</li> </ul> </li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ Section 133-143: Prevention of Public Nuisance</li> <li>○ Section 144: order to prohibit assembly of 4 people or more</li> <li>• DM can inspect the jail. Role in Parole, Mercy petition, premature release.</li> <li>▪ <u>Revenue:</u> <ul style="list-style-type: none"> <li>• Land Acquisition Officer - Land records</li> <li>• Enforce Stamp act</li> <li>• Collect Land revenue</li> <li>• Payment of rehabilitation compensation</li> <li>• Zamindari compensation payment</li> </ul> </li> <li>▪ <u>Social:</u> <ul style="list-style-type: none"> <li>• Food &amp; Civil supplies - Essential Commodities Act</li> <li>Inspection of Public Distribution System</li> </ul> </li> </ul>
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## **16. PERSONNEL ADMINISTRATION AND CIVIL SERVICES**

### **1. COMMIT – A new training programme for State Government officials**

- i. A new training programme Comprehensive Online Modified Modules on Induction Training (COMMIT) for State Government officials has been launched.
- ii. The objective of this training programme is to improve the **public service delivery mechanism** and provide **citizen centric administration** through capacity building of officials who interact with the citizens on day-to-day basis.
- iii. Need for COMMIT:
  - a. The COMMIT programme, developed by DoPT in collaboration with United Nations Development Programme (UNDP), will supplement the existing 12-Day ITP launched in 2014-15 for newly recruited state Government officials to develop in them Generic & Domain specific competencies.
  - b. The programme will cover approximately 74,000 State Government officials in the financial year 2017-18.
  - c. It will be of 28 hours duration which will include e-Modules for 20 hours and face-to-face training for 8 hours. The 20 hours e-training would be imparted through specifically developed 12 Generic and 3 Domain specific e-Modules.
  - d. The modules on soft skills will be delivered as e-Modules & through face-to-face training and the domain modules will be covered through e-Modules only. The programme will be implemented through State Administrative Training Institutes (ATIs).
  - e. COMMIT will be launched in 6 States of Assam, Haryana, Maharashtra, Tamil Nadu, Telangana and West Bengal initially on pilot basis during the current financial year 2017-18 and within next year it is expected to cover all India level.

## 17. RURAL ADMINISTRATION

### 1. Pradhan Mantri Garib Kalyan Anna Yojana

- a. Context: Government announced Free Food Grain scheme till November 2020.
- b. It is to ensure that poorest of the poor is not left hungry.
- c. Through Targeted Public Distribution System (TPDS) covered under National Food Security Act 2013.
- d. Linkage: Food Security dimension + SDG 2 (No Hunger)

### 2. Technology + Panchayat: Kerala village in Thrissur deploys robot nurses for patient care named ASHA (Meaning Hope). It is the first gram panchayat in the country to receive National award for Public Administration. It's Primary health centre also received ISO:9001 Certification.

### 3. Pradhan Mantri Garib Kalyan Rojgar Abhiyan Ministry of Rural Development

<i>MGNREGA</i>	<i>PMGKRA</i>
Right to work is legal Right	Not legally binding on Administration
Throughout Year	Only during COVID <b>Situational Leadership (M P Follett)</b>
Unemployment Allowance	No such provision
100 days - Throughout the year	125 days - Due to COVID
Nation wide	Only 116 Districts

#### Issues:

- No Criteria of selecting districts. (Aspirational districts - NITI Aayog guidelines)
- What is Skill Mapping ? (Already done in MGNREGA)

<b>Taylor</b>	Classification of Work leads to Law of Diminishing Co-ordination
<b>Riggs</b>	Development should be through Integration. Complexities in diffraction.

### 4. Pune Zilla Parishad bid to bridge digital divide for school education. It appealed to citizens to donate old smartphones & laptops to help poor students attend online classes.

### 5. MGNREGA: 1.4 lakh families reach annual limit of the scheme.

- Suggestions: By MKSS
  - Increase household limit. (Now only 1 person)
  - Increase work for 150 days a year.
  - Increase in wage.

## **18. URBAN LOCAL GOVERNMENT**

### **Smart City Mission:**

2. The Government of India launched the Smart Cities Mission (SCM) in 2015, to improve ease of living of citizens and create cities that are ahead of the curve in decision making and problem solving.
3. Its focus is on sustainable & inclusive development.
4. It will be operated as a *Centrally Sponsored Scheme*.
5. Strategic components of **Area Based development** approach are:
  - i. City Improvement
  - ii. City Renewal
  - iii. City extension – Greenfield Development
  - iv. Pan city initiative in which smart solutions are applied covering large parts of cities.
6. Special Purpose Vehicle will be created for the implementation of scheme.
7. Every smart city will have a Smart City Centre with integrated Command & control centre. This SCC architecture will have IoT devices like Sensors, GPS equipment, cameras.
8. ISSUES:
  - i. 5151 projects worth 2 lakh crore had been identified in 100 cities. 27000 crore worth completed & 1.6 lakh crore worth tendered.
  - ii. Out of total projects sanctioned since 2015, only 1.18% of projects are health related.



## 19. LAW & ORDER ADMINISTRATION

### 1. Custodial Deaths in Tamil Nadu

Kautilya	Principle of Dharma - State Administration - Rule of Law
Mughal	Subhadar - Judiciary
British	Criminal Justice System

- **Data:**

- a. NHRC - 40% of cases belong to custodial deaths.
- b. Malimath Committee, 2003 - Codify Rights of Accused
  - i. There must not be **Formalism - RIGGS**.
  - ii. Constitutional Formalism: Article 20 & Article 22.
- c. Law Commission report 273: Ratify UN Convention against Torture (**India signed but didn't ratify**) & Pass Prevention of Torture Bill 2017.
- d. 1727 Custodial deaths from 2000 - 2018 & only 26 are convicted.
- e. NCRB 2017 - 100 custodial deaths in 1 year & not even single person has been convicted.
- f. Judiciary - Evidences brought through 3rd degree torture is not accepted.
- g. Criminal Act by Law enforcement agency itself is dangerous as it lacks transparency (Lawyers Vs Police in Delhi)
- h.

Kerala Model	Police Act 1961 - Onus is on Police Administration
Telangana Model	Person suffering from any health issue must be taken to hospital & is police responsibility.

### Police Reforms & Crucial Judicial Actor:

- a. Judiciary intervention is the hope.

- b. **Judgements:**

Joginder Kumar Vs State of UP {Human Right Violation}	Secure <b>Right to Life &amp; Right to Know</b> in context of any state action.
D K Basu Vs State of West Bengal {Human Right Violation}	Inform friends and family in the event of being taken into custody.
Prakash Singh Vs Union of India {Police Reform}	Legislation to Govern police forces.
Raghubir Singh Vs State of Haryana {Custodial Violence}	Deeply disturbed by Police Torture.

**" The Guardians of Law gore Human Rights to death. "**

- c. Judiciary incorporating scientific investigations: Narcoanalysis, video recording of investigations, installations of CCTV's

- d. Problems:
  - i. Implementation - Lack of money & power
  - ii. Despite Criminal laws being struck down as unconstitutional, they are enforced by local police in various parts of the country.
- e. **Bad Apple Theory** - Put onus in entire Police Administration.
- f. Police are not accountable to Constitutional court but to Judicial magistrate level.

## 2. Police Administration

- Problems of Police:

<b>Goal clarity</b>	<ul style="list-style-type: none"> <li>▪ Accountability problem: Contractual Constitutional Paradigm is missing.</li> <li>▪ <i>Committed Bureaucracy</i>: Earlier to Policy; Now to Political Executive (Politoxication).</li> <li>▪ Standard Operating Procedure is missing. <b>Taylor - There should be standardisation of work.</b></li> <li>▪ Cutting Edge Functionaries: Lethargy in filing FIR - Under reporting, Improper Training.</li> </ul>
<b>Role clarity</b>	<ul style="list-style-type: none"> <li>▪ Lack skills</li> <li>▪ No distinction between Core &amp; Non-core functions</li> <li>▪ Para forces, Armed forces are getting more priority compared to Police forces.</li> </ul>
<b>Infrastructure</b>	<ul style="list-style-type: none"> <li>▪ Lack of State of art weapon - Technology</li> <li>▪ Forensic Labs absent</li> <li>▪ Bureau of Police Research &amp; Development Study of 2017: Ratio of Vehicles to Police officials - 10.13:100</li> <li>▪ Communication - Lack of Telephone lines</li> </ul>
<b>Training</b>	<ul style="list-style-type: none"> <li>▪ Constable training is devoid of Communication &amp; Ethics, Aptitude &amp; Attitude, Emotional Intelligence.</li> <li>▪ It is Reactive &amp; not Proactive.</li> <li>▪ No training in Soft skills like leadership communication. Mid-career training not linked to career progression(Paid holiday)</li> </ul>
<b>Structural issues</b>	<ul style="list-style-type: none"> <li>▪ Dual Accountability: Police Act 1861 Vs Commissionerate System</li> <li>▪ Long Tail End: 87% of Police belong to Constabulary Position.</li> <li>▪ Top Heavy System - IPS officers</li> <li>▪ Medium Level - Less SI &amp; SHO officers</li> <li>▪ Promotion of Constables</li> <li>▪ Secretary of Home Affairs is not IPS. Hierarchy is filled with IAS officers.</li> <li>▪ United Nations: 222 police personnel per 1 Lakh population. But in India we have 108.</li> </ul>

Working Conditions: 90% of police personnel work more than 8 hours. 73% have no holiday on weekend. No incentives.

### 3. Citizenship Amendment Act Protests

#### a. Constitutional Provisions:

1. Right of Protestors under Article 19.
2. Right of Police - Reasonable restrictions to freedom.

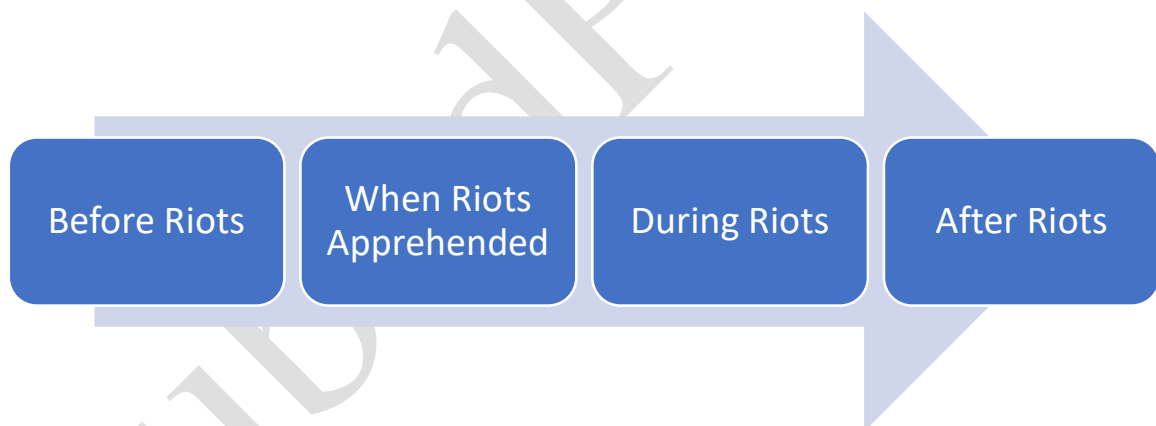
#### b. CrPC:

1. Section 129-132 - Dispersion of assembly through force
2. Section 130 - force should be last resort

#### c. IPC:

1. Section 141-158 - Unlawful activities
2. Section 146 - Every member is found to be guilty if even one person uses violence in an unlawful assembly.

### 4. Riot Management - 2nd ARC - Public Order



#### • **Public Order Management**

##### 1. Measures to be taken during peace time:

- i. The administration should be responsive, transparent, vigilant and fair in dealing with all sections of society. Initiatives such as peace committees should be utilised effectively to ease tensions and promote harmony.
- ii. The internal security plan/riot control scheme should be updated periodically in consultation with all stakeholders and in the light of previous episodes. The role of all major functionaries should be clearly explained to them.
- iii. A micro analysis should be carried out in each district to identify sensitive spots and this should be regularly reviewed and updated.

- iv. The intelligence machinery should not slacken during normal times and credible intelligence should be gathered from multiple sources.
- v. Regulatory laws such as the Arms Act, 1959, Explosives Act, 1884 and Municipal Laws related to construction of structures should be enforced rigorously.
- vi. Public agencies should follow a **zero-tolerance strategy** in dealing with violations of laws. It may result in **Broken Window syndrome**.

2. **Measures to be Taken When an Outbreak of Riot is Apprehended:**

i. **Security Proceedings**

- a. The use of preventive measures in a planned and effective manner needs to be emphasized. Training and operational manuals for both Executive Magistrates and police need to be revised on these lines.
- b. Regular supervision and review of these functionaries by the DM and the SP respectively should be done to focus attention on effective use of these provisions. For this purpose, a joint review on a periodic basis by the DM and SP should be done.

ii. **Addressing Property Disputes to Prevent Disruption of Public Order**

- a. An Explanation may be inserted below Section 145 of the Code of Criminal Procedure clarifying that when from the evidence available with the Executive Magistrate it is clear that there is an attempt to dispossess a person or where a person has been illegally dispossessed of his property within sixty days of filing the complaint and that such acts cause a reasonable apprehension of a breach of the peace, such magistrate can pass an order contemplated in sub- section (6) of the aforesaid Section notwithstanding pendency of a civil case between the parties involving the same property.
- b. A time frame of six months may be stipulated for concluding the proceedings.
- c. Specific but indicative guidelines may be issued by the Ministry of Urban Development to the State Governments to lay down the minimum standards for maintenance of land records in urban areas including municipal ward maps so as to minimize possibility of disputes about possession and boundary of immoveable property.
- d. Detailed guidelines already exist in almost all states to periodically update land records in rural areas. Strict compliance of such guidelines needs to be ensured as out of date land records contribute to disputes and resultant breaches of peace.

iii. **Regulating Processions, Demonstrations and Gatherings**

- a. Based on the experience with major riots and the recommendations of various Commissions of Inquiry and pronouncements of the Supreme Court and the High Courts, fresh and comprehensive guidelines may be drawn up for regulation of processions, protest marches and morchas<sup>63</sup>.

- b. The guidelines should include preparatory steps (through intelligence sources), serious consultation and attempts to arrive at agreement with the groups/ communities involved, regarding route, timing and other aspects of procession. They should also cover prohibition of provocative slogans or acts as well as carrying of lethal weapons. It should be specifically stated in the guidelines that all processions or demonstrations should be dealt with the same degree of fairness and firmness.
  - c. Organisations and persons found guilty of instigating violence should be liable to pay exemplary damages. The damages should be commensurate with the loss caused by such violence. The law should provide for distribution of the proceeds of damages to the victims of such violence.
- iv. **Imposition of Prohibitory Orders**
  - a. Prohibitory orders once imposed, should be enforced effectively. Videography should be used in sensitive areas.
- 3. **Measures to be Taken Once a Riot has Started:**
  - i. If violence erupts, then the first priority should be to quickly suppress the violence. In cases of communal violence, the situation should be brought under control by effective use of force.
  - ii. Prohibitory orders must be enforced rigorously.
  - iii. If the situation so warrants, the forces of the Union and the Army should be requisitioned and used without any reluctance or delay.
  - iv. The Commissioner of Police or the District Magistrate and the Superintendent of Police should be given a free hand to deal with the situation in accordance with law.
  - v. The media should be briefed with correct facts and figures so that there is no scope for rumour mongering.
  - vi. The police need to be equipped with state-of-the-art crowd dispersal equipment.
  - vii. The District Magistrate should ensure that essential supplies are maintained, and relief is provided, especially in vulnerable areas and particularly during prolonged spells of 'curfew'.
- 4. **Measures to be Taken Once Normalcy has been Restored:**
  - i. No sanction of the Union Government or the State Government should be necessary for prosecution under Section 153(A). Section 196 Cr PC should be amended accordingly.
  - ii. Prosecution in cases related to rioting or communal offences should be not sought to be withdrawn.
  - iii. Commissions of Inquiry into any major riots/violence should give their report within one year.
  - iv. The recommendations made by a Commission of Inquiry should normally be accepted by the Government and if the Government does not agree with any observation or recommendation contained in the report of the Commission, it should record its reasons and make them public.

- v. All riots should be documented properly and analysed so that lessons could be drawn from such experiences.
- vi. There is need for adequate follow up to ensure proper rehabilitation of victims.

## **Some Miscellaneous Steps**

### **1. Accountability of Public Servants Charged with Maintaining Public Order:**

The State Police Complaints Authority should be empowered to identify and fix responsibility in cases of glaring errors of omission and commission by police and executive magistrates in the discharge of their duties relating to the maintenance of public order.

### **2. The Executive Magistrates and the District Magistrate:**

- i. The position of the District Magistrate vis-à-vis the police, and as a coordinator and facilitator in the district needs to be strengthened. The District Magistrate should be empowered to issue directions under the following circumstances:
  - a. Promotion of land reforms and settlement of land disputes.
  - b. extensive disturbance of public peace and tranquillity in the district (The decision of the DM as to what constitutes extensive disturbance of public peace should be final)
  - c. conduct of elections to any public body
  - d. handling of natural calamities and rehabilitation of the persons affected thereby
  - e. situations arising out of any external aggression or internal disturbances
  - f. any similar matter, not within the purview of any one department and affecting the general welfare of the public of the district
  - g. removal of any persistent public grievance (as to what constitutes persistent public grievance, the decision of the DM shall be final)
  - h. whenever police assistance is required to enforce/implement any law or programme of the government.
- ii. These directions shall be binding on all concerned. Directions in respect of item No. ii should normally be issued in consultation with the Superintendent of Police.

### **3. Capability Building of Executive Magistrates:**

- i. All officers likely to be posted as Executive Magistrates should be specially trained in the relevant laws and procedures and should be eligible for posting only after qualifying in an examination.
- ii. On the lines of a police manual, each state should also evolve a Manual for Executive Magistrates.

### **4. Inter-Agency Coordination:**

- i. In a District, the District Magistrate should coordinate the role of all agencies at the time of crisis.

- ii. In major cities, with the Police Commissioner System, a coordination committee should be set up under the Mayor, assisted by the Commissioner of Police and the Municipal Commissioner. All major service providers should be represented on this Coordination Committee.

**5. Adoption of Zero Tolerance Strategy:**

- i. All public agencies should adopt a zero-tolerance strategy towards crime, in order to create a climate of compliance with laws leading to maintenance of public order.
- ii. This strategy should be institutionalised in the various public agencies by creating appropriate statistical databases, backed up by modern technology, to monitor the level and trends of various types of offences and link these to a system of incentives and penalties for the officials working in these agencies. It should be combined with initiatives to involve the community in crime prevention measures.

**PUNCHHI COMMISSION  
RECOMMENDATION**

*The Justice Punchhi Commission report has opined that the National Integration Council (NIC) is an ineffective entity that must be empowered in order to strengthen the secular fabric of the country.*

1. Create over riding structure on lines of US Homeland security department
2. NIC → Meet at least once in a year
3. Communal Incident Case → 5 Member Delegation visit in 2 days

## 5.Criminalisation of Politics

- **SC in February 2020:**
  - Political parties must publish criminal records of candidates.
  - Winnability cannot be the reason of selection.
  - Details must be published on party website & social media handles & print in newspapers within 2 weeks.
- Padmanabhaiah Committee: Corruption is the root cause of Politicisation of Criminals & Criminalisation of Politics.
- Santhanam Committee 1963 & Vohra Committee of 1993.
- **SC interventions:**

<b>ADR Vs Union of India, 2002</b>	All candidates have to disclose: <ul style="list-style-type: none"><li>▪ Assets &amp; liabilities, criminal convictions, Pending cases</li></ul>
<b>Lilly Thomas case, 2013</b>	Sitting MP/MLA convicted of jail term of 2 years or more would lose their seat in legislature.(Conviction rate is less than 6% for elected representatives)
<b>People's Union for Civil Liberties Vs UOI, 2014</b>	NOTA - Moral pressure on political parties
<b>Public Interest Foundation Vs UOI, 2014</b>	Trial of candidate must be completed in 1 year.
<b>Lok Prahari Vs UOI, 2018</b>	All sources of income must be disclosed of both candidates & dependents.
<b>Public Interest Foundation Vs UOI, 2018</b>	Disclosure of criminal cases pending against candidate through Election Commission & his own political party.

- **Impact:**
  - Election Commission is inefficient & has less power as once Model code of conduct completes, they have no jurisdiction on Criminalisation in Politics.
  - Lack of inner party democracy.
  - Law maker would become law breaker - Democracy will be in danger.
- **JS Verma Committee:** Legislator with pending case of any heinous crime must not be allowed to vote in Parliament.
- **244th Law Commission:**
  - Electoral Disqualification at stage of framing charge by court.
  - No disqualification if FIR is filed.
  - Punishment for False affidavits.
- **International Practices:**
  - Political parties are governed by law in Germany



## 5. NATGRID gets access to data from 14000 police stations

- a. The National Intelligence Grid (NATGRID) has signed a memorandum of understanding with the National Crime Records Bureau (NCRB) to access the centralised online database on FIRs and stolen vehicles.
- b. NATGRID First conceptualised in 2009, NATGRID seeks to become the one-stop destination for security and intelligence agencies to access database related to immigration entry and exit, banking and telephone details of a suspect on a "secured platform" - **Rational decision making - Simon**.
- c. Reduction of role of state agencies as access to data is limited and thus effecting Cooperative Federalism.

## 6. Extra Judicial Killings - Encounters

1. Whenever encounter happens, the question raised is legality & appropriateness of police action.
2. Should a democratic country follow Constitutional norms & adhere to **due process of law** Vs Adopt measures of **Retributive Justice**.
  - i. Retributive Justice: Powerful state will retaliate with the offender.
    - a. **Bentham Dog's Law**: Punish for the action.
  - ii. Reformatory Justice: Try to reform the offender through rehabilitation.
3. 4 components of Criminal Justice system: Police, Prosecutor, Court, Jail.
4. Rule of Law (Article 14) & Right to Life & Personal Liberty (Article 21) are under threat.
5. It is also violation of Article 50 of constitution which separates Executive from Judiciary.
6. Weber - Impersonal Orders & MP Follett - Depersonalising orders.
7. NHRC in 2010 talked about Culpable homicide - act which results in person's death but is held not to amount to murder.
8. Under **Section-96 of the Indian Penal Code (IPC)**, every human being has the right to private defense which is a **natural and an inherent right**.
9. The police personnel will be charged under **Section-299** of the Indian Penal Code for **culpable homicide**.
10. **16 Point guidelines** as Standard Procedure **(Taylor)** by SC in PUCL Vs State of Maharashtra 2014: For thorough, effective & independent investigation.

Record tip off	Register FIR	Independent probe	Magisterial Probe
Inform NHRC	Medical aid	No delay	Send report to court
Inform Kin	Submit Report	Prompt Action	Compensation
Surrendering Weapons	Legal aid to officer	No promotion & instant Gallantry award	Grievance redressal

11. These guidelines must be treated as Law under Article 141 of Constitution.

Favour of Encounter	Against Encounter
Crime should not become a profitable venture and should not create a Breaking window syndrome	Knee jerk reaction should be avoided as Law is serious business
Justice delayed is justice denied	Justice hurried is justice buried

12. Short term encounters are not the solution. The need is to reform the entire Criminal Justice System.

Perspective	Linkage
Encounter in general	Taylor - Standardisation - Due Process of law must be followed
Police as oppressive force	<ul style="list-style-type: none"><li>• Mc Gregor - Theory X, Cosmology to reality.</li><li>• Likert - System 1 - Exploitative, Authoritative.</li><li>• Argyris - Pyramidal Organisation.</li><li>• Tarataran Case 2013: Police is a Jungly force - SC statement: Police are brutal, oppressive.</li></ul>

13. **NHRC Guidelines:**

- i. Register
- ii. Investigation
- iii. Compensation
- iv. Independent Agency
- v. Registering FIR
- vi. Magisterial Probe
- vii. Reporting to Commission
- viii. 2nd report within 3 months with all other reports

14. According to the NHRC, although the rising crimes against women have created an atmosphere of fear and anguish, the loss of human life even of an accused might give a wrong message to the society. Hence, it is the solemn obligation of the State to encourage police force to deter antisocial elements, and at the same time restrict the blatant abuse of power.

## 7. Mob Lynching

- a. Lynching incidents can be dealt with under Section 300 and 302 of IPC.
- b. Section 302 provides that whoever commits murder shall be punished with death or imprisonment for life and shall also be liable to fine. Offence of murder is a cognisable, non-bailable and non-compoundable offence.
- c. **Lynching:** Any act or series of acts of violence or aiding, abetting (encouraging) such act/acts thereof, whether spontaneous or planned, by a mob on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity or any other related grounds.
- d. **SC 9 Point guidelines in Tehseen S. Poonawalla vs Union Of India Case:**
  - i. There shall be a "separate offence" for lynching and the trial courts must ordinarily award maximum sentence upon conviction of the accused person to set a stern example in cases of mob violence.
  - ii. The state governments will have to designate a senior police officer in each district for taking measures to prevent incidents of mob violence and lynching.
  - iii. The state governments need to identify districts, sub-divisions and villages where instances of lynching and mob violence have been reported in the recent past.
  - iv. The nodal officers shall bring to the notice of the DGP about any inter-district co-ordination issues for devising a strategy to tackle lynching and mob violence related issues.
  - v. Every police officer shall ensure to disperse the mob that tends to cause violence in the disguise of vigilantism or otherwise.
  - vi. Central and the state governments shall broadcast on radio, television and other media platforms about the serious consequences of mob lynching and mob violence.
  - vii. Despite the measures taken by the State Police, if it comes to the notice of the local police that an incident of lynching or mob violence has taken place, the jurisdictional police station shall immediately lodge a FIR.
  - viii. The State Governments shall prepare a lynching/mob violence victim compensation scheme in the light of the provisions of Section 357A of CrPC within one month from the date of this judgment.
  - ix. If a police officer or an officer of the district administration fails to fulfil his duty, it will be considered an act of deliberate negligence.
- e. Manipur, Rajasthan, West Bengal came up with bills against Mob Lynching.

## 8. IPC Reforms

<b>Wilson</b>	<ul style="list-style-type: none"><li>• Administrative study is based on administrative reforms</li><li>• Goal is to attain Economy, efficiency, effectiveness [ 3E's]</li><li>• Difficulties in reforms in coalition government</li></ul>
<b>Chris Argyris</b>	Reforms for higher order needs Maturity and immaturity
<b>Maslow</b>	Need Hierarchy
<b>Riggs</b>	<u>3 kinds of reforms:</u> <ul style="list-style-type: none"><li>• Exogenous reforms - LPG reforms due to world banks conditionality</li><li>• Indigenous reforms - change in JJ act</li><li>• Equigenity reforms – external + internal</li></ul>
<b>Dror</b>	Essentiality of public policy Need of the reforms: - Purpose -fix outdated subject matter {derogatory law in nature}

- Principles to make reforms:
  - Identify rights of various stake holders {eg; Witness protection scheme}
  - Victim impact assessment is the need of the hour
  - Criminal jurisprudence [article 20(3)]
  - Malimath Committee
- Related bodies:
  - NCRB -BPRD-MHA
  - Law commission - need to make it statutory body to make is accountable to legislature
  - Judicial activism – Article 142

## 9. Police Custody & Judicial Custody

Police Custody	Judicial Custody
The accused stays in the lock-up of a police station or in the custody of an investigating agency who is probing the concerned matter.	The accused is lodged up in jail and is under the custody of the Magistrate.
The police custody is under the control of police and it is also a place where the first interrogation starts.	The accused is under the custody of the Magistrate in judicial custody.
The accused is kept in lockup for further inquiry or investigation.	The accused is kept in the jail as per the order of the magistrate or court for duration above 15 days.
The accused lodged in a police custody has to appear within 24 hours before the concerned Magistrate.	The accused is kept in jail until there is an order from the Court for bail.
The police custody begins as soon as the suspect is arrested by a police officer after receiving a complaint or filing of a FIR.	The judicial custody begins after the public prosecutor satisfies the court that the custody of the accused is necessary for the investigation purpose.
In a police custody the time period is 24 hours which can be extended to a period of 15 days as a whole by the appropriate Magistrate.	In a judicial custody the maximum time period for detention is 90 days, in the cases where the investigation is related to offenses punishable with life imprisonment, death or imprisonment for a term of not less than ten years and detention is 60 days for crimes where the imprisonment is for less than ten years.
In police custody the security is provided by the police.	In judicial custody the judge/magistrate provides the security.
The police officer at duty has a complete control over taking charge, arresting an accused or suspect in their provisional area.	Judicial custody works on the orders of the court laws where the judge/magistrate takes a call on the case navigation.

In police custody, the investigation is carried out by the police officer.	In a judicial custody investigation is not the job of the magistrate. The magistrate adheres to the evidence that is provided by the interrogation reports and hearing in the trial court.
Strong charges are put.	The charges put on an accused or suspect in police custody can be nullified at the judicial court if proven not guilty.

- Now we have **Adversarial system of investigation** where investigation is done by police.
- Malimath Committee on Criminal Justice System reforms recommended **Inquisitorial system of investigation** where court can also involve in investigation.

## 20. SIGNIFICANT ISSUES IN INDIAN ADMINISTRATION

1. **NHRC:** National Human Rights Commission asked for custodial death details in J&K and Ladakh. After Amendment to Protection of Human Rights Act 1993 there was no prohibition of exercising jurisdiction by commission.

### 2. Disaster Management – Fire Safety

#### 1. Data:

- a. NCRB: 17700 People (62% are women) lost their lives in various fire accidents across the country.
- b. MHA study: Need - 8500. But in reality - 2087.

#### 2. Loopholes in Fire safety system:

- a. Violation of norms - behavioural nudge
- b. Lack of standardisation (Taylor)
- c. Lack of Regulation & control & poor implementation - poor efficiency.

#### **Damodaran Committee: Need for Effective Regulation.**

- High rise buildings.
- Lack of awareness among people - lack of communication.
  - **Barnard: Without communication, there is no authority**
  - **Simon: Without communication, there is no organisation itself.**

#### • Measures:

- Proper infrastructural facilities & Financial support.
- Citizen Participation
- Periodic renewal of Non-Objection Certificate.
  - **Peter Drucker:** Confirm whether things are in proper place or not. Periodic inspection. What works today may not work tomorrow.
- Mandatory Compliance - by authority
  - **Barnard:** Authority aims to create conformity with organisational objective.
- Breaking Business - Bureaucratic nexus.

### 3. Chemical Disaster

1. Chemical, being at the core of modern industrial systems, has attained a very serious concern for disaster management within government, private sector and community at large.
2. The elements which are at highest risks due to chemical disaster primarily include the industrial plant, its employees & workers, hazardous chemicals vehicles, the residents of nearby settlements, adjacent buildings, occupants and surrounding community.
3. Chemical disasters may arise in number of ways, such as:-
  - a. Process and safety systems failures
    - Human errors
    - Technical errors
    - Management errors
  - b. Induced effect of natural calamities

- c. Accidents during the transportation
  - d. Hazardous waste processing/ disposal
  - e. Terrorist attack/ unrest leading to sabotage
4. Status of Chemical Disaster Risk in India:
- a. India has witnessed the world's worst chemical (industrial) disaster "Bhopal Gas Tragedy" in the year 1984. The Bhopal Gas tragedy was most devastating chemical accident in history, where over 2500 people died due to accidental release of toxic gas Methyl Iso Cyanate (MIC).
  - b. in last decade, 130 significant chemical accidents reported in India, which resulted into 259 deaths and 563 number of major injured.
  - c. There are about 1861 Major Accident Hazard (MAH) units, spread across 298 districts and 25 states & 3 Union Territories, in all zones of country. Besides, there are thousands of registered and hazardous factories (below MAH criteria) and un-organized sectors dealing with numerous range of hazardous material posing serious and complex levels of disaster risks.
5. Safety initiatives taken in India to address chemical risk:
- a. The comprehensive legal/ institutional framework exists in our country. A number of regulations covering the safety in transportation, liability, insurance and compensations have been enacted.
  - b. Following are the relevant provisions on chemical disaster management, prevailing in country:-
    - a. Explosives Act 1884
    - b. Petroleum Act 1934
    - c. Factories Act 1948
    - d. Insecticides Act 1968
    - e. Environment Protection Act 1986
    - f. Motor Vehicles Act 1988
    - g. Public Liability Insurance Act 1991
    - h. Disaster Management Act 2005
6. Government of India has further reinforced the legal framework on chemical safety and management of chemical accidents by enacting new rules such as MSIHC Rules, EPPR Rules, SMPV Rules, CMV Rules, Gas Cylinder Rules, Hazardous Waste Rules, Dock Workers Rules and by way of amendments to them.
7. The National Disaster Management Authority (NDMA) of India had come out with very specific guidelines on Chemical Disaster Management.
8. These guidelines call for a proactive, participatory, multi-disciplinary and multi-sectoral approach at various levels for chemical disaster preparedness and response.



9. Further, NDMA has provided specific inputs to the GOM for avoidance of future chemical disasters in the country, along with suggested amendments on the existing framework.
10. NDMA is also working on revamping of CIFs ( Chief Inspectorate of Factories) to strengthen chemical safety in India.
11. In addition, MoEFCC and NDMA are in process of finalizing the National Action Plan on Chemical Industrial Disaster Management (NAP-CIDM), which will act as the roadmap for chemical disaster management in India.

12. Precautions to be taken during and after the Chemical (Industrial) Accidents:

- Do not panic, evacuate calmly and quickly perpendicular to wind direction through the designated escape route
- Keep a wet handkerchief or piece of cloth/ sari on face during evacuation
- Keep the sick, elderly, weak, handicapped and other people who are unable to evacuate inside house and close all the doors and windows tightly.
- Do not consume the uncovered food/ water etc open to the air, drink only from bottle
- Change into fresh clothing after reaching safe place/ shelter, and wash hands properly
- Inform Fire & Emergency Services, Police and medical services from safe location by calling 101, 100 and 108 respectively.
- Listen to PA (Public Addressal) System of the plant/ factory, local radio/ TV channels for advice from district administration/fire/health/police and other concerned authorities
- Provide correct and accurate information to government official.
- Inform others on occurrence of event at public gathering places (like school, shopping centre, theatre etc.).
- Don't pay attention to the rumours and don't spread rumours.

13. General Precautions During Normal Time:

- Do not smoke, lit fire or spark in the identified hazardous area
- Sensitize the community living near the industrial units and they should be more vigilant about the nature of industrial units and associated risks.
- Keep the contact numbers of nearest hazardous industry, fire station, police station, control room, health services and district control room, for emergency use.
- Avoid housing near the industries producing or processing the hazardous chemicals, if possible.
- Participate in all the capacity building programmes organized by the government/ voluntary organizations / industrial units.

- Take part in preparing disaster management plan for the community and identify safe shelter along with safe and easy access routes.
- Prepare a family disaster management plan and explain it to all the family members.
- Make the family/ neighbours aware of the basic characteristics of various poisonous/ hazardous chemicals and the first aid required to treat them.
- Adequate number of personal protective equipment needs to be made available, to deal with emergency situation.
- Prepare an emergency kit of items and essentials in the house, including medicines, documents and valuables.

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